PLANNING COMMISSION
SPECIAL HYBRID MEETING AGENDA
Monday, November 20, 2023 at 6:00 PM

PLANNING COMMISSIONERS
Chair: Michael Murphy
Vice Chair: Adam Ragheb
Commissioners: Kate Akyuz, Angela Battazzo, Carolyn Boatsman, Chris Goelz, and Victor Raisys

LOCATION
Mercer Island Community & Event Center and Zoom
Luther Burbank Meeting Room 104
8236 SE 24th Street | Mercer Island, WA 98040
(206) 275-7706 | www.mercerisland.gov

We strive to create an inclusive and accessible experience. Those requiring accommodation for Planning Commission meetings should notify the Deputy City Clerk's Office 3 days prior to the meeting at (206) 858-3150 or by emailing deborah.estrada@mercerisland.gov.

Registering to Speak: Individuals wishing to speak live during appearances, must register with the Deputy City Clerk by 4pm on the day of the Planning Commission meeting. Register at (206) 858-3150 or email deborah.estrada@mercerisland.gov. Each speaker will be allowed three (3) minutes to speak.

If providing comments using Zoom, staff will permit temporary video access when it is your turn to speak. Please activate the video option on your phone or computer, ensure your room is well lit, and kindly ensure that your background is appropriate for all audience ages. Screen sharing will not be permitted, but documents may be emailed to planning.commission@mercergov.org.

Join by Telephone at 6:00 pm: Call **253.205.0468** and enter **Webinar ID 817 0998 6389, Passcode 108237**.

Join by Internet at 6:00 pm:
1) Click this **Link**
2) If the Zoom app is not installed on your computer, you will be prompted to download it.
3) If prompted for Webinar ID, enter **817 0998 6389, Passcode 108237**

Join in person at 6:00 pm: Mercer Island Community & Event Center – 8236 SE 24th Street, Mercer Island, Rm 104

CALL TO ORDER & ROLL CALL, 6 PM

PUBLIC APPEARANCES
This is the opportunity for anyone to speak to the Commission about issues of concern.

REGULAR BUSINESS

1. Planning Commission Meeting Minutes for November 15, 2023.
   Recommended Action: Approve minutes.

2. 2024 Annual Docket: Review Proposed Amendments 6-10 and 12-17
   A. Presentation from City (3 minutes per proposal)
   B. Planning Commission Deliberations
   C. Recommendation
      Recommended Action: Make a recommendation to the City Council on the proposed amendments to include in the final docket.

OTHER BUSINESS

3. Deputy Director's Report
   A. Meeting Schedule:
      1) November 22, 2023 Regular Meeting – CANCELED
      2) December 6, 2023 Special Meeting
      3) December 27, 2023 Regular Meeting - CANCELED

4. Planned Absences for Future Meetings

ADJOURNMENT

PLANNING COMMISSION
SPECIAL HYBRID MEETING MINUTES
Wednesday, November 15, 2023

CALL TO ORDER

At 6 PM, Chair Murphy opened the meeting.

ROLL CALL

Chair Michael Murphy, Vice Chair Adam Ragheb and Commissioners Kate Akyuz, Angela Battazzo, Carolyn Boatsman, Chris Goelz, and Victor Raisys were present remotely.

Staff Participation:
Alison Van Gorp, Deputy Director, Adam Zack, Senior Planner, and Deborah Estrada, Deputy City Clerk

SPECIAL BUSINESS

1. **2024 Annual Docket: Review Proposed Amendment 18 – Land use map amendment and rezone of the Stroum Jewish Community Center (SJCC) property.**

   A. Appearance of Fairness Questions
   Assistant City Attorney Keiffer asked appearance of fairness questions of all Commission members.

   Commissioner Battazzo - Deputy City Clerk Estrada confirmed that she received a written disclosure of appearance of conflict from Commission Battazzo.

   Commissioner Raisys – Deputy City Clerk Estrada confirmed that she received a written disclosure of appearance of conflict from Commissioner Raisys.

   i. Opportunity for Challenges – There were no challenges raised.

   B. Public comment
   The following individuals spoke in support of Amendment 18:

Alex Gamoran	Julie Chivo	Sam Blum	Gary Mirkin
Jay Behar	Paul Burstein	Denise Joffe	Abe Willner-Martin
Amy Lavin	Ian Morris	Michele Kohorn	Robin Medin
Elaine Kraft	Hart Cole	Aaron Goldfeder	Lisa Fain
Jake Pruchno	David Shujman	Jeremy Locke	
Jon Newman	Adam Atkins	William Gerdes	

   The following individuals spoke in opposition to Amendment 18:
   - Dan Thompson
   - Matt Goldbach
   - John Hall

   C. Presentation from Proposal Proponents
   Jessica Clawson spoke to Proposed Amendment 18 on behalf of the Stroum Jewish Community Center.

   D. Presentation from City
   Alison Van Gorp, Deputy CPD Director, presented on behalf of the City of Mercer Island.

   E. Planning Commission Deliberations

F. Adopt Findings on Docketing Criteria

A motion was made by Boatsman; seconded by Akyuz to
concur with the staff's conclusion that Criterions 1, 3, and 5 are met.
Approved 7-0

A motion was made by Akyuz; seconded by Boatsman
that Docket Proposal 18 passes Criterion 2
Approved 6-0-1 (Raisys)

A motion was made by Boatsman; seconded by Goelz
that Criterion 4 is met.
Approved 7-0

G. Recommendation

Recommended Action: Make a recommendation to the City Council on whether to include Proposed Amendment 18 in the final docket.

A motion was made by Boatsman; seconded by Akyuz to
recommend to the City Council that Proposed Amendment 18 be docketed for the 2024 Workplan.
Passed 6-0-1 (Raisys)

APPEARANCES

- Kristen Orndorff, spoke in support of the Mercer Island County Club's proposal 15.
- Jacquie Hartmann, spoke in support of the Mercer Island County Club's proposal 15.
- Dan Thompson, briefly addressed the City's proposals and Proposals 15, 16, and 17.

REGULAR BUSINESS

2. Planning Commission Meeting Minutes for October 25, 2023:

A motion was made by Raisys; seconded by Ragheb to:
Approve the October 25, 2023, minutes.
Approved 7-0

3. 2024 Annual Docket: Review Proposed Amendments 1-10 and 12-17

A. Presentations from Proposal Proponents

- Dan Thompson addressed the Commission on Proposed Amendments 1 through 5, 12, and 13
- Dan Nordale addressed the Commission on Proposed Amendment 15
- Mike Murphy addressed the Commission on Proposed Amendment 16
- Adam Ragheb addressed the Commission on Proposed Amendment 17

B. Presentation from City

Alison Van Gorp, Deputy CPD Director, presented on behalf of the City of Mercer Island.

C. Planning Commission Deliberations

D. Recommendation

A motion was made by Boatsman; seconded by Raisys to
Recommend Amendments 1-5 be included on the final 2024 Docket.
Failed 4-3

A motion was made by Goelz; seconded by Akyuz to
Recommend that Amendments 1-5 NOT be added to the docket, because they fail to meet all five criteria.
Passed 4-3

The Commission agreed to continue deliberations at a special meeting on November 20, 2023.

OTHER BUSINESS

4. **Deputy Director's Report**
   Deputy Director Alison Van Gorp discussed upcoming meetings.
5. **Planned Absences for Future Meetings -** None

ADJOURNED

The meeting adjourned at 10:29 pm

_____

Deborah Estrada, MMC, Deputy City Clerk

To: Planning Commission

From: Alison Van Gorp

Date: November 15, 2023

RE: 2024 Annual Docket

EXECUTIVE SUMMARY

The City provides an annual opportunity for the public to propose amendments to the Comprehensive Plan and development regulations. The proposed amendments are compiled, along with the City's proposed amendments, on a docket. The docket is preliminarily reviewed by the Planning Commission and City Council for a determination on which, if any, proposed amendments will be advanced for full review in the coming year. Amendments selected by the City Council for the "final docket" are then put on the Community Planning and Development (CPD) work program, typically for the next calendar year or when time and resources permit. This memo outlines the process for reviewing proposed amendments 1-10 and 12-17.

BACKGROUND

Docket Process

The Mercer Island City Code (MICC) describes the formal process for soliciting and reviewing docket proposals in section 19.15.230 MICC:

> *"D. Docketing of Proposed Amendments. For purpose of this section, docketing refers to compiling and maintaining a list of suggested changes to the comprehensive plan in a manner that will ensure such suggested changes will be considered by the city and will be available for review by the public. The following process will be used to create the docket:*
>
> > *1. Preliminary Docket Review. By September 1, the city will issue notice of the annual comprehensive plan amendment cycle for the following calendar year. The amendment request deadline is October 1. Proposed amendment requests received after October 1 will not be considered for the following year's comprehensive plan amendment process but will be held for the next eligible comprehensive plan amendment process.*
> >
> > > *a. The code official shall compile and maintain for public review a list of suggested amendments and identified deficiencies as received throughout the year.*
> > >
> > > *b. The code official shall review all complete and timely filed applications proposing amendments to the comprehensive plan or code and place these applications and suggestions on the preliminary docket along with other city-initiated amendments to the comprehensive plan or code.*
> > >
> > > *c. The planning commission shall review the preliminary docket at a public meeting and make a recommendation on the preliminary docket to the city council each year.*
> > >
> > > *d. The city council shall review the preliminary docket at a public meeting. By December 31, the city council shall establish the final docket based on*

the criteria in subsection E of this section. Once approved, the final docket defines the work plan and resource needs for the following year's comprehensive plan and code amendments."

Public notice of the opportunity to submit docket requests was provided in the permit bulletin and on the City website between August 7, 2023 and September 6, 2023, as well as on August 9 and September 6, 2023 in the Mercer Island Reporter. Eight code amendment proposals were received from the public. One of these proposals (Proposed Amendment 11) was later withdrawn. The City has also identified ten code amendments for consideration. All seventeen active proposals are summarized in Attachment 1 and described below; the original submissions from community members are included in Attachments 2 and 3.

Docketing Criteria

The City Code prescribes that proposed comprehensive plan and development code amendments should only be recommended for the final docket if the amendment will meet the criteria in MICC 19.15.230(E):

"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. 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. 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."

Staff analysis of the docketing criteria for each proposed amendment is included in Attachment 3.

CPD Work Plan

The docketing criteria, shown above, include a requirement that the City "can provide resources, including staff and budget, necessary to review the proposal". As has been the case in the last several years, City staff capacity for legislative review is limited. In addition, the existing CPD work plan already includes several major work items that will continue in 2024, summarized below. Any work items added to the docket will need to be additive to the items already on the work plan.

1. **Periodic Update of the Comprehensive Plan:** work on the periodic update will continue through 2024, including significant work on the Parks Zone and Housing Element (due for completion by December 2024).
2. **Legislatively Mandated Residential Amendments (HB 1110, HB 1337):** the City must undertake several substantial code amendments to comply with recent housing-related legislation. The City will also undertake additional amendments related to the previously panned Residential Development Standards (RDS) code update. This work will begin as the periodic update of the Comprehensive Plan concludes in late 2024 and must be completed by June 30, 2025.

The existing work plan items represent a significant amount of CPD staff time, as well as a significant portion of the available Planning Commission, City Council and community bandwidth. Staff anticipate the periodic update of the Comprehensive Plan will require all of the time available at the Planning Commission's monthly meetings through mid-2024 and will likely also require additional special meetings. The City Council will then begin their review, which will also require several meetings. The Planning Commission will need to begin review of the legislatively mandated residential code amendments in the last quarter of 2024.

As such, time available for review and consideration of additional docket items will be extremely limited. Each item added to the final docket typically requires at least three touches by the Planning Commission and two by the City Council, a process that usually takes 6 months or more to complete. Thus, if new items are added to the docket and CPD work plan for consideration in 2024, it is very likely that they would need to be carried over into 2025 or beyond. Progress toward items proposed for the docket over the last three years is summarized in Attachment 5, which can help provide context in terms of the number of amendments that have been reviewed annually in recent years.

ISSUE/DISCUSSION

REVIEW AND RECOMMENDATION

The Planning Commission will need to review each docket proposal and prepare a recommendation to the City Council on the docket proposals that should be included in the final docket. The Planning Commission should consider the criteria from MICC 19.15.230 (E), provided above, to determine whether to recommend adding a project to the final docket. The decision here must be based on the docketing criteria – this is a decision on whether the proposal meets the criteria and can, therefore, be placed on the docket and advanced for future legislative review. It is not a decision on the merits of the proposal. Please carefully consider the workload for CPD staff and the Planning Commission related to the recommended items, especially in light of existing work plan items already planned for 2024 (discussed above).

One of the proposed amendments, Proposed Amendment 18, is quasi-judicial in nature (i.e. it pertains to rezoning a property), and will need to be reviewed separately, utilizing special procedures as recommended by the City Attorney's Office. Thus, the review process will be bifurcated to enable Proposed Amendment 18 to be reviewed first, followed by review of the remaining proposed amendments through the more typical process. This staff memo is focused on the review of Proposed Amendments 1-10 and 11-17.

The review of the proposed amendments will begin with the opportunity for the proponents of each of the reaming proposals to speak to their proposals (up to 3 minutes per proposal), followed by a staff presentation on the proposed amendments (up to 3 minutes each). The Commission will then review each of the proposed amendments, considering the decision criteria and any public comments. The Commission should make a motion and call a vote on each proposal, recommending whether to include it in the final docket.

PROPOSED AMENDMENTS

The proposed amendments are summarized in Attachment 1 and are also described below. The amendment proposals submitted by community members are included in Attachments 2 and 3. Attachment 4 provides an

analysis of each proposed amendment in relation to the docketing criteria in MICC 19.15.230(E). It provides an assessment of whether each criterion *could* be met by each of the proposed amendments. That is to say, the matrix indicates whether the staff believe a case can be made that the criterion is met, and the Planning Commission will need to make a final determination on whether they find that the criterion has indeed been met. Attachment 4 and the staff comments below also include a rough prioritization of the proposed amendments. These prioritization ratings are not intended to reflect on the quality or merits of the proposal. Rather, the ratings are intended to evaluate the importance of reviewing the proposed amendment in the coming year relative to the staff resources that are available to do this work. In determining this prioritization, staff considered whether foregoing the amendment in 2024 would leave the city open to legal or financial risk, lost opportunities or other negative consequences. Staff also considered whether there were any other compelling reasons that an amendment should be considered in the very near term.

Proposed Amendment 1

Proposed By: City of Mercer Island/Daniel Thompson

Comprehensive Plan or Code Section: Residential Development Standards (MICC 19.02.020(D)(2)(a) Gross Floor Area)

Proposal Summary: This amendment would reduce ceiling height from 12 feet to 10 feet before it is counted as clerestory space at 150% of gross floor area (GFA).

Staff Comments: See attached application for more details. The applicant submitted this proposal during the 2020, 2021 and 2022 Annual Docket processes. In 2022, the City Council directed staff to include consideration of this item in the Residential Development Standards (RDS) analysis. That work has been substantially delayed in response to recent action by the State Legislature to enact several pieces of legislation requiring amendments to the City's residential development standards. City Council directed staff to develop and submit a docket proposal to address this matter at its May 2023 Planning Session.

Priority Level: Moderate priority.

Proposed Amendment 2

Proposed By: City of Mercer Island/Daniel Thompson

Comprehensive Plan or Code Section: Residential Development Standards (MICC 19.02.020(D)(2)(a) Gross Floor Area)

Proposal Summary: This amendment would include exterior covered decks in the definition of GFA and include covered porches on the first level in the calculation of GFA.

Staff Comments: See attached application for more details. The applicant submitted this proposal during the 2020, 2021 and 2022 Annual Docket processes. In 2022, the City Council directed staff to include consideration of this item in the Residential Development Standards (RDS) analysis. That work has been substantially delayed in response to recent action by the State Legislature to enact several pieces of legislation requiring amendments to the City's residential development standards. City Council directed staff to develop and submit a docket proposal to address this matter at its May 2023 Planning Session.

Priority Level: Moderate priority.

Proposed Amendment 3

Proposed By: City of Mercer Island/Daniel Thompson

Comprehensive Plan or Code Section: Residential Development Standards (MICC 19.02.040(D)(1) Garages and Carports)

Proposal Summary: This amendment would either eliminate the ability to build garages and carports within 10 feet of the property line of the front yard, or, alternatively, would eliminate this option for waterfront lots that have flipped their front and back yards per MICC 19.02.020(c)(2)(a)(iii).

Staff Comments: See attached application for more details. The applicant submitted this proposal during the 2020, 2021 and 2022 Annual Docket processes. In 2022, the City Council directed staff to include consideration of this item in the Residential Development Standards (RDS) analysis. That work has been substantially delayed in response to recent action by the State Legislature to enact several pieces of legislation requiring amendments to the City's residential development standards. City Council directed staff to develop and submit a docket proposal to address this matter at its May 2023 Planning Session.

Priority Level: Moderate priority.

Proposed Amendment 4

Proposed By: City of Mercer Island/Daniel Thompson

Comprehensive Plan or Code Section: Residential Development Standards (MICC 19.02.020(D)(3)(b) Gross Floor Area Incentives for ADUs)

Proposal Summary: This amendment would limit the GFA incentives for ADUs to lots 8,400 square feet or smaller.

Staff Comments: See attached application for more details. The applicant submitted this proposal during the 2020, 2021 and 2022 Annual Docket processes. In 2022, the City Council directed staff to include consideration of this item in the Residential Development Standards (RDS) analysis. That work has been substantially delayed in response to recent action by the State Legislature to enact several pieces of legislation requiring amendments to the City's residential development standards. City Council directed staff to develop and submit a docket proposal to address this matter at its May 2023 Planning Session.

Priority Level: Moderate priority.

Proposed Amendment 5

Proposed By: City of Mercer Island/Daniel Thompson

Comprehensive Plan or Code Section: Residential Development Standards (MICC 19.02.020(G)(2)(a) and (b) Parking Requirements)

Proposal Summary: This amendment would reduce the threshold for requiring only 2 parking spaces (1 covered and 1 uncovered) from 3,000 square feet to 2,000 square feet.

Staff Comments: See attached application for more details. The applicant submitted this proposal during the 2020, 2021 and 2022 Annual Docket processes. In 2022, the City Council directed staff to include consideration of this item in the Residential Development Standards (RDS) analysis. That work has been substantially delayed in response to recent action by the State Legislature to enact several pieces of legislation requiring amendments to the City's residential development standards. City Council directed staff to develop and submit a docket proposal to address this matter at its May 2023 Planning Session.

Priority Level: Moderate priority.

Proposed Amendment 6

Proposed By: City of Mercer Island

Comprehensive Plan or Code Section: MICC 19.02.020(E)(2) Maximum Downhill Facade Height

Proposal Summary: This item will amend standards related to the calculation of downhill façade height.

Staff Comments: City Council directed staff to develop and submit a docket proposal to address this matter at its May 2023 Planning Session.

The residential development standards currently contain two different standards regulating maximum allowed building height, one based on Average Building Elevation (ABE) and one based the height of a downhill building facade measured from the lower of existing or finished grade, to the top of the downhill facing wall facade supporting the roof framing, rafters, trusses, etc. The proposed amendment would clarify the measurement of the downhill facade height standard by allowing the height of a building on the downhill side of a sloping lot to be measured from the lower of existing or finished grade at the furthest downhill extent of the building to the highest point on the roof.

Measuring downhill facade height from the lower of existing or finished grade to the top of the wall facade supporting the roof framing, rafters, trusses, etc. creates a lot of variability in determining where the wall facade supports the roof framing. This standard can be clearly applied to gable roofs, for example, where the top of the wall facade is clearly visible; however, staff have seen an increase in uncertainty regarding how to determine where the wall facade ends on proposed buildings with flat or shed roofs. Amending the maximum downhill facade height to be measured from the lower of existing or finished grade at the furthest downhill extent to the highest point of the roof allows for a clear enforcement of the maximum downhill facade height standard. The highest point of the roof is a generally clear point on elevation drawings, versus the top of the wall facade supporting the roof framing.

Priority Level: Moderate Priority. Staff spend significant resources with applicants on building permits to determine downhill facade height, which increases the time the permit spends in permit review before issuance. Clarifying this standard will allow staff to issue building permits more efficiently.

Proposed Amendment 7

Proposed By: City of Mercer Island

Comprehensive Plan or Code Section: MICC 19.11 Town Center Development and Design Standards, possibly other sections of the development code

Proposal Summary: This proposal would add a “Government Services” use to the Town Center and provide necessary code changes in the form of standards and/or allowances for such including, but not limited to MICC 19.11.020 – Land Uses and 19.11.030 – Bulk Regulations. Examples of code changes which may be considered for a “Government Services” use include requirements for ground floor street frontage uses as well as maximum building height.

Staff Comments: City Council directed staff to develop and submit a docket proposal to address this matter related to maximum building height at its May 2023 Planning Session. However, with evolving circumstances

regarding the current Mercer Island City Hall, it has become apparent the matter should be considered in a more wholistic manner. Government services are already defined in MICC Chapter 19.16.

Priority Level: High. Mercer Island City Hall has been permanently closed due to asbestos contamination. The City is commencing the planning work to replace City Hall and would like to include Town Center as an one of the locations under consideration. Current Town Center code will limit this development potential.

The City Council has also identified implementing an economic development program as a priority, and this code amendment supports that goal and aligns with other economic development activities focused on the Town Center. Waiting to address this issue in the future could result in significant missed opportunities for further Town Center development for government facilities.

Proposed Amendment 8

Proposed By: City of Mercer Island

Comprehensive Plan or Code Section: Amendments to Chapters 19.11, 19.12, 19.15, 19.16, 19.21 of the Mercer Island City Code (MICC)

Proposal Summary: This item will amend the administrative code to implement new permit timelines and to correct errors and improve clarity and consistency. Code sections pertaining to design standards and design review will be amended to implement clear and objective review standards. Amendments to SEPA requirements will also be considered.

Staff Comments: This item is responsive to the 2023 State legislative session. The City has until June 30, 2025 to fully implement HB 1293 and SB 5290. City Council directed staff to develop and submit a docket proposal to address this matter at its May 2023 Planning Session.

SB 5290 establishes permit review timelines, requires partial refunds of permitting fees if jurisdictions do not meet specified timelines and provides additional resources to local governments to be used on supplementing permit review staff and updating permitting systems.

In July 2023, the Council adopted interim regulations, Ordinance No. 23C-10, to satisfy the 90-day implementation deadline for a small portion of the requirements in SB 5290. With the fully implemented update required to be completed by June 30, 2025, the City must begin working on permanent regulations as well as additional code amendments to fully comply with SB 5290.

HB 1293 aims to accelerate the permitting and design review process for development by requiring “only clear and objective design review standards,” which are defined as ascertainable standards that do not result in a reduction of density. This legislation will require substantial amendments to the City’s design standards for the Town Center and other non-single-family development.

SB 5412 was also adopted in 2023 and allows cities the option to categorically exempt certain proposed housing projects from State Environmental Policy Act (“SEPA”) review. Specifically, cities may categorically exempt residential development projects within incorporated Urban Growth Areas (UGAs) and middle housing projects within unincorporated UGAs from environmental review. The City will consider whether to enact such categorical exemptions as a part of this docket item.

Finally, as a part of this docket item additional work would also be done in the administrative code sections to correct errors as well as improve clarity and consistency.

Priority Level: High priority. The City has until June 30, 2025 to fully implement HB 1293 and SB 5290.

Proposed Amendment 9

Proposed By: City of Mercer Island

Comprehensive Plan or Code Section: Amendments to Chapters 19.01, 19.02, 19.03, 19.04, 19.05, 19.08, 19.11, 19.12, 19.15, 19.16, Unified Land Development Appendices in the Mercer Island City Code.

Proposal Summary: This item will amend code sections related to residential development, including amendments related to middle housing, accessory dwelling units (ADUs), conversion of existing commercial or mixed use spaces to residential use, and other changes resulting from the Residential Development Standards (RDS) analysis.

Staff Comments: This item is responsive to the 2023 State legislative session. The City has until June 30, 2025 to fully implement HB 1110, HB 1337 and HB 1042. City Council directed staff to develop and submit a docket proposal to address this matter at its May 2023 Planning Session.

HB 1110 requires the City to allow two dwelling units per residential lot, unless the zone allows greater density. Additionally, four units per lot must allowed within a quarter mile walking distance from the light rail station and on any residential lot provided one of the units is affordable housing. Another feature of HB 1110 is that within single-family zones, cities must allow six of the nine middle housing types defined in the bill, including: duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing. The legislation also limits the ability to regulate design and parking requirements for middle housing.

HB 1337 requires the city to amend the ADU code. Notably, the City must allow two attached or detached ADUs per lot, the owner occupancy requirement must be removed, the maximum gross floor area for ADUs must be increased to 1,000 square feet among other requirements related to design and parking standards. In addition, the City may not prohibit the sale if ADUs as condominium units.

HB 1042 requires the City to allow the conversion of existing commercial or mixed use space to residential uses. It also limits the ability of the City to regulate nonconforming uses or structures when space is converted from commercial to residential. HB 1042 specifically prohibits the City from denying such a conversion based on nonconformity to parking requirements.

In addition to the code amendments needed to comply with the legislation summarized above, additional work would also be done to implement directed changes resulting from the Residential Development Standards (RDS) analysis.

Priority Level: High priority. The City has until June 30, 2025 to fully implement HB 1110, HB 1337 and HB 1042.

Proposed Amendment 10

Proposed By: City of Mercer Island

Comprehensive Plan or Code Section: Amendments to Chapters 19.02, 19.03, 19.04, 19.05, 19.06, 19.15 and 19.16 in the Mercer Island City Code.

Proposal Summary: This amendment will add a code section regulating temporary uses and amend several code sections to allow temporary uses in zones throughout the city. Existing provisions related to commerce on public property and right of way use would be repealed.

Staff Comments: City Council directed staff to develop and submit a docket proposal to address this matter at its May 2023 Planning Session.

Temporary uses could include many different activities, from outdoor dining adjacent to restaurants/cafes, to large tents for events like weddings or reunions, the farmer's market, Summer Celebration vendor booths, Christmas tree sales, produce stands, food trucks or even garage sales.

In 2020, the City adopted Ordinance 20C-17, which established temporary regulations for commerce on public property to allow for outdoor dining during the COVID-19 pandemic. These temporary regulations have been renewed several times but will eventually expire. Permanent amendments to regulations for outdoor dining, temporary uses, and commerce on public property are needed for outdoor dining to continue as an allowed use. Additionally, many other temporary uses are not currently adequately addressed in the City code.

The proposed amendment would benefit the public welfare by ensuring that temporary uses are regulated to allow socially beneficial temporary uses such as rummage sales for community organizations while placing parameters on other more intense temporary uses such as festivals. Reasonable regulations for temporary uses that would allow low-impact uses and establish limits on larger-scale temporary uses would serve the public interest. Many temporary uses are commonly allowed in cities and a blanket prohibition can be unnecessarily restrictive.

Priority Level: Moderate priority. The City Council has identified implementing an economic development program as a priority, and this code amendment supports that goal and aligns with efforts to support local business and community events. Waiting to address this issue in the future could result in missed opportunities and negatively impact local businesses.

Proposed Amendment 11

[Proposal Withdrawn]

Proposed Amendment 12

Proposed By: Mathew Goldbach

Comprehensive Plan or Code Section: MICC 19.15.240 Reclassification of Property (Rezones)

Proposal Summary: This amendment will prohibit rezoning of single-family residential zoned property.

Staff Comments: This amendment seeks to constrain the City's ability to rezone residential property. If docketed, Staff would recommend study on the appropriate method for achieving the goals of this proposal.

Priority Level: Low priority. Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

Proposed Amendment 13

Proposed By: Mathew Goldbach

Comprehensive Plan or Code Section: MICC 19.15.240 Reclassification of Property (Rezones)

Proposal Summary: This amendment will prohibit a non-residential structure/use from requesting or obtaining a rezone or reclassification of single-family residential zoned properties.

Staff Comments: This proposed amendment seeks to constrain the City's ability to rezone single-family residential properties with non-residential uses. If docketed, Staff would recommend study on the appropriate method for achieving the goals of this proposal..

Priority Level: Low priority. Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

Proposed Amendment 14

Proposed By: Regan McClellan

Comprehensive Plan or Code Section: MICC 19.02.020(E) Building Height Limit and 19.16.010 Definitions

Proposal Summary: This amendment will add a provision related to the calculation of downhill building façade height to clarify that a building face can include multiple facades that should each be treated separately in determining maximum building height on the downhill side of a sloping lot.

Staff Comments: This proposal addresses the same issue identified by the City in Proposed Amendment 6.

Priority Level: Low priority. Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

Proposed Amendment 15

Proposed By: Mercer Island Country Club

Comprehensive Plan or Code Section: MICC 19.06 and 19.15.030

Proposal Summary: This amendment will add a new code section with provisions for temporary use or structure permits and designate these permits as a Type I land use review.

Staff Comments: This proposal touches on an issue also identified by the City as a part of Proposed Amendment 10 (i.e. the current code does not include temporary use provisions outside the Town Center). However, this proposal has a smaller scope and identifies specific code provisions related to the applicant's needs.

Priority Level: Low priority. This is a large project and will require considerable time for review. Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

Proposed Amendment 16

Proposed By: Michael Murphy

Comprehensive Plan or Code Section: MICC 19.07.180 Watercourses

Proposal Summary: This amendment will reduce setbacks from piped watercourses and add a limited exception to piped watercourse setbacks for existing homes.

Staff Comments: The current provisions for setbacks from piped watercourses were adopted as a part of the Critical Areas Code Amendment in 2021 and are based on Best Available Science (BAS) as required by the Shoreline Management Act. Considering an amendment to these provisions would require the City to conduct

a new/supplementary BAS review to determine if new research is available to support an amendment. Since this would be an amendment of the critical areas code and shoreline master program, it would also require review by the Department of Ecology, which is a more lengthy review process than for standard code amendments.

Priority Level: Low priority. This is a large project and will require considerable time for review. Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

Proposed Amendment 17

Proposed By: Adam Ragheb

Comprehensive Plan or Code Section: MICC 19.02.020(G)(2)(c) - Parking Requirements

Proposal Summary: This amendment will require each non-single family residential dwelling unit outside town center with a GFA less than 3000 sq ft to provide 2 covered parking spaces sufficient in size to park a passenger automobile and charge it.

Staff Comments: Recent state legislation will require the City to amend the residential development standards in MICC 19.02 to allow middle housing types including duplexes, triplexes, townhomes, etc. by June 30, 2025. As a part of that required code amendment, the City is planning to undertake a thorough analysis of the residential development standards and will propose a comprehensive set of amendments intended to address existing issues and integrate these new housing types into the existing requirements. This type of proposal can be most appropriately considered as a part of that comprehensive effort.

Priority Level: Low priority. Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

NEXT STEPS

The City Council will review the Planning Commission and staff recommendations at the December 5, 2023 meeting. At that time the Council will set the final docket for 2024.

ATTACHMENTS

1. Summary of Docket Proposals
2. Docket Applications related to Proposed Amendments 1-5
3. Docket Applications related to Proposed Amendments 12-17
4. Docketing Criteria Analysis
5. Docket Progress Tracker

Docket Proposal Summary

Item No.	Proposed By	Potentially Affected Section, Goal or Policy	Summary of Proposal
1	City of Mercer Island/ Daniel Thompson	MICC 19.02.020(D)(2)(a) Gross Floor Area	This amendment would reduce ceiling height from 12 feet to 10 feet before it is counted as clerestory space at 150% of gross floor area (GFA).
2	City of Mercer Island/ Daniel Thompson	MICC 19.02.020(D)(2) and 19.02.020(G)(2)	This amendment would include exterior covered decks in the definition of GFA and include covered porches on the first level in the calculation of GFA.
3	City of Mercer Island/ Daniel Thompson	MICC 19.02.040(D)(1) Garages and Carports	This amendment would either eliminate the ability to build garages and carports within 10 feet of the property line of the front yard, or, alternatively, eliminate this option for waterfront lots that have flipped their front and back yards per MICC 19.02.020(c)(2)(a)(iii).
4	City of Mercer Island/ Daniel Thompson	MICC 19.02.020(D)(3)(b) Gross Floor Area Incentives for ADUs	This amendment would limit the GFA incentives for ADUs to lots 8,400 square feet or smaller.
5	City of Mercer Island/ Daniel Thompson	MICC 19.02.020(G)(2)(a) and (b) Parking Requirements	This amendment would reduce the threshold for requiring only 2 parking spaces (1 covered and 1 uncovered) from 3,000 square feet to 2,000 square feet.
6	City of Mercer Island	MICC 19.02.020(E) Building Height Limit	This item will amend standards related to the calculation of downhill façade height to clarify how the maximum building height is calculated on the downhill side of a sloping lot, regardless of roof style.
7	City of Mercer Island	MICC 19.11.030 Bulk Regulations, possibly other sections of the development code	The Town Center code currently limits commercial/non-residential buildings to 2 stories/27 feet in height. This amendment would add a height standard or allowance for a “government services” use and for structures to be primarily used for such to build to the maximum allowable building height for the TC zone in which it is located.
8	City of Mercer Island	MICC 19.11, 19.12, 19.15, 19.16, 19.21	This item is responsive to the 2023 State legislative session, including SB 5290, HB 1293 and SB5412. This item will amend the administrative code to implement new permit timelines and to correct errors and improve clarity and consistency. Code sections pertaining to design standards and design review will be amended to implement clear and objective review standards. Amendments to SEPA requirements will also be considered.

9	City of Mercer Island	MICC 19.01, 19.02, 19.03, 19.04, 19.05, 19.08, 19.11, 19.12, 19.15, 19.16, Unified Land Development Appendices	This item is responsive to the 2023 State legislative session, including HB 1110, HB 1337 and HB 1042. This item will amend code sections related to residential development, including amendments related to middle housing, accessory dwelling units (ADUs), conversion of existing commercial or mixed use spaces to residential use, and other changes resulting from the Residential Development Standards (RDS) analysis.
10	City of Mercer Island	MICC 19.02, 19.03, 19.04, 19.05, 19.06, 19.15 and 19.16	This amendment will add a code section regulating temporary uses on private property and in the right of way and amend several code sections to allow temporary uses in zones throughout the city. Existing provisions related to commerce on public property and right of way use would be repealed.
~~**11**~~	~~Charger Real Estate & Development Inc.~~	~~MICC 19.15.150(C)(1)~~	~~This amendment will align the City code with RCW 58.17.140.3 regarding the timing of final plat approval. It will also provide an extension to the final plat approval timeline for preliminary plats that were impacted by the Pandemic.~~
12	Mathew Goldbach	MICC 19.15.240 Reclassification of Property (Rezones)	This amendment will prohibit rezoning of single-family residential zoned property.
13	Mathew Goldbach	MICC 19.15.240 Reclassification of Property (Rezones)	This amendment will prohibit a non-residential structure/use from requesting or obtaining a rezone or reclassification of single-family residential zoned properties.
14	Regan McClellan	MICC 19.02.020(E) Building Height Limit and 19.16.010 Definitions	This amendment will add a provision related to the calculation of downhill building façade height to clarify that a building face can include multiple facades that should each be treated separately in determining maximum building height on the downhill side of a sloping lot.
15	Mercer Island Country Club	MICC 19.06 and 19.15.030	This amendment will add a new code section with provisions for temporary use or structure permits and designate these permits as a Type I land use review.
16	Michael Murphy	MICC 19.07.180 Watercourses	This amendment will reduce setbacks from piped watercourses and add a limited exception to piped watercourse setbacks for existing homes.
17	Adam Ragheb	MICC 19.02.020(G)(2)(c) – Parking Requirements	This amendment will require each residential dwelling unit outside town center with a GFA less than 3000 sq ft to provide 2 parking spaces sufficient in size to park a passenger automobile and charge it.
18	Stroum Jewish Community Center	Comprehensive Plan Land Use Map, Zoning Map	These amendments will redesignate the SJCC's property as Commercial Office on the Comprehensive Plan Land Use Map and the Zoning Map.

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: danielpthompson@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 ☑

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County Assessors Parcel No.:

Parcel Size (sq. ft.):

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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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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: _____ **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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Suggestion ☑ Application ☐

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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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Comprehensive Plan amendment ☐ Development code amendment ☑

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Suggestion ☑ Application ☐

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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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Suggestion ☑ Application ☐

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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.

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Phone: (206) 622-0670

Email: danielpthompson@hotmail.com

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

Name: _____

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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, recyle, 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.

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APPLICANT INFORMATION

Name: Matthew Goldbach

Address: 9980 SE 40th St, Mercer Island, WA 98040

Phone: 954-806-2489

Email: blkship@yahoo.com

AGENT/CONSULTANT/ATTORNEY

Complete this section if the primary contact is different from the applicant.

Name: _____

Address: _____

Phone: _____

Email: _____

REQUEST INFORMATION

Important: A separate Docket Request Form must be completed for each docket item requested.

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

If yes, please complete the following information:

Property Owner Name: _____

Address: _____

County Assessor's Parcel No.: _____

Parcel Size (sq. ft.): _____

If the application is submitted by an agent/consultant/attorney, please attach a signed letter of consent from all owners of the affected property demonstrating that that the application is submitted with consent.

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

Comprehensive Plan Amendment ☐ Development code Amendment ☑

Is this submission a ***suggestion*** for a Comprehensive Plan or Development Code amendment, or is this an ***application*** for a specific amendment? (Check one box below.)

Note: Applications are subject to applicable permit fees.

Suggestion ☑ Application ☐

DOCKET REQUEST NARRATIVE – REQUIRED FOR ALL APPLICATIONS

Please attach a separate narrative responding to all five (5) questions outlined below. Attach additional sheets, supporting maps, or graphics as necessary. Answer each question separately and reference the question number in your answer.

The application will be considered incomplete without a narrative answering all five 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).
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?

Please sign and date below acknowledging application requirements.

Signature: _____ **Date:** Sept. 28 2023

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Please attach a separate narrative
responding to the above questions.

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.15.240 Reclassification of Properties (Rezones)

MICC 19.15.240(C) Criteria

Suggested Code Amendment:

I suggest MICC 19.15.240(C) be amended to prohibit single-family, residentially-zoned property as delineated in Appendix D - Zoning Map from being rezoned to any other zone.

MICC 19.15.240(C) will then read with the suggested amendment **Subsection 8** as follows:

19.15.240 - Reclassification of property (rezones).

A. Purpose. The purpose of this section is to establish the process and criteria for a rezone of property from one zoning designation to another.

B. Process. A rezone shall be considered as provided in MICC 19.15.260.

C. Criteria. The city council may approve a rezone only if all of the following criteria are met:

1. The proposed reclassification is consistent with the policies and provisions of the Mercer Island comprehensive plan;
2. The proposed reclassification is consistent with the purpose of the Mercer Island development code as set forth in MICC 19.01.010;
3. The proposed reclassification is an extension of an existing zone, or a logical transition between zones;
4. The proposed reclassification does not constitute an illegal site-specific rezone;
5. The proposed reclassification is compatible with surrounding zones and land uses;
6. The proposed reclassification does not adversely affect public health, safety and welfare; and
7. If a comprehensive plan amendment is required in order to satisfy subsection (C)(1) of this section, approval of the comprehensive plan amendment is required prior to or concurrent with the granting of an approval of the rezone.
8. **"No single-family, residentially-zoned property as delineated in Appendix D – Zoning Map – MICC 19.02.010 may be rezoned to any other zone."**

D. Map change. Following approval of a rezone, the city shall amend the zoning map to reflect the change in zoning designation. The city shall also indicate on the zoning map the number of the ordinance adopting the rezone.

(Ord. 18C-08 § 1 (Att. A))

ANALYSIS:

A. The Mercer Island Comprehensive Plan Supports Preserving Single-Family Residential Zoned Properties.

Attached as Exhibit 1 to this suggested amendment is Appendix D – Zoning Map.

The following Comprehensive Policy directions provided by the Mercer Island Comprehensive Plan are from the City of Mercer Island Community Planning and Development Code Interpretation 22-004 dated November 21, 2022 regarding Variances for Non-Residential Structures in Residential Zones, which is attached as Exhibit 2:

E. (4) Policy direction provided by the Mercer Island comprehensive plan;

***Analysis*: Review of the Comprehensive Plan results in the following findings:**

(1) The Comprehensive Plan envisions Mercer Island as a residential community:

(a) "Mercer Island prides itself on being a residential community. As such, most of the Island's approximately 6.2 square miles of land area is developed with single family homes." [Land Use Element, Introduction]

(b) "Single family residential zoning accounts for 88 percent of the Island's land use. There are 3,534 acres zoned for single family residential development. This compares to 77 acres in the Town Center zones, 19 acres for Commercial Office zone, and 103 acres in multi-family zones (Table 2). City Hall is located in a Commercial Office zone, while other key civic buildings such as the Post Office and the Main Fire Station are located in the Town Center and City Hall. Many of the remaining public buildings, schools, recreational facilities and places of religious worship are located in residential or public zones." [Land Use Element, II Existing Conditions and Trends, Areas outside the Town Center]

(c) "OUTSIDE THE TOWN CENTER (1) The community needs to accommodate two important planning values - maintaining the existing single family residential character of the Island, while at the same time planning for population and housing growth." [Land Use Element, IV. Land Use Issues, Outside the Town Center (1)]

(2) A primary component of the housing element is the City's desire to protect single-family residential neighborhoods through development regulations and other City codes which restrict the bulk and scale of buildings, control noise and nuisances, minimize the impact of non-residential uses and help preserve the natural environment. City code provisions were specifically designed to protect residential areas from incompatible uses and promote bulk and scale consistent with the existing neighborhood character. This includes limiting the size and scope of nonresidential uses to be consistent with existing neighborhood character.

(a) "Housing Element

III. Neighborhood Quality

Mercer Island single family neighborhoods pride themselves on their narrow, quiet streets and dense plantings. The City protects these neighborhoods through development regulations and other City codes which restrict the bulk and scale of buildings, control noise and nuisances, minimize the impact of non-residential uses and help preserve the natural environment. Parks, open spaces and trails also contribute to the neighborhood quality." [Housing Element, III. Neighborhood Quality]

b) "GOAL 1:

Ensure that single family and multi-family neighborhoods provide safe and attractive living environments, and are compatible in quality, design and intensity with surrounding land uses, traffic patterns, public facilities and sensitive environmental features.

1.1 Ensure that zoning and City code provisions protect residential areas from incompatible uses and promote bulk and scale consistent with the existing neighborhood character." [Housing Element, III. Neighborhood Quality, Goal 1.1]

(3) The Comprehensive Plan evidences an intent to retain certain non-residential structures located in residential zones. However, the Comprehensive Plan is silent on whether such structures would be eligible for variances from otherwise applicable numerical standards.

(a) "GOAL 17:

With the exception of allowing residential development, commercial designations and permitted uses under current zoning will not change.

17 .4 Social and recreation clubs, schools, and religious institutions are predominantly located in single family residential areas of the Island. Development regulation should reflect the desire to retain viable and healthy social, recreational, educational, and religious organizations as community assets which are essential for the mental, physical and spiritual health of Mercer Island." [Land Use Elements, IV Land Use Issues Outside the Town Center]

(4) The Comprehensive Plan also evidences an intent to preserve existing conditions and to generally permit changes only through amendments to the development code, rather than through granting numerous of variances to that development code. At the same time, there is also recognition that some non-residential structures and uses are compatible with residential zones.

(a) "GOAL 15: -
Mercer Island should remain principally a low density, single family residential community.

15.1 Existing land use policies, which strongly support the preservation of existing conditions in the single family residential zones, will continue to apply. Changes to the zoning code or development standards will be accomplished through code amendments.

15.2 Residential densities in single family areas will generally continue to occur at three to five units per acre, commensurate with current zoning. However, some adjustments may be made to allow the development of innovative housing types, such as accessory dwelling units and compact courtyard homes at slightly higher densities as outlined in the Housing Element.

. . .

15.4 As a primarily single family residential community with a high percentage of developed land, the community cannot provide for all types of land uses. Certain activities will be considered incompatible with present uses. Incompatible uses include landfills, correctional facilities, zoos and airports. Compatible permitted uses such as education, recreation, open spaces, government social services and religious activities will be encouraged." [Land Use Elements, IV Land Use Issues Outside the Town Center].

Pages 4 – 6

B. The Region Is Facing A Housing Shortage.

Attached as Exhibit 3 are public announcements by Governor Inslee encouraging the Legislature to "go big" to meet the scale of the housing crisis, and the enormous investments the state and county are making to scale-up construction of housing.

Attached as Exhibit 4 are pages from the PSRC's 2050 Vision Statement on Housing noting:

"Housing is a basic need for every individual. Yet, residents in many communities in the region are facing an unprecedented challenge in finding and keeping a home that they can afford. The central Puget Sound region is expected to grow by an additional 1.8 million residents and 830,000 households by the year 2050. Simply put, the region needs more housing of varied types in all communities. Meeting the housing needs of all households at a range of income levels is integral to promoting health and well-being and creating a region that is livable for all residents, economically prosperous, and environmentally sustainable."

PSRC 2050 Vision Statement, p.82

Currently Mercer Island has a housing allocation of approximately 1,200 units left to permit pursuant to the GMPC's housing allocations. In 2023, the Legislature adopted HB 1110 that requires every residential lot on Mercer Island to allow two separate housing units, and four housing units per lot without parking mandates within a quarter of a mile of the light rail station, including the residential neighborhood to the north.

It would be contrary to state, county and city policies for Mercer Island to now allow single-family residential zoned properties to be rezoned to a different non-housing zone, and would shift Mercer Island's housing allocation burden to the other residential zones and property.

C. <u>The Conditional Use Permit Process Allows A Fair And Equitable Non-Conforming Use In A Single-Family Residential Zone</u>.

The Conditional Use Permit (CUP) process MICC 19.06.110 allows an organization to obtain a non-conforming use in the single-family home residential zone, and allows that non-conforming CUP to combine residential properties and eliminate the side-yard setabacks between the properties.

At the same time, the Conditional Use Permit process MICC 19.06.110(a) and (b) protects the surrounding single-family home residential zones and requires that the scale of the development, in consideration of the privilege of a non-conforming use, is consistent with all properties in the single-family home residential zone.

The mere existence of MICC 19.06.110 highlights that the restrictions on conditional uses in the single-family home residential zone is not consistent with a different zone with different regulatory limits in the single-family residential zone.

D. <u>To Allow One Property Owner Or Conditional Use Permit To Rezone Single-Family Zoned Residential Properties To Another Zone Will Allow All Property Owners The Same Right.</u>

MICC 19.15.240(C)(4) specifically states the "proposed reclassification does not constitute an illegal site-specific rezone." If the Council allows single-family residential zoned properties to be rezoned contrary to state, county and city policies preserving and expanding housing, that would require the Council to allow **any** single-family home residential property owner to request the same change in zoning or upzone. If the requested rezone is site specific, it violates MICC 19.15.240(4)(C). If it is not site specific, it effectively eliminates the single-family residential zone.

The Council cannot favor one property owner or CUP over another, otherwise it would be an illegal spot zone. Such a huge change in zoning and policy would effectively abrogate the policies towards preserving single-family home residential zoning on Mercer Island contrary to The Comprehensive Plan.

Exhibit 1

Appendix D - ZONING MAP

View city of Mercer Island Zoning Map.

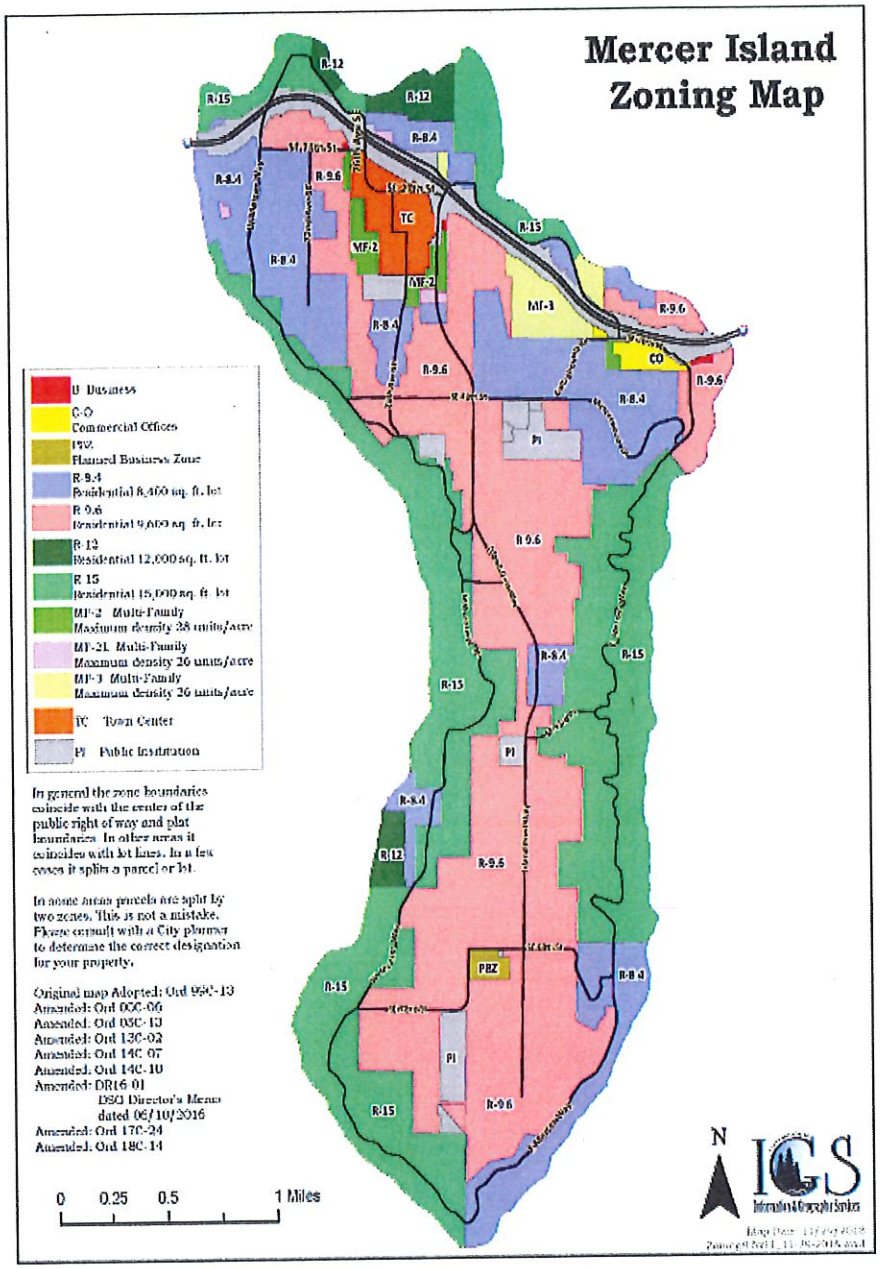


Exhibit 2

Development Code Interpretation 22-004

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT
9611 SE 36TH STREET | MERCER ISLAND, WA 98040
PHONE: 206.275.7605 | www.mercerisland.gov

TO: CPD Staff

FROM: Jeff Thomas, Interim CPD Director

DATE: November 21, 2022

RE: Variances for Non-Residential Structures in Residential Zones

A. MICC SECTION(S) INTERPRETED

MICC 19.06.110(B)

B. AUTHORITY

This development code interpretation is issued under the authority of sections 19.15.030 and 19.15.160 of the Mercer Island City Code (MICC).

C. ISSUE

MICC 19.06.110(B), *Variances,* imposes a hardship criterion that requires applicants requesting variances in residential zones to demonstrate that strict enforcement of Title 19 MICC will prevent the construction of a single-family dwelling on a legally created residentially zoned lot. MICC 19.06.110(B)(2)(a).

Can the City grant a variance from numeric standards for a non-residential structure sited in a residential zone, if under MICC 19.06.110(B)(1), all criteria in subsection(B)(2)(a) through (B)(2)(h) must be met, and that for a variance to lot coverage standards, the criteria in subsection (B)(2)(a) through (B)(2)(i) must be met?

D. BACKGROUND

The hardship criterion contained in MICC 19.06.110(B)(2)(a) was adopted by Ordinance No. 17C-15 on September 19, 2017. The criterion contained in MICC 19.06.110(B)(2)(i), relating to variances as to lot coverage for specific non-residential structures, existed in the MICC prior to the adoption of Ordinance No. 17C-15. However, that language was moved to MICC 19.06.110(B)(2)(i) within Ordinance No. 17C-15 to consolidate criteria relating to variances.

E. FINDINGS

1. Per MICC 19.15.160, the Code Official may issue a written interpretation of the meaning or application of provisions of the development code.[1]
2. This written interpretation is intended to interpret the scope of the hardship criteria as applied to non-residential structures in residential zones.
3. MICC 19.06.110(B)(1)(a) could be read to foreclose variances from numeric standards for non-residential structures in residential zones because the hardship criterion limits the application of variances to instances where strict application of Title 19 would prohibit construction of one single family residence on a legally created residential lot. The applicant or property owner of a non-residential structure would not be able to demonstrate an unnecessary hardship because there are no circumstances where the adopted standards of Title 19 MICC are preventing construction of a single-family dwelling; rather the applicant or property owner is seeking a variance for a non-residential structure. It is not Title 19 that would preclude the construction of a residential structure, but rather the choice of the applicant or property owner. However, MICC 19.06.110(B)(2)(i) explicitly affords the applicant or property owner of a non-residential structure the opportunity for a variance from impervious surface standards for particular types of non-residential structures.
4. This apparent conflict within MICC 19.06.110(B) requires interpretation to administer.
5. A plain reading of MICC 19.06.110(B), giving meaning to all of the text within that section, results in the following conclusions:
   a. Non-residential structures in residential zones are generally precluded from receiving variances from numeric standards of Title 19, because they cannot meet the hardship criterion—to wit, they cannot demonstrate that Title 19 prevents the construction of a single-family dwelling on a legally created residential lot.
   b. The one exception is that certain enumerated non-residential structures (public and private schools, religious institutions, private clubs, and public facilities) within residential zones with slopes of less than 15 percent ***can*** receive a variance to increase impervious surface to a maximum of 60 percent if the Hearing Examiner determines the applicant has demonstrated satisfaction of the criteria contained within MICC 19.06.110(B)(2)(i)(i-iv).
   c. Further, an applicant or property owner would also be required to demonstrate the other criteria outlined in subsection (B)(2)(a) through (B)(2)(i), with the exception of being able to demonstrate inability to construct a single-family residence on a legally created residential lot. The applicant or property owner would still have to demonstrate an unnecessary hardship to the property owner, because the first sentence of MICC 19.06.110(B)(2)(a) requires proof that "[t]he strict enforcement of the provisions of this title will create an unnecessary hardship to the property owner."
6. As discussed further below, the legislative history relating to Ordinance No. 17C-15 supports this conclusion. During the process of adopting Ordinance No. 17C-15, discussion between the City Council and the City's then Community Planning and Development (CPD) Director reflected an intent to greatly reduce the number of variances granted, which was the impetus behind adding the hardship criterion now contained in MICC 19.06.110(B)(2)(a).
7. In issuing an interpretation, the Code Official is directed to consider eight factors specified in MICC 19.15.160(A). These factors are:

(1.) The plain language of the code section in question;

Analysis: A reading of the plain language of MICC 19.06.110 results in the following findings:

[1] Under the MICC, variances are granted by the Hearing Examiner. MICC 19.15.030 and Tables A-B.

i. MICC 19.06.110(B), *Variances,* imposes a hardship criterion; an applicant or owner applying for variance must show that strict enforcement of Title 19 will create an unnecessary hardship to the property owner. MICC 19.06.110(B)(2)(a). For properties in residential zones, "unnecessary hardship" is limited to those circumstances where the adopted standards of Title 19 MICC prevent the construction of a single-family dwelling on a legally created residential zoned lot. *Id.*

ii. However, MICC 19.06.110(B)(2) also includes a criterion for variances to impervious surface standards for "[p]ublic and private schools, religious institutions, private clubs and public facilities in single-family zones with slopes of less than 15 percent." MICC 19.06.110(B)(2)(i).

iii. MICC 19.06.110(B)(1) further provides: "[a] variance shall be granted by the city only if the applicant can meet all criteria in subsections (B)(2)(a) through (B)(2)(h) of this section. A variance for increased lot coverage for a regulated improvement pursuant to subsection (B)(2)(i) of this section shall be granted by the city only if the applicant can meet criteria in subsections (B)(2)(a) through (B)(2)(i) of this section."

(2.) Purpose and intent statement of the chapters in question;

Analysis: Chapter 19.06 MICC does not contain a general purpose statement; however, MICC 19.06.110(B)(1) provides a purpose statement for the MICC section in question: "*Purpose.* An applicant or property owner may request a variance from any numeric standard, except for the standards contained within chapter 19.07 MICC. A variance shall be granted by the city only if the applicant can meet all criteria in subsections (B)(2)(a) through (B)(2)(h) of this section. A variance for increased lot coverage for a regulated improvement pursuant to subsection (B)(2)(i) of this section shall be granted by the city only if the applicant can meet criteria in subsections (B)(2)(a) through (B)(2)(i) of this section."

(3.) Legislative intent of the city council provided with the adoption of the code sections in question;

Analysis: Review of the legislative history of MICC 19.06.110(B) results in the following findings:

i. On September 19, 2017, the Mercer Island City Council adopted Ordinance No. 17C-15, adding the unnecessary hardship criterion currently contained in MICC 19.06.110(B)(2)(a).

ii. The minutes from the relevant City Council meetings indicate the following:
The July 5, 2017 minutes contains the following discussion:

Variance Criteria:

- Planning Commission Recommendation: prohibit / limit variances to GFA, minimum lot size, height, fence height and staff does not recommend adopting this amendment
- Alternative: Limit variance approvals to those circumstances where a house could not otherwise be built on a legal, residential lot and remove ambiguous language regarding groundcover, trees, physical condition of the lot from "d."

Council Direction: Staff propose a solution for "flag lots." Support alternative to limit variance approvals to those circumstances where a house could not otherwise be built on a legal, residential lot and remove ambiguous language regarding groundcover, trees, physical condition of the lot from "d."

iii. The packet from the July 5, 2017, reading of the later adopted ordinance included the following discussion of the options before City Council with respect to the hardship criterion ultimately added to MICC 19.06.110(B)(2)(a):

			Variance Criteria		
17	Page 71 – Variances	Allow for an application for a variance to any numeric standard, except for the standards in Chapter 19.07.	Prohibit the application for a variance to minimum lot area requirements, gross floor area, building height, or lot coverage.	Dan Grausz	Staff does not recommend adopting this amendment. There are some circumstances where allowing for a variance to these standards is appropriate to avoid a regulatory takings. The variance criteria have been revised to limit variances to only those circumstances where a variance is warranted.

Draft Page #	Planning Commission Recommendation	Proposed Amendment	Source	Staff Recommendation / Rationale
		Alternatively, limit variance approvals to those situations where a property owner cannot both comply with existing standards and build a home on a legally created residential lot.		Staff recommends further revising the criteria for approval. In particular, staff recommends limiting variances to situations where a property owner cannot comply with all of the development standards and build a new single family home. This item was discussed by the Planning Commission.

iv. The discussion between the then CPD Director and City Council regarding the hardship criterion further indicates the intent of restricting variances in residential zones only to those instances where a variance is necessary to permit the construction of a single-family residence on a legally created residential lot.

v. The Code Official is unaware of any discussion by City Council or other materials regarding the resulting conflict between the language in MICC 19.06.110(B)(2)(a) and the language in MICC 19.06.110(B)(2)(i).

(4.) Policy direction provided by the Mercer Island comprehensive plan;

Analysis: Review of the Comprehensive Plan results in the following findings:

(1) The Comprehensive Plan envisions Mercer Island as a residential community:

(a) "Mercer Island prides itself on being a residential community. As such, most of the Island's approximately 6.2 square miles of land area is developed with single family homes." [Land Use Element, Introduction]

(b) "Single family residential zoning accounts for 88 percent of the Island's land use. There are 3,534 acres zoned for single family residential development. This compares to 77 acres in the Town Center zones, 19 acres for Commercial Office zone, and 103 acres in multi-family zones (Table 2). City Hall is located in a Commercial Office zone, while other key civic buildings such as the Post Office and the Main Fire Station are located in the Town Center and City Hall. Many of the remaining public buildings, schools, recreational facilities and places of religious worship are located in residential or public zones." [Land Use Element, II Existing Conditions and Trends, Areas outside the Town Center]

(c) "OUTSIDE THE TOWN CENTER (1) The community needs to accommodate two important planning values — maintaining the existing single family residential character of the Island, while at the same time planning for

population and housing growth." [Land Use Element, IV. Land Use Issues, Outside the Town Center (1)]

(2) A primary component of the housing element is the City's desire to protect single-family residential neighborhoods through development regulations and other City codes which restrict the bulk and scale of buildings, control noise and nuisances, minimize the impact of non-residential uses and help preserve the natural environment. City code provisions were specifically designed to protect residential areas from incompatible uses and promote bulk and scale consistent with the existing neighborhood character. This includes limiting the size and scope of nonresidential uses to be consistent with existing neighborhood character.

(a) "Housing Element

III. Neighborhood Quality

Mercer Island single family neighborhoods pride themselves on their narrow, quiet streets and dense plantings. The City protects these neighborhoods through development regulations and other City codes which restrict the bulk and scale of buildings, control noise and nuisances, minimize the impact of non-residential uses and help preserve the natural environment. Parks, open spaces and trails also contribute to the neighborhood quality." [Housing Element, III. Neighborhood Quality]

(b) "GOAL 1: -

Ensure that single family and multi-family neighborhoods provide safe and attractive living environments, and are compatible in quality, design and intensity with surrounding land uses, traffic patterns, public facilities and sensitive environmental features.

1.1 Ensure that zoning and City code provisions protect residential areas from incompatible uses and promote bulk and scale consistent with the existing neighborhood character." [Housing Element, III. Neighborhood Quality, Goal 1.1]

(3) The Comprehensive Plan evidences an intent to retain certain non-residential structures located in residential zones. However, the Comprehensive Plan is silent on whether such structures would be eligible for variances from otherwise applicable numerical standards.

(a) "GOAL 17: -

With the exception of allowing residential development, commercial designations and permitted uses under current zoning will not change.

17.4 Social and recreation clubs, schools, and religious institutions are predominantly located in single family residential areas of the Island. Development regulation should reflect the desire to retain viable and healthy social, recreational, educational, and religious organizations as community assets which are essential for the mental, physical and spiritual health of Mercer Island." [Land Use Elements, IV Land Use Issues Outside the Town Center]

(4) The Comprehensive Plan also evidences an intent to preserve existing conditions and to generally permit changes only through amendments to the development code, rather than through granting numerous of variances to that development code. At the same

time, there is also recognition that some non-residential structures and uses are compatible with residential zones.
(a) "GOAL 15: -
Mercer Island should remain principally a low density, single family residential community.
15.1 Existing land use policies, which strongly support the preservation of existing conditions in the single family residential zones, will continue to apply. Changes to the zoning code or development standards will be accomplished through code amendments.
15.2 Residential densities in single family areas will generally continue to occur at three to five units per acre, commensurate with current zoning. However, some adjustments may be made to allow the development of innovative housing types, such as accessory dwelling units and compact courtyard homes at slightly higher densities as outlined in the Housing Element.
...
15.4 As a primarily single family residential community with a high percentage of developed land, the community cannot provide for all types of land uses. Certain activities will be considered incompatible with present uses. Incompatible uses include landfills, correctional facilities, zoos and airports. Compatible permitted uses such as education, recreation, open spaces, government social services and religious activities will be encouraged." [Land Use Elements, IV Land Use Issues Outside the Town Center].

(5.) Relevant judicial decisions;

Analysis: The Code Official is unaware of any relevant judicial decisions related to this issue. However, the Code Official is aware of several cases regarding code interpretation. Municipal ordinances are subject to the same rules of statutory interpretation as are statutory enactments. *Hassan v. GCA Production Services, Inc.*, 17 Wn.App. 625, 637, 487 P.3d 203 (2021). Additionally, the goal of code interpretation is to give effect to the intentions of the drafters. *Jametsky v. Olsen*, 179 Wash. 2d 756, 762, 317 P.3d 1003, 1006 (2014). Absurd results are to be avoided in construing ambiguous language, although the principle is to be used sparingly. *Seattle Hous. Auth. v. City of Seattle*, 3 Wash. App. 2d 532, 538–39, 416 P.3d 1280, 1283 (2018); *Samish Indian Nation v. Wash. Dep't of Licensing*, 14 Wash.App.2d 437, 444, 471 P.3d 261 (2020). Further, when possible, legislation must be construed so that no clause, sentence, or word is rendered superfluous, void, or insignificant. *Coates v. City of Tacoma*, 11 Wash. App. 2d 688, 695, 457 P.3d 1160, 1164 (2019).

(6.) Consistency with other regulatory requirements governing the same or similar situation;

Analysis: The Code Official is unaware of other regulatory requirements governing the same or similar situations.

(7.) The expected result or effect of the interpretation; and

Analysis: The interpretation will result in clarifying the position of the Code Official in that the MICC prohibits variances from numerical standards for non-residential structures in residential zones, with the sole exception of the specific types of non-residential structures enumerated in MICC 19.06.110(B)(2)(i) from impervious surface standards.

(8.) Previous implementation of the regulatory requirements governing the situation.
Analysis: The Code Official is unaware of any previous implementation of regulatory requirements relating to variances for non-residential structures within residential zones since the addition of the hardship criterion in September 2017.

F. CONCLUSIONS

1. MICC 19.06.110(B) contains conflicting language as to variances for non-residential structures in residential zones. Reconciling this conflict, the Code Official makes the following interpretations:
   a. The specifically enumerated non-residential structures listed in MICC 19.06.110 (B)(2)(i) are eligible to receive a variance from impervious surface standards if:
      i. The Hearing Examiner finds that the criteria contained within MICC 19.06.110(B)(2)(i)(i-iv) have been satisfied, and
      ii. The Hearing Examiner finds compliance with the other criteria enumerated in subsection (B)(2)(a) through (i), including demonstrating an unnecessary hardship, per subsection (B)(2)(a), but disregarding the second sentence of (B)(2)(a) due to the conflict with subsection (B)(2)(i).

   b. The MICC prohibits other variances from numerical standards for non-residential structures in residential zones.

2. Both conclusions enumerated above are based upon the following:
   a. It is apparent from the relevant legislative history that City Council's stated intent was to restrict variances in residential zones only to those circumstances in which construction of a single-family residence upon a legally created residential lot would be prohibited. The Code Official did not find any evidence that City Council was aware of the conflict between MICC 19.06.110(B)(2)(a) and (B)(2)(i).

      Because the language regarding variances from impervious surface standards for certain specified non-residential structures in residential zones was also reorganized by City Council to MICC 19.06.110(B) contemporaneously with the creation of the hardship criterion, it is the position of the Code Official that the language in MICC 19.06.110(B)(2)(i) must be also given effect as a narrow exception to the prohibition against variances for non-residential structures in residential zones as put forth in MICC 19.06.110(B)(2)(a). This conclusion is necessary in order to give the fullest effect to the legislative enactment of the City Council.

   b. Utilizing statutory interpretation principles, the Code Official is required to construe the MICC to give the fullest effect to the legislative intent of the City Council, to utilize the principles of avoiding absurd results (but in a sparing manner), and to avoid making code language superfluous, void, or insignificant. Other than variances from impervious surface standards, no other variances for non-residential structures within residential zones are listed in MICC 19.06.110(B)(2).

   c. There is nothing in the City's Comprehensive Plan to contradict the conclusions of the Code Official. The Comprehensive Plan prioritizes residential uses while also recognizing certain non-residential uses within residential zones. The interpretation of the Code Official does not prohibit the siting of non-residential structures in residential zones where otherwise permitted, but it does limit the type of variances available for such structures.

G. INTERPRETATION

The specifically enumerated non-residential structures listed in MICC 19.06.110 (B)(2)(i) are eligible to receive a variance from impervious surface standards if the Hearing Examiner determines the application has demonstrated satisfaction of the criteria contained within MICC 19.06.110(B)(2)(i)(i-iv) and the applicant or property owner demonstrates compliance with the other criteria enumerated in subsection (B)(2)(a) through (i), including demonstrating an unnecessary hardship, per subsection (B)(2)(a), but disregarding the conflicting second sentence of (B)(2)(a).

Having not been expressly included in MICC 19.06.110(B)(2), the position of the Code Official is that all other variances from numerical standards for non-residential structures in residential zones are prohibited by MICC 19.06.110(B)(2)(a).

Exhibit 3

Washington "goes big" on housing in 2023

May 08, 2023

Gov. Jay Inslee signs legislation to help overcome racist real estate covenants that pervaded until the 1960s and caused intergenerational harm.

From Vancouver to Bellingham and Pullman to La Push, the cost of housing has soared. In the last decade, one million new residents arrived while only one-quarter as many homes went up. When demand exceeds supply, prices rise. Rise they have.

Rents are up. Prices are up. Accordingly, homelessness is up. And too many families are just a paycheck away from trouble.

To begin the 2023 legislative session, Gov. Jay Inslee encouraged the Legislature to "go big" to meet the scale of the housing crisis. On Monday, the governor and lawmakers gathered to sign a slate of housing-related bills to clear obstacles to housing construction and right historic wrongs related to housing discrimination.

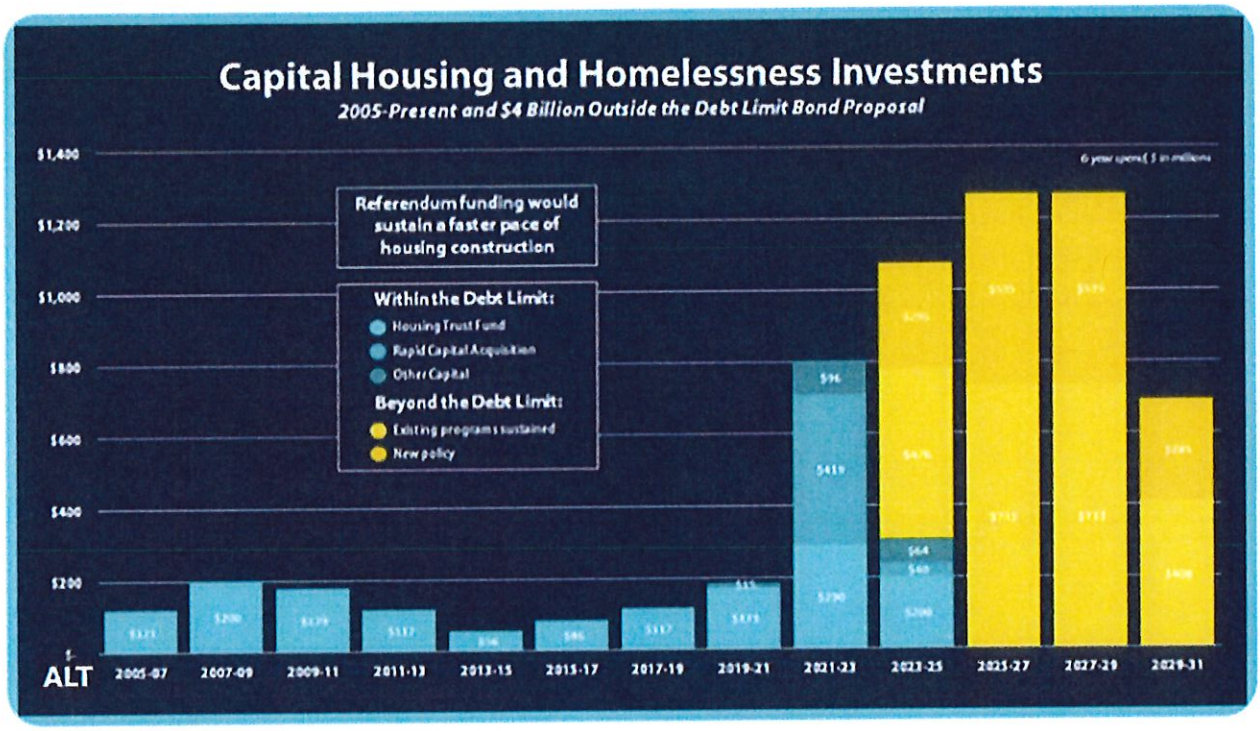
At a later date, the governor will sign a budget that allocates more than $1 billion over the next biennium to address homelessness and affordable housing.

Read the rest of the story on Gov. Inslee's Medium page.

← **Post**

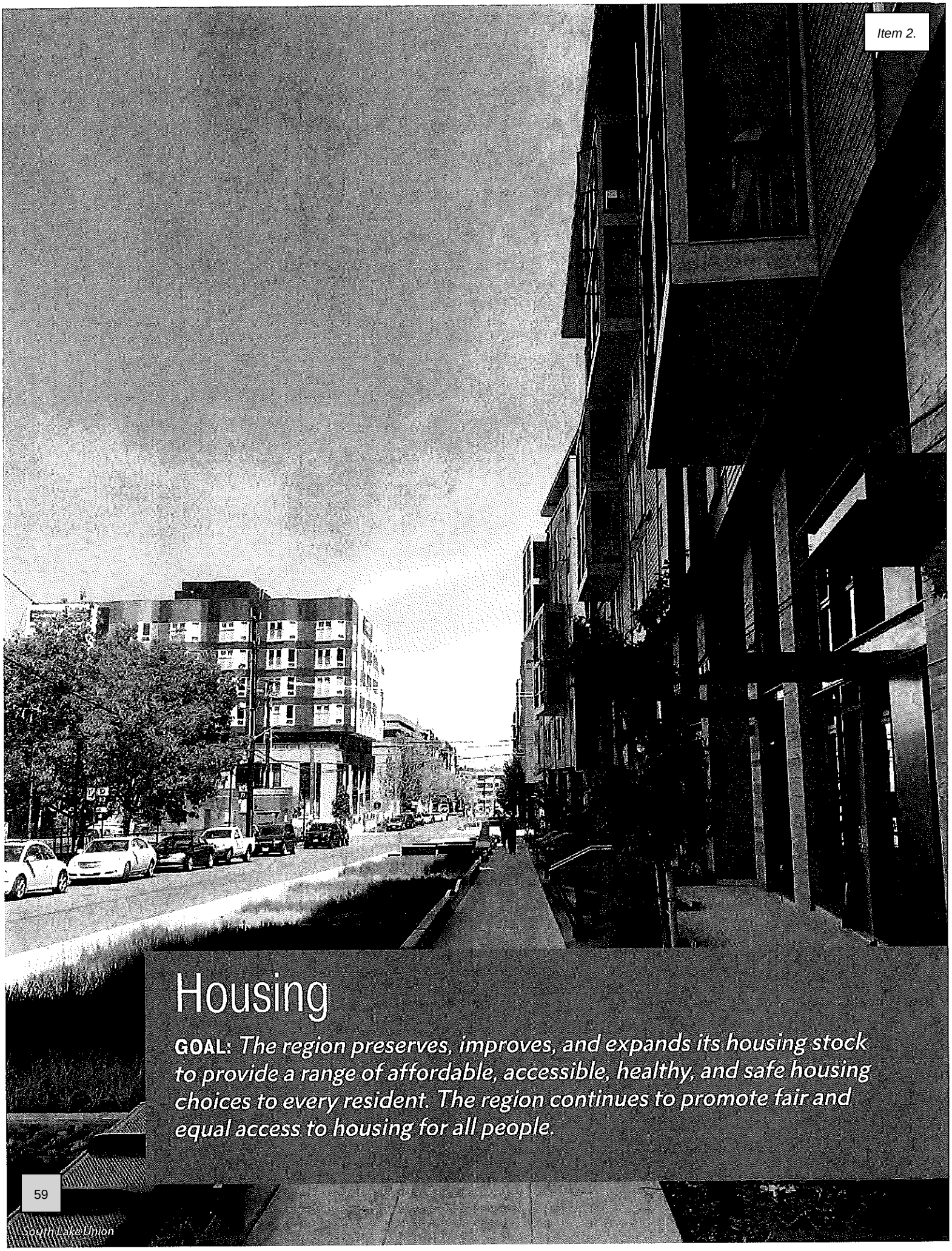
Governor Jay Inslee ✓
@GovInslee

In the past two years we were able to make historic investments to scale up and speed up construction of housing and shelters. The problem is growing, not shrinking, so our response must match the moment. (2/3)



5:26 PM · Mar 20, 2023 · **12.7K** Views

Exhibit 4



Housing

GOAL: *The region preserves, improves, and expands its housing stock to provide a range of affordable, accessible, healthy, and safe housing choices to every resident. The region continues to promote fair and equal access to housing for all people.*

Housing is a basic need for every individual. Yet, residents in many communities in the region are facing an unprecedented challenge in finding and keeping a home that they can afford. The central Puget Sound region is expected to grow by an additional 1.8 million residents and 830,000 households by the year 2050. Simply put, the region needs more housing of varied types in all communities. Meeting the housing needs of all households at a range of income levels is integral to promoting health and well-being and creating a region that is livable for all residents, economically prosperous, and environmentally sustainable.

Housing affordability continues to be a major challenge for the region. The housing market has experienced great highs and lows that have benefitted some and created and exacerbated hardship and inequalities for others. Following the precipitous drop in housing prices and foreclosures of the recession, the region's economic upswing and strong job growth in the 2010s have fueled dramatic increases in rents and home prices. Despite job losses due to the COVID-19 pandemic and the resulting financial impact on many households, home prices have continued to increase in the region. Some may have been able to take advantage of historically low mortgage interest rates or lower rents, while others are in a challenging position due to loss of income and face the potential of eviction or foreclosure. A potentially imbalanced recovery may further the threat of displacement of low-income households and people of color. As a result, housing costs are a greater burden for many households today than a decade ago, leaving less for other basic needs and amenities. Renters, and renters of color in particular, face a considerable shortage of affordable housing opportunities. And these households are often the most at risk of losing their housing and experiencing homelessness.

A primary goal of the Growth Management Act is to make housing affordable to "all economic segments of the population, providing a variety of residential densities and housing types and encouraging preservation of existing housing stock. Local governments are required to plan for housing that meets the varied needs of their diverse communities and residents and to ensure

they are providing sufficient residential zoned land capacity for housing to accommodate 20-year growth targets.

VISION 2050's housing policies respond to the urgency of changing demographics and the need to increase and diversify the region's housing supply. They identify coordinated strategies, policies, and actions to ensure that the region's housing needs are met.

A Regional Challenge

The complexity of addressing the full range of housing needs and challenges requires a coordinated regional-local approach. A coordinated, regionwide effort to build and preserve housing accessible to all residents is not just about housing. It is also about building healthy, complete, and welcoming communities where all families and people, regardless of income, race, family size or need, are able to live near good schools, transit, employment opportunities, and open space.

Through the Regional Growth Strategy, the region has articulated a preferred pattern of urbanization that will help direct new housing development to the urban growth area and designated growth centers while preserving industrial lands. Focusing housing in urban areas, specifically centers and station areas, supports and leverages the region's ongoing prioritization of infrastructure investment in central urban places. To assist counties and cities, PSRC serves as a forum for setting regional priorities and facilitating coordination among its member jurisdictions and housing interest groups.

Through data, guidance, and technical assistance, PSRC encourages jurisdictions to adopt best housing practices and establish coordinated local housing and affordable housing targets. PSRC supports jurisdictions in their development of effective local housing elements, strategies, and implementation plans. Housing data and information tracking the success of various housing efforts are monitored and reported regionally at PSRC.

The Need for Local Action

Local governments play a critical role in housing, including its production and preservation. Local governments possess regulatory control over land use and development. They are key players, both individually and in cooperation with other housing interests, in stimulating various types of development activity through zoning, incentives, and funding, streamlined development review and permitting processes.

Local Housing Responsibilities Under the Growth Management Act

Local housing elements should ensure the vitality and character of established residential neighborhoods and include the following components:

1. an inventory and analysis of existing and projected housing needs,
2. goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing,
3. identification of sufficient land for a range of housing types to match community needs, and
4. adequate provisions for the needs of all economic segments of the community. (RCW 36.70A.070)

There are numerous tools and strategies available to local governments to encourage housing diversity and promote affordable housing. Many of these tools can be applied in a manner that is tailored to and respectful of local market conditions, community characteristics, and the vision for growth embodied in local comprehensive plans. Since VISION 2040 was adopted in 2008, housing planning and implementation has advanced through the ongoing work of state, regional, and local agencies and organizations. These efforts have yielded new resources, promoted best practices, established community-based housing strategies, and coordinated efforts across multiple jurisdictions.

Housing Choices to Reflect Changing Demographics

The characteristics of the region's households have been changing over time and will continue to do so. The size of the average household has been decreasing. Fewer people are living in family households with two parents and children. More households are comprised of singles, couples without children, or single-parent families. Many households have two or more workers. The region's population is becoming far more racially and ethnically diverse. As the population ages and new generations enter the housing market, there will be demands and preferences for new and different types of housing. While the region has a changing population with a wide range of housing needs, the vast majority of owner-occupied homes are larger single-family homes. Moderate density housing, ranging from duplexes to townhomes to garden apartments, bridge a gap between single-family housing and more intense multifamily and commercial areas and provide opportunities for housing types that are inclusive to people of different ages, life stages, and income ranges. Regional and local tools can help to promote and incentivize the development and preservation of more moderate density housing to give people greater housing choices, and produce urban densities that support walkable communities, local retail and commercial services, and efficient public transit.

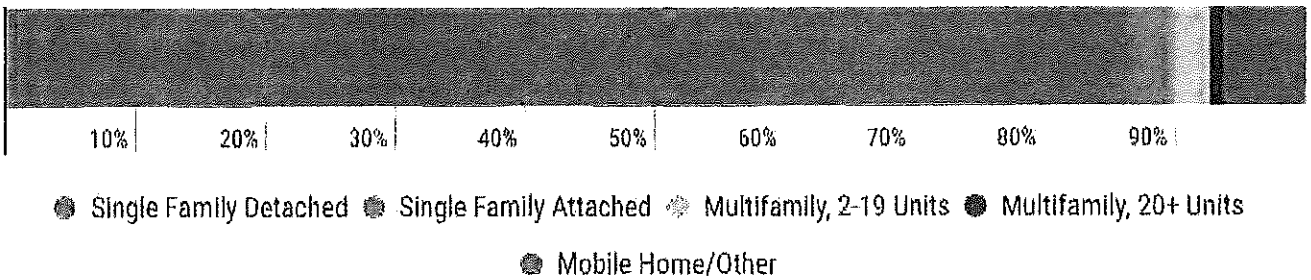
Affordability

The region continues to experience an affordability crisis. Rising housing costs can be particularly devastating for low-income renters, particularly renters of color, many who pay more than 50% of their income on housing. Many middle- and lower-income households struggle to find housing that fits their income in an increasingly competitive and expensive housing market due, in part, to zoning practices that have prevented the development of more affordable, smaller homes, and apartments. Home ownership may seem like less of a reality for potential first-time buyers as home prices continue to climb. This is especially true for people of color, who have been historically excluded from homeownership opportunities.

The central Puget Sound region's housing landscape reflects more than market forces and conditions. It is also the product of decades of public policies and private practices that, throughout the 20th century, often excluded lower income households and immigrant communities, and prevented people of color from accessing housing and living in certain areas. Past and current housing practices have perpetuated substantial inequities in wealth, ownership, and opportunity, and they continue to create barriers to rectifying these conditions. Regional housing work is approached with an awareness of this legacy and of the comprehensive work needed to redress it.

Low- to middle-wage workers – such as teachers, health care professionals, retail workers, administrative personnel, police officers, and firefighters – who are essential to the economic and social vitality of a community, often cannot afford to live in the places where they work. As affordable housing options become scarce, households are forced to move farther from their jobs and communities, resulting in increased traffic congestion and transportation costs and fragmentation of communities. This spatial mismatch also leads to an inability of certain segments of the labor market to fill positions.

Figure 27 – Ownership Housing Stock by Housing Type, Central Puget Sound Region



Source: 2017 American Community Survey

Common Housing Terms

Affordable Housing is commonly defined in terms of housing costs as a percentage of household income. Housing is considered unaffordable when a household's monthly housing costs exceed a certain threshold – most commonly 30% of gross income – thereby reducing the budget available for basic necessities.

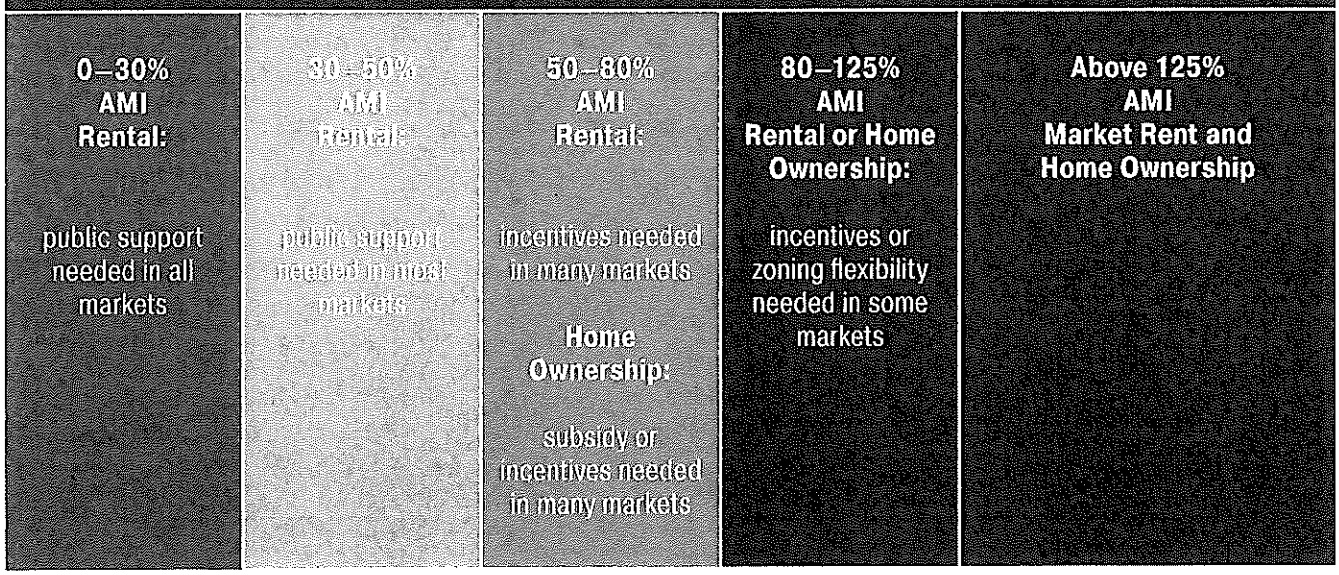
Housing Affordability refers to the balance (or imbalance) between incomes and housing costs within a community or region. A common measurement compares the number of households in certain income categories to the number of units in the market that are affordable at 30% of gross income.

Providing housing affordable to households earning different incomes requires different approaches. To craft effective strategies, it is imperative to understand the types and cost of housing needed in a community relative to the supply of housing available to households at each income level. Over one-third of households in the region earn less than 80% area median income (AMI). Ideally, the supply of housing affordable to moderate and low-income households should mirror the number of households at those income levels. The current distribution of households in the region is:

- 15% of households earn 50-80% AMI (Moderate Income)
- 9% of households earn 30-50% AMI (Low Income)
- 11% of households earn less than 30% AMI (Very Low Income)

Providing affordable units for very low-income residents and providing housing options for residents experiencing homelessness cannot be fully addressed by the private market alone. Public intervention is necessary to ensure housing units

Figure 28 – Lower Housing Costs Require Greater Public Intervention



AMI: Area Median Income. Source: 2016 ACS 1-Year PUMS

are affordable to households at the lowest income levels now and in the future.

While the current housing production rate in 2017 meets the average annual need in the region, the market has yet to make up for the slow growth in the years directly following the recession resulting in a supply and demand imbalance. Increasing the supply of housing throughout the region and providing a variety of housing types and densities for both renters and owners will help the region meet its housing goals. Special emphasis is placed on providing affordable housing for low-, moderate-, and middle-income households across the region, with a focus on promoting housing opportunities near transit, and appropriate housing for special needs populations. VISION 2050 also encourages more homeownership opportunities for low-income, moderate-income, and middle-income households and acknowledges historic and current inequities in access to homeownership opportunities for people of color and how this long history of exclusion and discrimination has prevented communities of color from accessing housing, ownership, and opportunity.

Focusing Housing Near Transit Options

Within the central Puget Sound region, jurisdictions are planning for housing and job growth in places designated for higher densities, a mix of land uses, and transportation choices. Communities across the region are realizing these aims by encouraging infill, redevelopment, and more compact development, especially in designated regional growth centers and around transit stations. However, rents and home prices are rising quickly, making it often challenging to find affordable housing close to jobs.

The region's continuing expansion of high-capacity transit provides one of the best opportunities to expand accessible housing options to a wider range of incomes. Promoting or

requiring affordable housing in walking distance – about ¼ to ½ mile—from high-capacity transit stations and in regional growth centers can help to ensure all residents have opportunities to live in accessible and connected communities. Such housing will be particularly valuable to low-income households, who are the most dependent on transit and are at risk for displacement as housing costs rise.

Displacement and Community Stability

Displacement occurs when housing or neighborhood conditions force residents to move. Displacement can be physical, when building conditions deteriorate or are taken off the market for renovation or demolition, or economic, as costs rise. Many communities in the central Puget Sound region, like the Central District in Seattle and the Hilltop neighborhood in Tacoma, have documented displacement. Once physical and economic displacement occur, the social and cultural composition of the neighborhood will be disrupted, thus affecting the cohesion and stability of a community and the well-being of local residents and businesses.

Several key factors can drive displacement: proximity to rail stations, proximity to job centers, historic housing stock, and location in a strong real estate market. Displacement is a regional concern as it is inherently linked to shifts in the regional housing and job market. Many of these factors put communities of color and neighborhoods with high concentrations of renters at a higher risk of displacement.

Regional growth centers and communities near transit are home to more people of color and higher concentrations of poverty than the region as a whole. As these central places connected by transit continue to grow and develop, residents and businesses who contribute to these communities should have the option to remain and thrive and take advantage of new amenities and services.

Jobs-Housing Balance

Jobs-housing balance is a planning concept which advocates that housing and employment be close together, with an emphasis on matching housing options with nearby jobs, to reduce the length of commute travel and number of vehicle trips. A lack of housing, especially affordable housing close to job centers, will continue to push demand for affordable homes to more distant areas, increasing commute times and the percentage of household income spent on transportation costs. Housing policies encourage adding housing opportunities to job-rich places. It is imperative that there are a variety of housing choices available to a variety of incomes in proximity to job centers to provide opportunities for residents to live close to where they work regardless of their income. Policies in the Economy chapter promote economic development to bring jobs to all four counties. Policies are also located in the Regional Growth Strategy chapter related to balancing jobs and housing growth.


Point Ruston

Housing POLICIES

MPP-H-1
Plan for housing supply, forms, and densities to meet the region's current and projected needs consistent with the Regional Growth Strategy and to make significant progress towards jobs/housing balance.

MPP-H-2
Provide a range of housing types and choices to meet the housing needs of all income levels and demographic groups within the region.

MPP-H-3
Achieve and sustain – through preservation, rehabilitation, and new development – a sufficient supply of housing to meet the needs of low-income, moderate-income, middle-income, and special needs individuals and households that is equitably and rationally distributed throughout the region.

MPP-H-4
Address the need for housing affordable to low- and very low-income households, recognizing that these critical needs will require significant public intervention through funding, collaboration, and jurisdictional action.

MPP-H-5
Promote homeownership opportunities for low-income, moderate-income, and middle-income families and individuals while recognizing historic inequities in access to homeownership opportunities for communities of color.

MPP-H-6
Develop and provide a range of housing choices for workers at all income levels throughout the region that is accessible to job centers and attainable to workers at anticipated wages.

MPP-H-7
Expand the supply and range of housing at densities to maximize the benefits of transit investments, including affordable units, in growth centers and station areas throughout the region.

MPP-H-8
Promote the development and preservation of long-term affordable housing options in walking distance to transit by implementing zoning, regulations, and incentives.

MPP-H-9
Expand housing capacity for moderate density housing to bridge the gap between single-family and more intensive multifamily development and provide opportunities for more affordable ownership and rental housing that allows more people to live in neighborhoods across the region.

MPP-H-10
Encourage jurisdictions to review and streamline development standards and regulations to advance their public benefit, provide flexibility, and minimize additional costs to housing.

MPP-H-11
Encourage interjurisdictional cooperative efforts and public-private partnerships to advance the provision of affordable and special needs housing.

MPP-H-12
Identify potential physical, economic, and cultural displacement of low-income households and marginalized populations that may result from planning, public investments, private redevelopment, and market pressure. Use a range of strategies to mitigate displacement impacts to the extent feasible.

Housing ACTIONS

REGIONAL ACTIONS

H-Action-1

Regional Housing Strategy: PSRC, together with its member jurisdictions, state agencies, housing interest groups, housing professionals, advocacy and community groups, and other stakeholders will develop a comprehensive regional housing strategy to support the 2024 local comprehensive plan update. The housing strategy will provide the framework for regional housing assistance (see H-Action-2, below) and shall include the following components:

- In the near term, a regional housing needs assessment to identify current and future housing needs to support the regional vision and to make significant progress towards jobs/housing balance and quantify the need for affordable housing that will eliminate cost burden and racial disproportionality in cost burden for all economic segments of the population, including those earning at or below 80 percent of Area Median Income throughout the region. This will provide necessary structure and focus to regional affordable housing discussions
- Strategies and best practices to promote and accelerate: housing supply, the preservation and expansion of market rate and subsidized affordable housing, housing in centers and in proximity to transit, jobs-housing balance, and the development of moderate-density housing options
- Coordination with other regional and local housing efforts

H-Action-2

Regional Housing Assistance: PSRC, in coordination with subregional, county, and local housing efforts, will assist implementation of regional housing policy and local jurisdiction and agency work. Assistance shall include the following components:

- Guidance for developing local housing targets (including affordable housing targets), model housing policies, and best housing practices
- Technical assistance, including new and strengthened tools, to support local jurisdictions in developing effective housing strategies, action plans, and programs
- Collection and analysis of regional housing data, including types and uses of housing and effectiveness of zoning, regulations, and incentives to achieve desired outcomes
- Technical assistance in support of effective local actions to address displacement, including data on displacement risk and a toolbox of local policies and actions

H-Action-3

State Support and Coordination: PSRC will monitor and support as appropriate members' efforts to seek new funding and legislative support for housing; and will coordinate with state agencies to implement regional housing policy.

LOCAL ACTIONS

H-Action-4

Local Housing Needs: Counties and cities will conduct a housing needs analysis and evaluate the effectiveness of local housing policies and strategies to achieve housing targets and affordability goals to support updates to local comprehensive plans. Analysis of housing opportunities with access to jobs and transportation options will aid review of total household costs.

H-Action-5

Affordable Housing Incentives: As counties and cities plan for and create additional housing capacity consistent with the Regional Growth Strategy, evaluate and adopt techniques such as inclusionary or incentive zoning to provide affordability.

H-Action-6

Displacement: Metropolitan Cities, Core Cities, and High Capacity Transit Communities will develop and implement strategies to address displacement in conjunction with the populations identified of being at risk of displacement including residents and neighborhood-based small business owners.

H-Action-7

Housing Choice: Counties and cities will update regulations and strategies to reduce barriers to the development and preservation of moderate density housing to address the need for housing between single-family and more intensive multifamily development, consistent with the Regional Growth Strategy.

H-Action-8

Housing Production: Counties and cities will review and amend, where appropriate and consistent with the Regional Growth Strategy, development standards and regulations to reduce barriers to the development of housing by providing flexibility and minimizing additional costs.

DOCKET REQUEST FORM

The following information is required. 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: Matthew Goldbach

Address: 9980 SE 40th St, Mercer Island, WA 98040

Phone: 954-806-2489

Email: blkship@yahoo.com

AGENT/CONSULTANT/ATTORNEY

Complete this section if the primary contact is different from the applicant.

Name: _____

Address: _____

Phone: _____

Email: _____

REQUEST INFORMATION

Important: A separate Docket Request Form must be completed for each docket item requested.

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

If yes, please complete the following information:

Property Owner Name: _____

Address: _____

County Assessor's Parcel No.: _____

Parcel Size (sq. ft.): _____

If the application is submitted by an agent/consultant/attorney, please attach a signed letter of consent from all owners of the affected property demonstrating that that the application is submitted with consent.

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

Comprehensive Plan Amendment ☐ Development code Amendment ☑

Is this submission a ***suggestion*** for a Comprehensive Plan or Development Code amendment, or is this an ***application*** for a specific amendment? (Check one box below.)

Note: Applications are subject to applicable permit fees.

Suggestion ☑ Application ☐

DOCKET REQUEST NARRATIVE – REQUIRED FOR ALL APPLICATIONS

Please attach a separate narrative responding to all five (5) questions outlined below. Attach additional sheets, supporting maps, or graphics as necessary. Answer each question separately and reference the question number in your answer.

The application will be considered incomplete without a narrative answering all five 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).
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?

Please sign and date below acknowledging application requirements.

Signature: _____ **Date:** Sept 28 2023

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Please attach a separate narrative responding to the above questions.

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.15.240 Reclassification of Properties (Rezones)

MICC 19.15.240(C) Criteria

Suggested Code Amendment:

I suggest MICC 19.15.240(C) be amended to prohibit a non-residential structure or use in the single-family residential zone, including a Conditional Use Permit, from requesting or obtaining a rezone or reclassification of any single-family residential zoned properties.

MICC 19.240(C) will then read with the suggested amendment **Subsection 8** as follows:

19.15.240 - Reclassification of property (rezones).

A. Purpose. The purpose of this section is to establish the process and criteria for a rezone of property from one zoning designation to another.

B. Process. A rezone shall be considered as provided in MICC 19.15.260.

C. Criteria. The city council may approve a rezone only if all of the following criteria are met:

1. The proposed reclassification is consistent with the policies and provisions of the Mercer Island comprehensive plan;
2. The proposed reclassification is consistent with the purpose of the Mercer Island development code as set forth in MICC 19.01.010;
3. The proposed reclassification is an extension of an existing zone, or a logical transition between zones;
4. The proposed reclassification does not constitute an illegal site-specific rezone;
5. The proposed reclassification is compatible with surrounding zones and land uses;
6. The proposed reclassification does not adversely affect public health, safety and welfare; and
7. If a comprehensive plan amendment is required in order to satisfy subsection (C)(1) of this section, approval of the comprehensive plan amendment is required prior to or concurrent with the granting of an approval of the rezone.
8. **"A non-residential structure or use in the single-family residential zone, including a Conditional Use Permit (CUP), is prohibited from requesting or obtaining a rezone or reclassification of single-family residential zoned properties."**

D. Map change. Following approval of a rezone, the city shall amend the zoning map to reflect the change in zoning designation. The city shall also indicate on the zoning map the number of the ordinance adopting the rezone.

(Ord. 18C-08 § 1 (Att. A))

ANALYSIS:

A. The Mercer Island Comprehensive Plan Supports Preserving Single-Family Residential Zoned Properties.

Attached as Exhibit 1 to this suggested amendment is Appendix D – Zoning Map.

The following Comprehensive Policy directions provided by the Mercer Island Comprehensive Plan are from the City of Mercer Island Community Planning and Development Code Interpretation 22-004 dated November 21, 2022 regarding Variances for Non-Residential Structures in Residential Zones, which is attached as Exhibit 2:

E. (4) Policy direction provided by the Mercer Island comprehensive plan;

***Analysis*: Review of the Comprehensive Plan results in the following findings:**

(1) The Comprehensive Plan envisions Mercer Island as a residential community:

(a) "Mercer Island prides itself on being a residential community. As such, most of the Island's approximately 6.2 square miles of land area is developed with single family homes." [Land Use Element, Introduction]

(b) "Single family residential zoning accounts for 88 percent of the Island's land use. There are 3,534 acres zoned for single family residential development. This compares to 77 acres in the Town Center zones, 19 acres for Commercial Office zone, and 103 acres in multi-family zones (Table 2). City Hall is located in a Commercial Office zone, while other key civic buildings such as the Post Office and the Main Fire Station are located in the Town Center and City Hall. Many of the remaining public buildings, schools, recreational facilities and places of religious worship are located in residential or public zones." [Land Use Element, II Existing Conditions and Trends, Areas outside the Town Center]

(c) "OUTSIDE THE TOWN CENTER (1) The community needs to accommodate two important planning values - maintaining the existing single family residential character of the Island, while at the same time planning for population and housing growth." [Land Use Element, IV. Land Use Issues, Outside the Town Center (1)]

(2) A primary component of the housing element is the City's desire to protect single-family residential neighborhoods through development regulations and other City codes which restrict the bulk and scale of buildings, control noise and nuisances, minimize the impact of non-residential uses and help preserve the natural environment. City code provisions were specifically designed to protect residential areas from incompatible uses and promote bulk and scale consistent with the existing neighborhood character. This includes limiting the size and scope of nonresidential uses to be consistent with existing neighborhood character.

(a) "Housing Element

III. Neighborhood Quality

Mercer Island single family neighborhoods pride themselves on their narrow, quiet streets and dense plantings. The City protects these neighborhoods through development regulations and other City codes which restrict the bulk and scale of buildings, control noise and nuisances, minimize the impact of non-residential uses and help preserve the natural environment. Parks, open spaces and trails also contribute to the neighborhood quality." [Housing Element, III. Neighborhood Quality]

b) "GOAL 1:

Ensure that single family and multi-family neighborhoods provide safe and attractive living environments, and are compatible in quality, design and intensity with surrounding land uses, traffic patterns, public facilities and sensitive environmental features.

1.1 Ensure that zoning and City code provisions protect residential areas from incompatible uses and promote bulk and scale consistent with the existing neighborhood character." [Housing Element, III. Neighborhood Quality, Goal 1.1]

(3) The Comprehensive Plan evidences an intent to retain certain non-residential structures located in residential zones. However, the Comprehensive Plan is silent on whether such structures would be eligible for variances from otherwise applicable numerical standards.

(a) "GOAL 17:

With the exception of allowing residential development, commercial designations and permitted uses under current zoning will not change.

17 .4 Social and recreation clubs, schools, and religious institutions are predominantly located in single family residential areas of the Island. Development regulation should reflect the desire to retain viable and healthy social, recreational, educational, and religious organizations as community assets which are essential for the mental, physical and spiritual health of Mercer Island." [Land Use Elements, IV Land Use Issues Outside the Town Center]

(4) The Comprehensive Plan also evidences an intent to preserve existing conditions and to generally permit changes only through amendments to the development code, rather than through granting numerous of variances to that development code. At the same time, there is also recognition that some non-residential structures and uses are compatible with residential zones.

(a) "GOAL 15: -
Mercer Island should remain principally a low density, single family residential community.

15.1 Existing land use policies, which strongly support the preservation of existing conditions in the single family residential zones, will continue to apply. Changes to the zoning code or development standards will be accomplished through code amendments.

15.2 Residential densities in single family areas will generally continue to occur at three to five units per acre, commensurate with current zoning. However, some adjustments may be made to allow the development of innovative housing types, such as accessory dwelling units and compact courtyard homes at slightly higher densities as outlined in the Housing Element.

. . .

15.4 As a primarily single family residential community with a high percentage of developed land, the community cannot provide for all types of land uses. Certain activities will be considered incompatible with present uses. Incompatible uses include landfills, correctional facilities, zoos and airports. Compatible permitted uses such as education, recreation, open spaces, government social services and religious activities will be encouraged." [Land Use Elements, IV Land Use Issues Outside the Town Center].

Pages 4 – 6

B. **The Region Is Facing A Housing Shortage**.

Attached as Exhibit 3 are public announcements by Governor Inslee encouraging the Legislature to "go big" to meet the scale of the housing crisis, and the enormous investments the state and county are making to scale-up construction of housing.

Attached as Exhibit 4 are pages from the PSRC's 2050 Vision Statement on Housing noting:

"Housing is a basic need for every individual. Yet, residents in many communities in the region are facing an unprecedented challenge in finding and keeping a home that they can afford. The central Puget Sound region is expected to grow by an additional 1.8 million residents and 830,000 households by the year 2050. Simply put, the region needs more housing of varied types in all communities. Meeting the housing needs of all households at a range of income levels is integral to promoting health and well-being and creating a region that is livable for all residents, economically prosperous, and environmentally sustainable."

PSRC 2050 Vision Statement, p.182

Currently Mercer Island has a housing allocation of approximately 1,200 units left to permit pursuant to the GMPC's housing allocations. In 2023, the Legislature adopted HB 1110 that requires every residential lot on Mercer Island to allow two separate housing units, and four housing units per lot without parking mandates within a quarter of a mile of the light rail station, including the residential neighborhood to the north.

It would be contrary to state, county and city policies for Mercer Island to now allow single-family residential zoned properties to be rezoned to a different non-housing zone, and would shift Mercer Island's housing allocation burden to the other residential zones and property.

C. <u>The Conditional Use Permit Process Allows A Fair And Equitable Non-Conforming Use In A Single-Family Residential Zone</u>.

The Conditional Use Permit (CUP) process MICC 19.06.110 allows an organization to obtain a non-conforming use in the single-family home residential zone, and allows that non-conforming CUP to combine residential properties and eliminate the side-yard setabacks between the properties.

At the same time, the Conditional Use Permit process MICC 19.06.110(a) and (b) protects the surrounding single-family home residential zones and requires that the scale of the development, in consideration of the privilege of a non-conforming use, is consistent with all properties in the single-family home residential zone.

The mere existence of MICC 19.06.110 highlights that the restrictions on conditional uses in the single-family home residential zone is not consistent with a different zone with different regulatory limits in the single-family residential zone.

D. <u>To Allow One Property Owner Or Conditional Use Permit To Rezone Single-Family Zoned Residential Properties To Another Zone Will Allow All Property Owners The Same Right.</u>

MICC 19.15.240(C)(4) specifically states the "proposed reclassification does not constitute an illegal site-specific rezone." If the Council allows single-family residential zoned properties to be rezoned contrary to state, county and city policies preserving and expanding housing, that would require the Council to allow **any** single-family home residential property owner to request the same change in zoning or upzone. If the requested rezone is site specific, it violates MICC 19.15.240(4)(C). If it is not site specific, it effectively eliminates the single-family residential zone.

The Council cannot favor one property owner or CUP over another, otherwise it would be an illegal spot zone. Such a huge change in zoning and policy would effectively abrogate the policies towards preserving single-family home residential zoning on Mercer Island contrary to The Comprehensive Plan.

E. **Can A Specifically Enumerated Non-Residential Structure Listed in MICC.19.06.110(B)(2)(i) That Are Prohibited From Receiving a Variance Other Than From The Impervious Surface Standards Be Prohibited From Requesting A Rezone Or Reclassification Of The Single-Family Residential Zone Property Included In The CUP?**

HISTORY OF THE CUP'S EFFORTS TO OBTAIN INCREASED REGULATORY LIMITS.

1) COMMUNITY FACILITIES ZONE

In 2018, the JCC applied to amend the City's Comprehensive Plan to create a Community Facilities Zone with different regulatory limits for CUPs in a single-family home residential zone without concurrent development regulations. Various citizens and groups appealed the lack of concurrent development regulations to the Growth Management Hearings Board which agreed with the Appellants and remanded the matter back to the City with directions to draft and adopt the concurrent development regulations. This holding was later codified in MICC. 19.15.240(C)(7).

Upon remand, the Council determined that allowing CUPs' different regulatory limits in a different zone in a single-family home residential zone was unwise and unworkable, and instead repealed the Community Facilities Zone.

2) THE HILL AMENDMENTS

Subsequently, the Applicant, JCC filed a series of proposed site specific development code amendments to allow regulatory limits for the JCC greater than those allowed a CUP in the single-family home residential zone. These Amendments were then voluntary withdrawn by the Applicant when it became apparent:

1) They were a spot zone in violation of MICC 19.15.240(C)(4);

2) The Council would not approve the Hill Amendments because they were contrary to The Comprehensive Plan, City Policies, MICC, and citizen opinion.

3) APPLICATION FOR VARIANCES

Subsequently, the JCC applied for various variances to the regulatory limits applicable to the single-family home residential properties in its CUP. In response, CPD Director Jeff Thomas issued Development Code Interpretation 22-004 that found that based on the City's Development Codes and Comprehensive Plan a CUP was prohibited from obtaining any variance other than impervious surface limits from the numerical standards pursuant to MICC 19.06.110(B)(2)(a).

The Applicant JCC then appealed Interpretation 22-004 to the Hearing Examiner. On the eve of the hearing, the Applicant JCC voluntarily withdrew its appeal, and conceded that Interpretation 22-004 was a correct interpretation of Mercer Island's Development Code that prohibits a CUP from requesting or obtaining variances from the single-family home residential development regulatory limits.

Based on the history and Administrative Interpretation 22-004, it would be inconsistent for the Council to allow single-family residential zoned properties in a CUP to be rezoned, especially to CO (Commercial Office), when these same CUPs are prohibited from obtaining variances for regulatory limits other than impervious surface limits.

Furthermore, pursuant to MICC 19.15.240(C)(4), the Council would have to allow **ALL** CUPs throughout the island the same right to rezone single-family residential zoned properties in their CUPs to CO or another zone, which is directly contrary to the Mercer Island Comprehensive Plan, AI 22-004, the provisions in MICC 19.06.110(a) and (b) regulating CUPs in the single-family residential zone, and the history of the JCC property and its attempts to obtain preferential regulatory limits for its single-family residentially zoned properties.

Therefore, MICC 19.15.240(C) should be amended to clarify that a non-residential structure or CUP in the single-family residential zone may not rezone its single-family residential zoned properties in the CUP.

Exhibit 1

Appendix D - ZONING MAP

View city of Mercer Island Zoning Map.

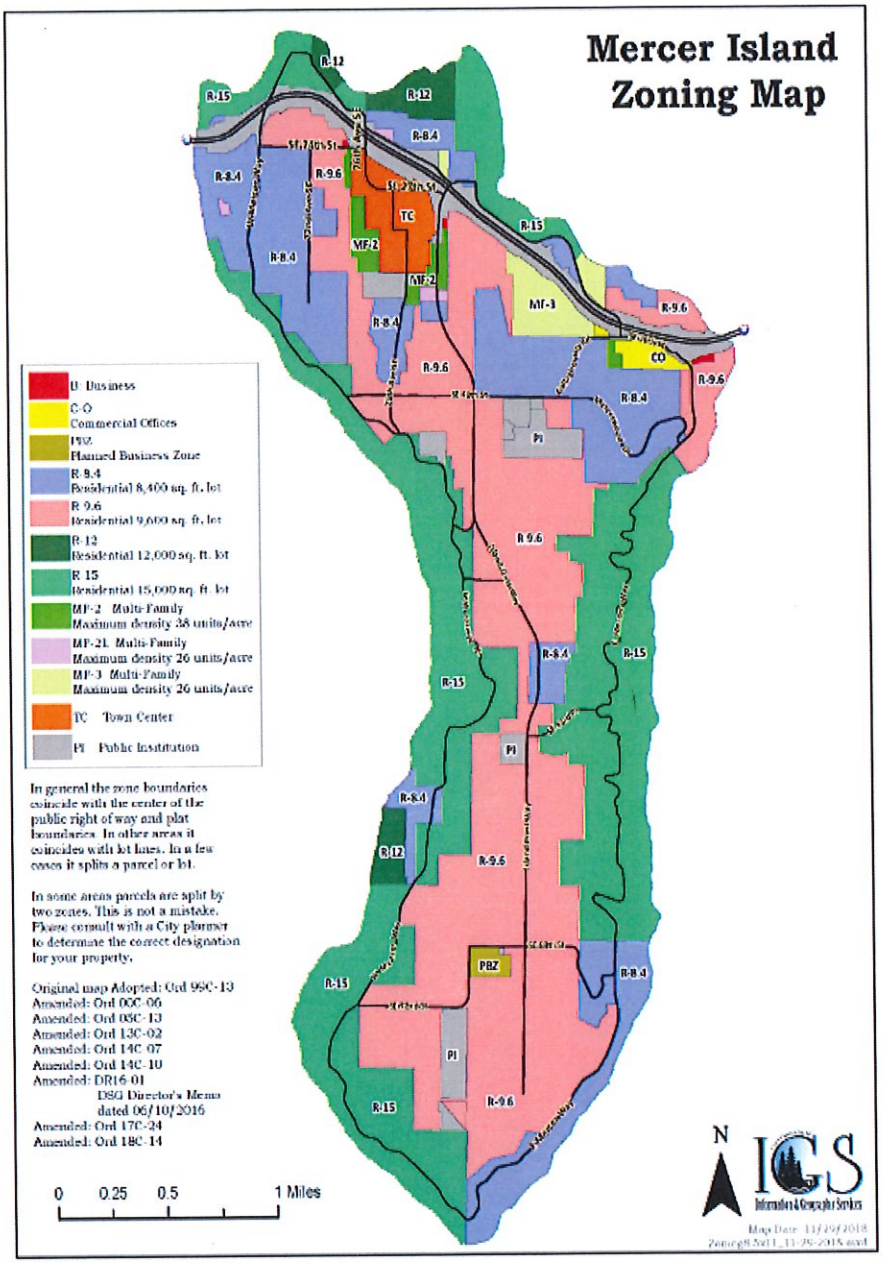

Exhibit 2

Development Code Interpretation 22-004

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT
9611 SE 36TH STREET | MERCER ISLAND, WA 98040
PHONE: 206.275.7605 | www.mercerisland.gov

TO: CPD Staff

FROM: Jeff Thomas, Interim CPD Director

DATE: November 21, 2022

RE: Variances for Non-Residential Structures in Residential Zones

A. MICC SECTION(S) INTERPRETED

MICC 19.06.110(B)

B. AUTHORITY

This development code interpretation is issued under the authority of sections 19.15.030 and 19.15.160 of the Mercer Island City Code (MICC).

C. ISSUE

MICC 19.06.110(B), *Variances,* imposes a hardship criterion that requires applicants requesting variances in residential zones to demonstrate that strict enforcement of Title 19 MICC will prevent the construction of a single-family dwelling on a legally created residentially zoned lot. MICC 19.06.110(B)(2)(a).

Can the City grant a variance from numeric standards for a non-residential structure sited in a residential zone, if under MICC 19.06.110(B)(1), all criteria in subsection(B)(2)(a) through (B)(2)(h) must be met, and that for a variance to lot coverage standards, the criteria in subsection (B)(2)(a) through (B)(2)(i) must be met?

D. BACKGROUND

The hardship criterion contained in MICC 19.06.110(B)(2)(a) was adopted by Ordinance No. 17C-15 on September 19, 2017. The criterion contained in MICC 19.06.110(B)(2)(i), relating to variances as to lot coverage for specific non-residential structures, existed in the MICC prior to the adoption of Ordinance No. 17C-15. However, that language was moved to MICC 19.06.110(B)(2)(i) within Ordinance No. 17C-15 to consolidate criteria relating to variances.

E. FINDINGS

1. Per MICC 19.15.160, the Code Official may issue a written interpretation of the meaning or application of provisions of the development code.[1]
2. This written interpretation is intended to interpret the scope of the hardship criteria as applied to non-residential structures in residential zones.
3. MICC 19.06.110(B)(1)(a) could be read to foreclose variances from numeric standards for non-residential structures in residential zones because the hardship criterion limits the application of variances to instances where strict application of Title 19 would prohibit construction of one single family residence on a legally created residential lot. The applicant or property owner of a non-residential structure would not be able to demonstrate an unnecessary hardship because there are no circumstances where the adopted standards of Title 19 MICC are preventing construction of a single-family dwelling; rather the applicant or property owner is seeking a variance for a non-residential structure. It is not Title 19 that would preclude the construction of a residential structure, but rather the choice of the applicant or property owner. However, MICC 19.06.110(B)(2)(i) explicitly affords the applicant or property owner of a non-residential structure the opportunity for a variance from impervious surface standards for particular types of non-residential structures.
4. This apparent conflict within MICC 19.06.110(B) requires interpretation to administer.
5. A plain reading of MICC 19.06.110(B), giving meaning to all of the text within that section, results in the following conclusions:
   a. Non-residential structures in residential zones are generally precluded from receiving variances from numeric standards of Title 19, because they cannot meet the hardship criterion—to wit, they cannot demonstrate that Title 19 prevents the construction of a single-family dwelling on a legally created residential lot.
   b. The one exception is that certain enumerated non-residential structures (public and private schools, religious institutions, private clubs, and public facilities) within residential zones with slopes of less than 15 percent ***can*** receive a variance to increase impervious surface to a maximum of 60 percent if the Hearing Examiner determines the applicant has demonstrated satisfaction of the criteria contained within MICC 19.06.110(B)(2)(i)(i-iv).
   c. Further, an applicant or property owner would also be required to demonstrate the other criteria outlined in subsection (B)(2)(a) through (B)(2)(i), with the exception of being able to demonstrate inability to construct a single-family residence on a legally created residential lot. The applicant or property owner would still have to demonstrate an unnecessary hardship to the property owner, because the first sentence of MICC 19.06.110(B)(2)(a) requires proof that "[t]he strict enforcement of the provisions of this title will create an unnecessary hardship to the property owner."
6. As discussed further below, the legislative history relating to Ordinance No. 17C-15 supports this conclusion. During the process of adopting Ordinance No. 17C-15, discussion between the City Council and the City's then Community Planning and Development (CPD) Director reflected an intent to greatly reduce the number of variances granted, which was the impetus behind adding the hardship criterion now contained in MICC 19.06.110(B)(2)(a).
7. In issuing an interpretation, the Code Official is directed to consider eight factors specified in MICC 19.15.160(A). These factors are:

(1.) The plain language of the code section in question;

Analysis: A reading of the plain language of MICC 19.06.110 results in the following findings:

[1] Under the MICC, variances are granted by the Hearing Examiner. MICC 19.15.030 and Tables A-B.

i. MICC 19.06.110(B), *Variances,* imposes a hardship criterion; an applicant or owner applying for variance must show that strict enforcement of Title 19 will create an unnecessary hardship to the property owner. MICC 19.06.110(B)(2)(a). For properties in residential zones, "unnecessary hardship" is limited to those circumstances where the adopted standards of Title 19 MICC prevent the construction of a single-family dwelling on a legally created residential zoned lot. *Id.*

ii. However, MICC 19.06.110(B)(2) also includes a criterion for variances to impervious surface standards for "[p]ublic and private schools, religious institutions, private clubs and public facilities in single-family zones with slopes of less than 15 percent." MICC 19.06.110(B)(2)(i).

iii. MICC 19.06.110(B)(1) further provides: "[a] variance shall be granted by the city only if the applicant can meet all criteria in subsections (B)(2)(a) through (B)(2)(h) of this section. A variance for increased lot coverage for a regulated improvement pursuant to subsection (B)(2)(i) of this section shall be granted by the city only if the applicant can meet criteria in subsections (B)(2)(a) through (B)(2)(i) of this section."

(2.) Purpose and intent statement of the chapters in question;

Analysis: Chapter 19.06 MICC does not contain a general purpose statement; however, MICC 19.06.110(B)(1) provides a purpose statement for the MICC section in question: "*Purpose.* An applicant or property owner may request a variance from any numeric standard, except for the standards contained within chapter 19.07 MICC. A variance shall be granted by the city only if the applicant can meet all criteria in subsections (B)(2)(a) through (B)(2)(h) of this section. A variance for increased lot coverage for a regulated improvement pursuant to subsection (B)(2)(i) of this section shall be granted by the city only if the applicant can meet criteria in subsections (B)(2)(a) through (B)(2)(i) of this section."

(3.) Legislative intent of the city council provided with the adoption of the code sections in question;

Analysis: Review of the legislative history of MICC 19.06.110(B) results in the following findings:

i. On September 19, 2017, the Mercer Island City Council adopted Ordinance No. 17C-15, adding the unnecessary hardship criterion currently contained in MICC 19.06.110(B)(2)(a).

ii. The minutes from the relevant City Council meetings indicate the following:
The July 5, 2017 minutes contains the following discussion:

Variance Criteria:

- Planning Commission Recommendation: prohibit / limit variances to GFA, minimum lot size, height, fence height and staff does not recommend adopting this amendment
- Alternative: Limit variance approvals to those circumstances where a house could not otherwise be built on a legal, residential lot and remove ambiguous language regarding groundcover, trees, physical condition of the lot from "d."

Council Direction: Staff propose a solution for "flag lots." Support alternative to limit variance approvals to those circumstances where a house could not otherwise be built on a legal, residential lot and remove ambiguous language regarding groundcover, trees, physical condition of the lot from "d."

iii. The packet from the July 5, 2017, reading of the later adopted ordinance included the following discussion of the options before City Council with respect to the hardship criterion ultimately added to MICC 19.06.110(B)(2)(a):

			Variance Criteria		
17	Page 71 – Variances	Allow for an application for a variance to any numeric standard, except for the standards in Chapter 19.07.	Prohibit the application for a variance to minimum lot area requirements, gross floor area, building height, or lot coverage.	Dan Grausz	Staff does not recommend adopting this amendment. There are some circumstances where allowing for a variance to these standards is appropriate to avoid a regulatory takings. The variance criteria have been revised to limit variances to only those circumstances where a variance is warranted.
	Draft Page #	**Planning Commission Recommendation**	**Proposed Amendment**	**Source**	**Staff Recommendation / Rationale**
			Alternatively, limit variance approvals to those situations where a property owner cannot both comply with existing standards and build a home on a legally created residential lot.		Staff recommends further revising the criteria for approval. In particular, staff recommends limiting variances to situations where a property owner cannot comply with all of the development standards and build a new single family home. This item was discussed by the Planning Commission.

iv. The discussion between the then CPD Director and City Council regarding the hardship criterion further indicates the intent of restricting variances in residential zones only to those instances where a variance is necessary to permit the construction of a single-family residence on a legally created residential lot.

v. The Code Official is unaware of any discussion by City Council or other materials regarding the resulting conflict between the language in MICC 19.06.110(B)(2)(a) and the language in MICC 19.06.110(B)(2)(i).

(4.) Policy direction provided by the Mercer Island comprehensive plan;

Analysis: Review of the Comprehensive Plan results in the following findings:

(1) The Comprehensive Plan envisions Mercer Island as a residential community:

(a) "Mercer Island prides itself on being a residential community. As such, most of the Island's approximately 6.2 square miles of land area is developed with single family homes." [Land Use Element, Introduction]

(b) "Single family residential zoning accounts for 88 percent of the Island's land use. There are 3,534 acres zoned for single family residential development. This compares to 77 acres in the Town Center zones, 19 acres for Commercial Office zone, and 103 acres in multi-family zones (Table 2). City Hall is located in a Commercial Office zone, while other key civic buildings such as the Post Office and the Main Fire Station are located in the Town Center and City Hall. Many of the remaining public buildings, schools, recreational facilities and places of religious worship are located in residential or public zones." [Land Use Element, II Existing Conditions and Trends, Areas outside the Town Center]

(c) "OUTSIDE THE TOWN CENTER (1) The community needs to accommodate two important planning values — maintaining the existing single family residential character of the Island, while at the same time planning for

population and housing growth." [Land Use Element, IV. Land Use Issues, Outside the Town Center (1)]

(2) A primary component of the housing element is the City's desire to protect single-family residential neighborhoods through development regulations and other City codes which restrict the bulk and scale of buildings, control noise and nuisances, minimize the impact of non-residential uses and help preserve the natural environment. City code provisions were specifically designed to protect residential areas from incompatible uses and promote bulk and scale consistent with the existing neighborhood character. This includes limiting the size and scope of nonresidential uses to be consistent with existing neighborhood character.

(a) "Housing Element

III. Neighborhood Quality

Mercer Island single family neighborhoods pride themselves on their narrow, quiet streets and dense plantings. The City protects these neighborhoods through development regulations and other City codes which restrict the bulk and scale of buildings, control noise and nuisances, minimize the impact of non-residential uses and help preserve the natural environment. Parks, open spaces and trails also contribute to the neighborhood quality." [Housing Element, III. Neighborhood Quality]

(b) "GOAL 1: -

Ensure that single family and multi-family neighborhoods provide safe and attractive living environments, and are compatible in quality, design and intensity with surrounding land uses, traffic patterns, public facilities and sensitive environmental features.

1.1 Ensure that zoning and City code provisions protect residential areas from incompatible uses and promote bulk and scale consistent with the existing neighborhood character." [Housing Element, III. Neighborhood Quality, Goal 1.1]

(3) The Comprehensive Plan evidences an intent to retain certain non-residential structures located in residential zones. However, the Comprehensive Plan is silent on whether such structures would be eligible for variances from otherwise applicable numerical standards.

(a) "GOAL 17: -

With the exception of allowing residential development, commercial designations and permitted uses under current zoning will not change.

17.4 Social and recreation clubs, schools, and religious institutions are predominantly located in single family residential areas of the Island. Development regulation should reflect the desire to retain viable and healthy social, recreational, educational, and religious organizations as community assets which are essential for the mental, physical and spiritual health of Mercer Island." [Land Use Elements, IV Land Use Issues Outside the Town Center]

(4) The Comprehensive Plan also evidences an intent to preserve existing conditions and to generally permit changes only through amendments to the development code, rather than through granting numerous of variances to that development code. At the same

time, there is also recognition that some non-residential structures and uses are compatible with residential zones.
(a) "GOAL 15: -
Mercer Island should remain principally a low density, single family residential community.
15.1 Existing land use policies, which strongly support the preservation of existing conditions in the single family residential zones, will continue to apply. Changes to the zoning code or development standards will be accomplished through code amendments.
15.2 Residential densities in single family areas will generally continue to occur at three to five units per acre, commensurate with current zoning. However, some adjustments may be made to allow the development of innovative housing types, such as accessory dwelling units and compact courtyard homes at slightly higher densities as outlined in the Housing Element.
...
15.4 As a primarily single family residential community with a high percentage of developed land, the community cannot provide for all types of land uses. Certain activities will be considered incompatible with present uses. Incompatible uses include landfills, correctional facilities, zoos and airports. Compatible permitted uses such as education, recreation, open spaces, government social services and religious activities will be encouraged." [Land Use Elements, IV Land Use Issues Outside the Town Center].

(5.) Relevant judicial decisions;

Analysis: The Code Official is unaware of any relevant judicial decisions related to this issue. However, the Code Official is aware of several cases regarding code interpretation. Municipal ordinances are subject to the same rules of statutory interpretation as are statutory enactments. *Hassan v. GCA Production Services, Inc.*, 17 Wn.App. 625, 637, 487 P.3d 203 (2021). Additionally, the goal of code interpretation is to give effect to the intentions of the drafters. *Jametsky v. Olsen,* 179 Wash. 2d 756, 762, 317 P.3d 1003, 1006 (2014). Absurd results are to be avoided in construing ambiguous language, although the principle is to be used sparingly. *Seattle Hous. Auth. v. City of Seattle*, 3 Wash. App. 2d 532, 538–39, 416 P.3d 1280, 1283 (2018); *Samish Indian Nation v. Wash. Dep't of Licensing*, 14 Wash.App.2d 437, 444, 471 P.3d 261 (2020). Further, when possible, legislation must be construed so that no clause, sentence, or word is rendered superfluous, void, or insignificant. *Coates v. City of Tacoma*, 11 Wash. App. 2d 688, 695, 457 P.3d 1160, 1164 (2019).

(6.) Consistency with other regulatory requirements governing the same or similar situation;

Analysis: The Code Official is unaware of other regulatory requirements governing the same or similar situations.

(7.) The expected result or effect of the interpretation; and

Analysis: The interpretation will result in clarifying the position of the Code Official in that the MICC prohibits variances from numerical standards for non-residential structures in residential zones, with the sole exception of the specific types of non-residential structures enumerated in MICC 19.06.110(B)(2)(i) from impervious surface standards.

(8.) Previous implementation of the regulatory requirements governing the situation.
Analysis: The Code Official is unaware of any previous implementation of regulatory requirements relating to variances for non-residential structures within residential zones since the addition of the hardship criterion in September 2017.

F. CONCLUSIONS

1. MICC 19.06.110(B) contains conflicting language as to variances for non-residential structures in residential zones. Reconciling this conflict, the Code Official makes the following interpretations:
   a. The specifically enumerated non-residential structures listed in MICC 19.06.110 (B)(2)(i) are eligible to receive a variance from impervious surface standards if:
      i. The Hearing Examiner finds that the criteria contained within MICC 19.06.110(B)(2)(i)(i-iv) have been satisfied, and
      ii. The Hearing Examiner finds compliance with the other criteria enumerated in subsection (B)(2)(a) through (i), including demonstrating an unnecessary hardship, per subsection (B)(2)(a), but disregarding the second sentence of (B)(2)(a) due to the conflict with subsection (B)(2)(i).

   b. The MICC prohibits other variances from numerical standards for non-residential structures in residential zones.

2. Both conclusions enumerated above are based upon the following:
   a. It is apparent from the relevant legislative history that City Council's stated intent was to restrict variances in residential zones only to those circumstances in which construction of a single-family residence upon a legally created residential lot would be prohibited. The Code Official did not find any evidence that City Council was aware of the conflict between MICC 19.06.110(B)(2)(a) and (B)(2)(i).

      Because the language regarding variances from impervious surface standards for certain specified non-residential structures in residential zones was also reorganized by City Council to MICC 19.06.110(B) contemporaneously with the creation of the hardship criterion, it is the position of the Code Official that the language in MICC 19.06.110(B)(2)(i) must be also given effect as a narrow exception to the prohibition against variances for non-residential structures in residential zones as put forth in MICC 19.06.110(B)(2)(a). This conclusion is necessary in order to give the fullest effect to the legislative enactment of the City Council.

   b. Utilizing statutory interpretation principles, the Code Official is required to construe the MICC to give the fullest effect to the legislative intent of the City Council, to utilize the principles of avoiding absurd results (but in a sparing manner), and to avoid making code language superfluous, void, or insignificant. Other than variances from impervious surface standards, no other variances for non-residential structures within residential zones are listed in MICC 19.06.110(B)(2).

   c. There is nothing in the City's Comprehensive Plan to contradict the conclusions of the Code Official. The Comprehensive Plan prioritizes residential uses while also recognizing certain non-residential uses within residential zones. The interpretation of the Code Official does not prohibit the siting of non-residential structures in residential zones where otherwise permitted, but it does limit the type of variances available for such structures.

G. INTERPRETATION

The specifically enumerated non-residential structures listed in MICC 19.06.110 (B)(2)(i) are eligible to receive a variance from impervious surface standards if the Hearing Examiner determines the application has demonstrated satisfaction of the criteria contained within MICC 19.06.110(B)(2)(i)(i-iv) and the applicant or property owner demonstrates compliance with the other criteria enumerated in subsection (B)(2)(a) through (i), including demonstrating an unnecessary hardship, per subsection (B)(2)(a), but disregarding the conflicting second sentence of (B)(2)(a).

Having not been expressly included in MICC 19.06.110(B)(2), the position of the Code Official is that all other variances from numerical standards for non-residential structures in residential zones are prohibited by MICC 19.06.110(B)(2)(a).

Exhibit 3

Washington "goes big" on housing in 2023

May 08, 2023

Gov. Jay Inslee signs legislation to help overcome racist real estate covenants that pervaded until the 1960s and caused intergenerational harm.

From Vancouver to Bellingham and Pullman to La Push, the cost of housing has soared. In the last decade, one million new residents arrived while only one-quarter as many homes went up. When demand exceeds supply, prices rise. Rise they have.

Rents are up. Prices are up. Accordingly, homelessness is up. And too many families are just a paycheck away from trouble.

To begin the 2023 legislative session, Gov. Jay Inslee encouraged the Legislature to "go big" to meet the scale of the housing crisis. On Monday, the governor and lawmakers gathered to sign a slate of housing-related bills to clear obstacles to housing construction and right historic wrongs related to housing discrimination.

At a later date, the governor will sign a budget that allocates more than $1 billion over the next biennium to address homelessness and affordable housing.

Read the rest of the story on Gov. Inslee's Medium page.

← Post

Governor Jay Inslee ✓
@GovInslee

In the past two years we were able to make historic investments to scale up and speed up construction of housing and shelters. The problem is growing, not shrinking, so our response must match the moment. (2/3)

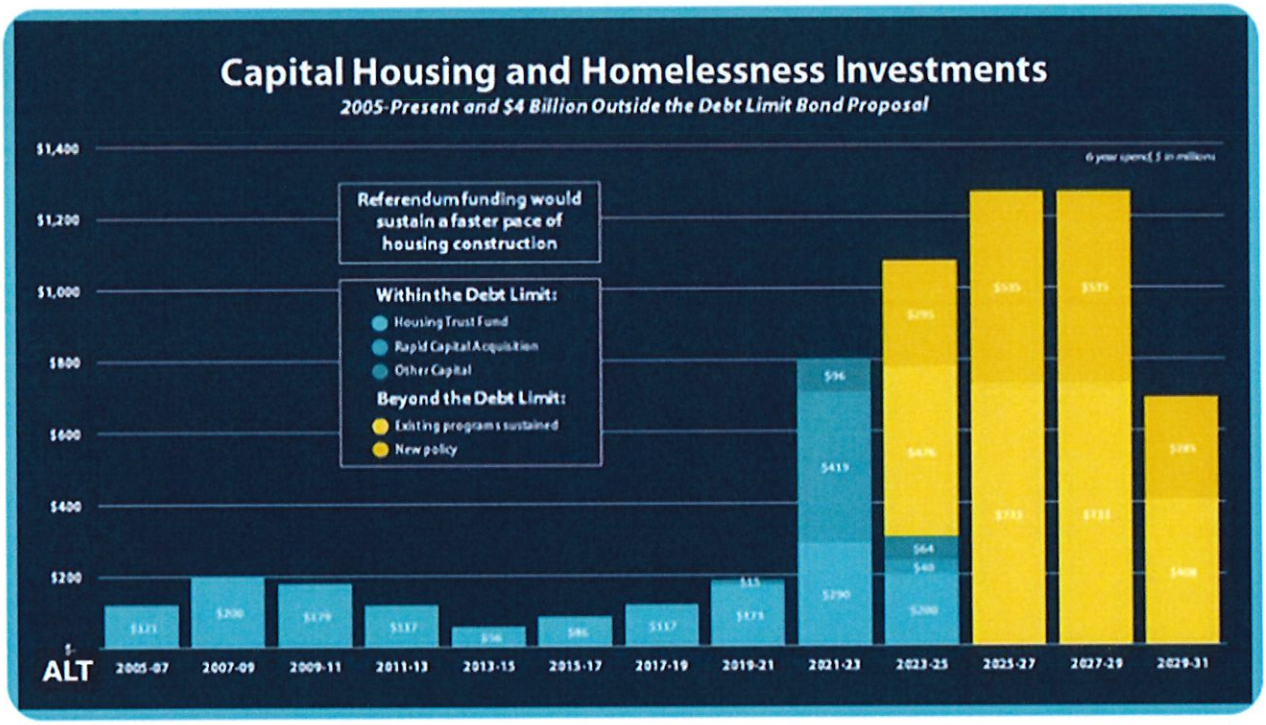

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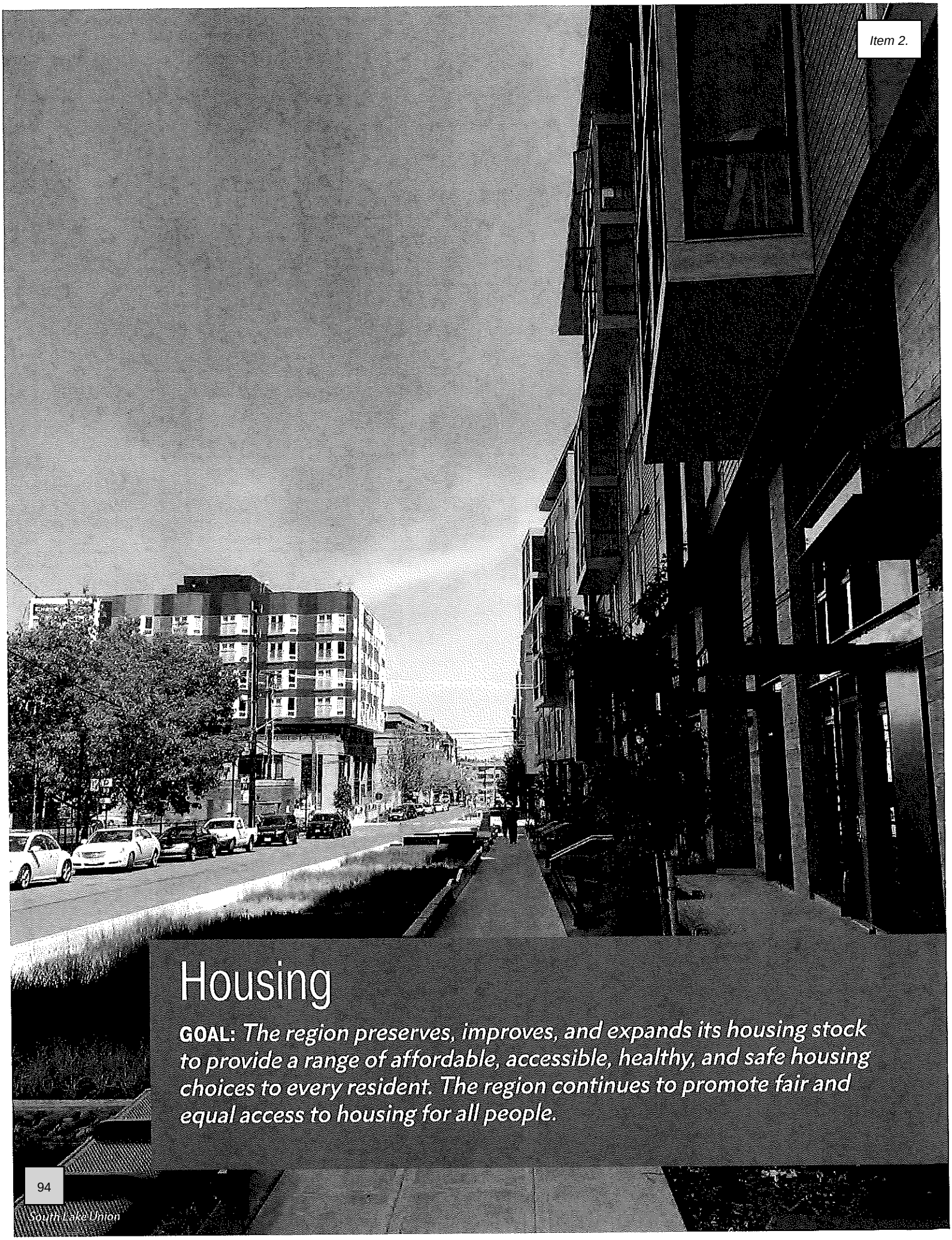
Exhibit 4



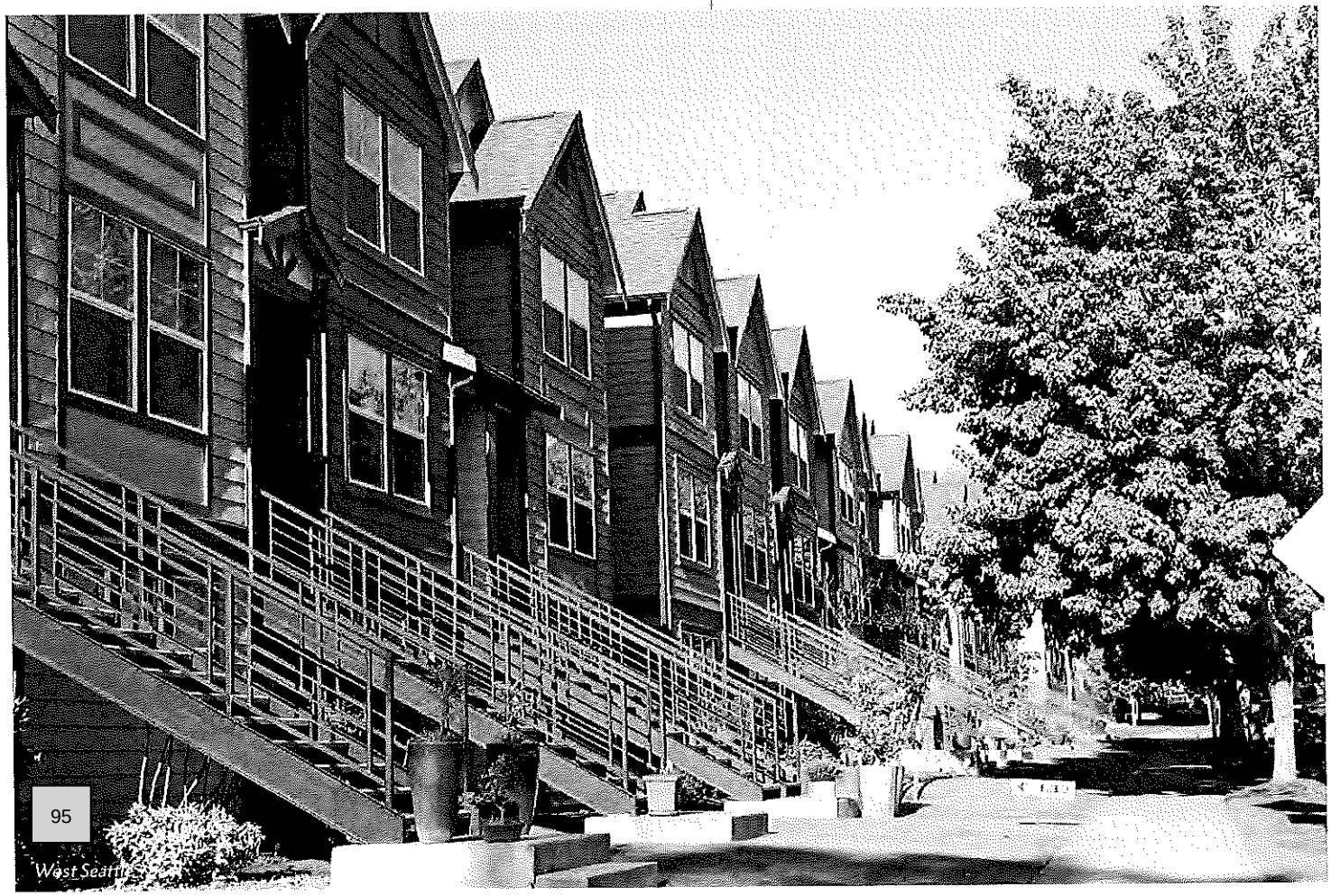
Housing

GOAL: *The region preserves, improves, and expands its housing stock to provide a range of affordable, accessible, healthy, and safe housing choices to every resident. The region continues to promote fair and equal access to housing for all people.*

Housing is a basic need for every individual. Yet, residents in many communities in the region are facing an unprecedented challenge in finding and keeping a home that they can afford. The central Puget Sound region is expected to grow by an additional 1.8 million residents and 830,000 households by the year 2050. Simply put, the region needs more housing of varied types in all communities. Meeting the housing needs of all households at a range of income levels is integral to promoting health and well-being and creating a region that is livable for all residents, economically prosperous, and environmentally sustainable.

Housing affordability continues to be a major challenge for the region. The housing market has experienced great highs and lows that have benefitted some and created and exacerbated hardship and inequalities for others. Following the precipitous drop in housing prices and foreclosures of the recession, the region's economic upswing and strong job growth in the 2010s have fueled dramatic increases in rents and home prices. Despite job losses due to the COVID-19 pandemic and the resulting financial impact on many households, home prices have continued to increase in the region. Some may have been able to take advantage of historically low mortgage interest rates or lower rents, while others are in a challenging position due to loss of income and face the potential of eviction or foreclosure. A potentially imbalanced recovery may further the threat of displacement of low-income households and people of color. As a result, housing costs are a greater burden for many households today than a decade ago, leaving less for other basic needs and amenities. Renters, and renters of color in particular, face a considerable shortage of affordable housing opportunities. And these households are often the most at risk of losing their housing and experiencing homelessness.

A primary goal of the Growth Management Act is to make housing affordable to "all economic segments of the population, providing a variety of residential densities and housing types and encouraging preservation of existing housing stock. Local governments are required to plan for housing that meets the varied needs of their diverse communities and residents and to ensure



95

West Seattle

they are providing sufficient residential zoned land capacity for housing to accommodate 20-year growth targets.

VISION 2050's housing policies respond to the urgency of changing demographics and the need to increase and diversify the region's housing supply. They identify coordinated strategies, policies, and actions to ensure that the region's housing needs are met.

A Regional Challenge

The complexity of addressing the full range of housing needs and challenges requires a coordinated regional-local approach. A coordinated, regionwide effort to build and preserve housing accessible to all residents is not just about housing. It is also about building healthy, complete, and welcoming communities where all families and people, regardless of income, race, family size or need, are able to live near good schools, transit, employment opportunities, and open space.

Through the Regional Growth Strategy, the region has articulated a preferred pattern of urbanization that will help direct new housing development to the urban growth area and designated growth centers while preserving industrial lands. Focusing housing in urban areas, specifically centers and station areas, supports and leverages the region's ongoing prioritization of infrastructure investment in central urban places. To assist counties and cities, PSRC serves as a forum for setting regional priorities and facilitating coordination among its member jurisdictions and housing interest groups.

Through data, guidance, and technical assistance, PSRC encourages jurisdictions to adopt best housing practices and establish coordinated local housing and affordable housing targets. PSRC supports jurisdictions in their development of effective local housing elements, strategies, and implementation plans. Housing data and information tracking the success of various housing efforts are monitored and reported regionally at PSRC.

The Need for Local Action

Local governments play a critical role in housing, including its production and preservation. Local governments possess regulatory control over land use and development. They are key players, both individually and in cooperation with other housing interests, in stimulating various types of development activity through zoning, incentives, and funding, streamlined development review and permitting processes.

Local Housing Responsibilities Under the Growth Management Act

Local housing elements should ensure the vitality and character of established residential neighborhoods and include the following components:

1. an inventory and analysis of existing and projected housing needs,
2. goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing,
3. identification of sufficient land for a range of housing types to match community needs, and
4. adequate provisions for the needs of all economic segments of the community. (RCW 36.70A.070)

There are numerous tools and strategies available to local governments to encourage housing diversity and promote affordable housing. Many of these tools can be applied in a manner that is tailored to and respectful of local market conditions, community characteristics, and the vision for growth embodied in local comprehensive plans. Since VISION 2040 was adopted in 2008, housing planning and implementation has advanced through the ongoing work of state, regional, and local agencies and organizations. These efforts have yielded new resources, promoted best practices, established community-based housing strategies, and coordinated efforts across multiple jurisdictions.

Housing Choices to Reflect Changing Demographics

The characteristics of the region's households have been changing over time and will continue to do so. The size of the average household has been decreasing. Fewer people are living in family households with two parents and children. More households are comprised of singles, couples without children, or single-parent families. Many households have two or more workers. The region's population is becoming far more racially and ethnically diverse. As the population ages and new generations enter the housing market, there will be demands and preferences for new and different types of housing. While the region has a changing population with a wide range of housing needs, the vast majority of owner-occupied homes are larger single-family homes. Moderate density housing, ranging from duplexes to townhomes to garden apartments, bridge a gap between single-family housing and more intense multifamily and commercial areas and provide opportunities for housing types that are inclusive to people of different ages, life stages, and income ranges. Regional and local tools can help to promote and incentivize the development and preservation of more moderate density housing to give people greater housing choices, and produce urban densities that support walkable communities, local retail and commercial services, and efficient public transit.

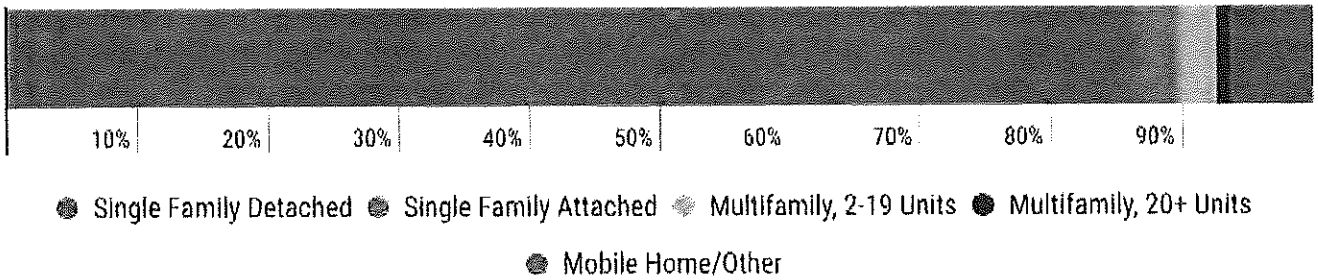
Affordability

The region continues to experience an affordability crisis. Rising housing costs can be particularly devastating for low-income renters, particularly renters of color, many who pay more than 50% of their income on housing. Many middle- and lower-income households struggle to find housing that fits their income in an increasingly competitive and expensive housing market due, in part, to zoning practices that have prevented the development of more affordable, smaller homes, and apartments. Home ownership may seem like less of a reality for potential first-time buyers as home prices continue to climb. This is especially true for people of color, who have been historically excluded from homeownership opportunities.

The central Puget Sound region's housing landscape reflects more than market forces and conditions. It is also the product of decades of public policies and private practices that, throughout the 20th century, often excluded lower income households and immigrant communities, and prevented people of color from accessing housing and living in certain areas. Past and current housing practices have perpetuated substantial inequities in wealth, ownership, and opportunity, and they continue to create barriers to rectifying these conditions. Regional housing work is approached with an awareness of this legacy and of the comprehensive work needed to redress it.

Low- to middle-wage workers – such as teachers, health care professionals, retail workers, administrative personnel, police officers, and firefighters – who are essential to the economic and social vitality of a community, often cannot afford to live in the places where they work. As affordable housing options become scarce, households are forced to move farther from their jobs and communities, resulting in increased traffic congestion and transportation costs and fragmentation of communities. This spatial mismatch also leads to an inability of certain segments of the labor market to fill positions.

Figure 27 – Ownership Housing Stock by Housing Type, Central Puget Sound Region



Source: 2017 American Community Survey

Common Housing Terms

Affordable Housing is commonly defined in terms of housing costs as a percentage of household income. Housing is considered unaffordable when a household's monthly housing costs exceed a certain threshold – most commonly 30% of gross income – thereby reducing the budget available for basic necessities.

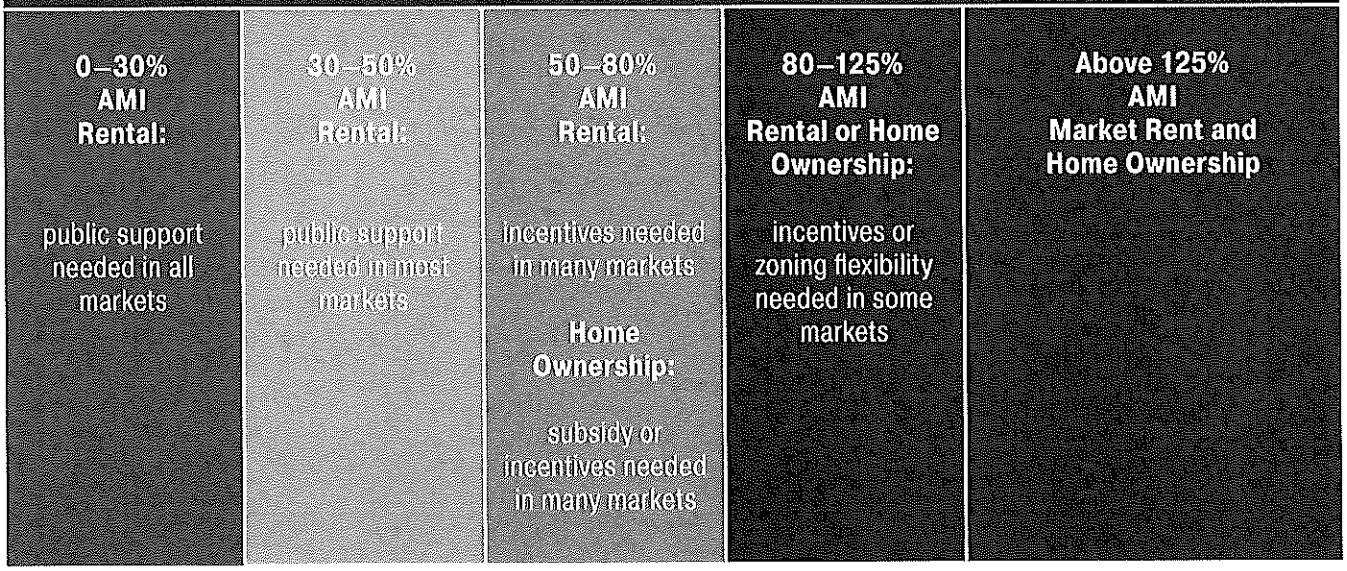
Housing Affordability refers to the balance (or imbalance) between incomes and housing costs within a community or region. A common measurement compares the number of households in certain income categories to the number of units in the market that are affordable at 30% of gross income.

Providing housing affordable to households earning different incomes requires different approaches. To craft effective strategies, it is imperative to understand the types and cost of housing needed in a community relative to the supply of housing available to households at each income level. Over one-third of households in the region earn less than 80% area median income (AMI). Ideally, the supply of housing affordable to moderate and low-income households should mirror the number of households at those income levels. The current distribution of households in the region is:

- 15% of households earn 50-80% AMI (Moderate Income)
- 9% of households earn 30-50% AMI (Low Income)
- 11% of households earn less than 30% AMI (Very Low Income)

Providing affordable units for very low-income residents and providing housing options for residents experiencing homelessness cannot be fully addressed by the private market alone. Public intervention is necessary to ensure housing units

Figure 28 – Lower Housing Costs Require Greater Public Intervention



AMI: Area Median Income. Source: 2016 ACS 1-Year PUMS

are affordable to households at the lowest income levels now and in the future.

While the current housing production rate in 2017 meets the average annual need in the region, the market has yet to make up for the slow growth in the years directly following the recession resulting in a supply and demand imbalance. Increasing the supply of housing throughout the region and providing a variety of housing types and densities for both renters and owners will help the region meet its housing goals. Special emphasis is placed on providing affordable housing for low-, moderate-, and middle-income households across the region, with a focus on promoting housing opportunities near transit, and appropriate housing for special needs populations. VISION 2050 also encourages more homeownership opportunities for low-income, moderate-income, and middle-income households and acknowledges historic and current inequities in access to homeownership opportunities for people of color and how this long history of exclusion and discrimination has prevented communities of color from accessing housing, ownership, and opportunity.

Focusing Housing Near Transit Options

Within the central Puget Sound region, jurisdictions are planning for housing and job growth in places designated for higher densities, a mix of land uses, and transportation choices. Communities across the region are realizing these aims by encouraging infill, redevelopment, and more compact development, especially in designated regional growth centers and around transit stations. However, rents and home prices are rising quickly, making it often challenging to find affordable housing close to jobs.

The region's continuing expansion of high-capacity transit provides one of the best opportunities to expand accessible housing options to a wider range of incomes. Promoting or

Seattle

requiring affordable housing in walking distance – about ¼ to ½ mile—from high-capacity transit stations and in regional growth centers can help to ensure all residents have opportunities to live in accessible and connected communities. Such housing will be particularly valuable to low-income households, who are the most dependent on transit and are at risk for displacement as housing costs rise.

Displacement and Community Stability

Displacement occurs when housing or neighborhood conditions force residents to move. Displacement can be physical, when building conditions deteriorate or are taken off the market for renovation or demolition, or economic, as costs rise. Many communities in the central Puget Sound region, like the Central District in Seattle and the Hilltop neighborhood in Tacoma, have documented displacement. Once physical and economic displacement occur, the social and cultural composition of the neighborhood will be disrupted, thus affecting the cohesion and stability of a community and the well-being of local residents and businesses.

Several key factors can drive displacement: proximity to rail stations, proximity to job centers, historic housing stock, and location in a strong real estate market. Displacement is a regional concern as it is inherently linked to shifts in the regional housing and job market. Many of these factors put communities of color and neighborhoods with high concentrations of renters at a higher risk of displacement.

Regional growth centers and communities near transit are home to more people of color and higher concentrations of poverty than the region as a whole. As these central places connected by transit continue to grow and develop, residents and businesses who contribute to these communities should have the option to remain and thrive and take advantage of new amenities and services.

Jobs-Housing Balance

Jobs-housing balance is a planning concept which advocates that housing and employment be close together, with an emphasis on matching housing options with nearby jobs, to reduce the length of commute travel and number of vehicle trips. A lack of housing, especially affordable housing close to job centers, will continue to push demand for affordable homes to more distant areas, increasing commute times and the percentage of household income spent on transportation costs. Housing policies encourage adding housing opportunities to job-rich places. It is imperative that there are a variety of housing choices available to a variety of incomes in proximity to job centers to provide opportunities for residents to live close to where they work regardless of their income. Policies in the Economy chapter promote economic development to bring jobs to all four counties. Policies are also located in the Regional Growth Strategy chapter related to balancing jobs and housing growth.

Housing POLICIES

MPP-H-1
Plan for housing supply, forms, and densities to meet the region's current and projected needs consistent with the Regional Growth Strategy and to make significant progress towards jobs/housing balance.

MPP-H-2
Provide a range of housing types and choices to meet the housing needs of all income levels and demographic groups within the region.

MPP-H-3
Achieve and sustain – through preservation, rehabilitation, and new development – a sufficient supply of housing to meet the needs of low-income, moderate-income, middle-income, and special needs individuals and households that is equitably and rationally distributed throughout the region.

MPP-H-4
Address the need for housing affordable to low- and very low-income households, recognizing that these critical needs will require significant public intervention through funding, collaboration, and jurisdictional action.

MPP-H-5
Promote homeownership opportunities for low-income, moderate-income, and middle-income families and individuals while recognizing historic inequities in access to homeownership opportunities for communities of color.

MPP-H-6
Develop and provide a range of housing choices for workers at all income levels throughout the region that is accessible to job centers and attainable to workers at anticipated wages.

MPP-H-7
Expand the supply and range of housing at densities to maximize the benefits of transit investments, including affordable units, in growth centers and station areas throughout the region.

MPP-H-8
Promote the development and preservation of long-term affordable housing options in walking distance to transit by implementing zoning, regulations, and incentives.

MPP-H-9
Expand housing capacity for moderate density housing to bridge the gap between single-family and more intensive multifamily development and provide opportunities for more affordable ownership and rental housing that allows more people to live in neighborhoods across the region.

MPP-H-10
Encourage jurisdictions to review and streamline development standards and regulations to advance their public benefit, provide flexibility, and minimize additional costs to housing.

MPP-H-11
Encourage interjurisdictional cooperative efforts and public-private partnerships to advance the provision of affordable and special needs housing.

MPP-H-12
Identify potential physical, economic, and cultural displacement of low-income households and marginalized populations that may result from planning, public investments, private redevelopment, and market pressure. Use a range of strategies to mitigate displacement impacts to the extent feasible.

Housing ACTIONS

REGIONAL ACTIONS

H-Action-1

Regional Housing Strategy: PSRC, together with its member jurisdictions, state agencies, housing interest groups, housing professionals, advocacy and community groups, and other stakeholders will develop a comprehensive regional housing strategy to support the 2024 local comprehensive plan update. The housing strategy will provide the framework for regional housing assistance (see H-Action-2, below) and shall include the following components:

- In the near term, a regional housing needs assessment to identify current and future housing needs to support the regional vision and to make significant progress towards jobs/housing balance and quantify the need for affordable housing that will eliminate cost burden and racial disproportionality in cost burden for all economic segments of the population, including those earning at or below 80 percent of Area Median Income throughout the region. This will provide necessary structure and focus to regional affordable housing discussions
- Strategies and best practices to promote and accelerate: housing supply, the preservation and expansion of market rate and subsidized affordable housing, housing in centers and in proximity to transit, jobs-housing balance, and the development of moderate-density housing options
- Coordination with other regional and local housing efforts

H-Action-2

Regional Housing Assistance: PSRC, in coordination with subregional, county, and local housing efforts, will assist implementation of regional housing policy and local jurisdiction and agency work. Assistance shall include the following components:

- Guidance for developing local housing targets (including affordable housing targets), model housing policies, and best housing practices
- Technical assistance, including new and strengthened tools, to support local jurisdictions in developing effective housing strategies, action plans, and programs
- Collection and analysis of regional housing data, including types and uses of housing and effectiveness of zoning, regulations, and incentives to achieve desired outcomes
- Technical assistance in support of effective local actions to address displacement, including data on displacement risk and a toolbox of local policies and actions

H-Action-3

State Support and Coordination: PSRC will monitor and support as appropriate members' efforts to seek new funding and legislative support for housing; and will coordinate with state agencies to implement regional housing policy.

LOCAL ACTIONS

H-Action-4

Local Housing Needs: Counties and cities will conduct a housing needs analysis and evaluate the effectiveness of local housing policies and strategies to achieve housing targets and affordability goals to support updates to local comprehensive plans. Analysis of housing opportunities with access to jobs and transportation options will aid review of total household costs.

H-Action-5

Affordable Housing Incentives: As counties and cities plan for and create additional housing capacity consistent with the Regional Growth Strategy, evaluate and adopt techniques such as inclusionary or incentive zoning to provide affordability.

H-Action-6

Displacement: Metropolitan Cities, Core Cities, and High Capacity Transit Communities will develop and implement strategies to address displacement in conjunction with the populations identified of being at risk of displacement including residents and neighborhood-based small business owners.

H-Action-7

Housing Choice: Counties and cities will update regulations and strategies to reduce barriers to the development and preservation of moderate density housing to address the need for housing between single-family and more intensive multifamily development, consistent with the Regional Growth Strategy.

H-Action-8

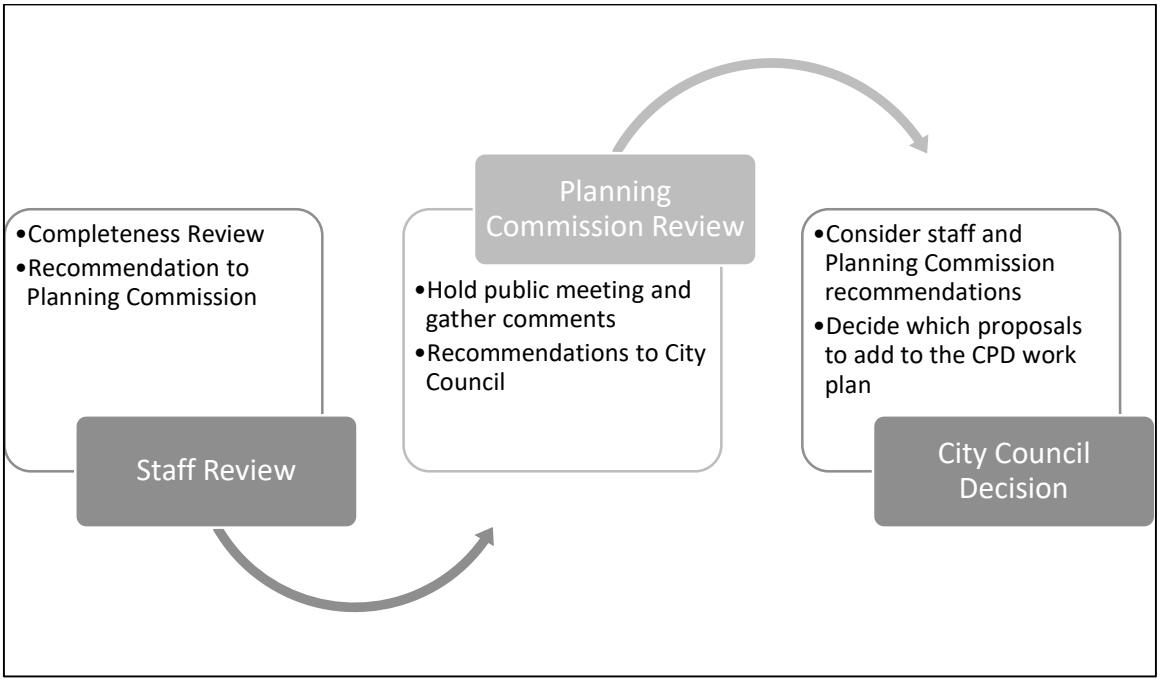
Housing Production: Counties and cities will review and amend, where appropriate and consistent with the Regional Growth Strategy, development standards and regulations to reduce barriers to the development of housing by providing flexibility and minimizing additional costs.

COMMUNITY PLANNING & DEVELOPMENT
9611 SE 36TH STREET | MERCER ISLAND, WA 98040
PHONE: 206.275.7605 | www.mercerisland.gov/cpd

2024 DOCKET REQUEST FORM

APPLICATION REVIEW PROCESS

Docket requests are the first step in the process of amending the City's Comprehensive Plan or development regulations. The Mercer Island City Code (MICC) describes the process for these amendments in MICC 19.15.230-.260. The illustration below summarizes the annual docket process.



Staff review all docket requests for timeliness and completeness and will use the information provided in the application form to present a request to the Mercer Island Planning Commission and City Council. The Planning Commission will review the docket requests and make a recommendation to the City Council regarding which docket items to add to the final docket.

The City Council has decision-making authority over all annual docket proposals. The City Council determines whether to add a proposal to the final docket. Items added to the final docket will be incorporated in the Community Planning and Development work plan for the upcoming year. Docket requests are evaluated based on alignment with the current City work plan, current policies, programmatic priorities, staff capacity, and budget to complete the legislative process for the request in the following year. The City Council will approve the final docket by December 31 each year. Items placed on the final docket will be scheduled for legislative review by the Planning Commission and City Council in the following year.

DOCKET REQUEST FORM

The following information is required. 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: Regan McClellan AIA

Address: 3309 Wallingford Ave N

Phone: 206-728-0480

Email: regan@mccarch.com

AGENT/CONSULTANT/ATTORNEY

Complete this section if the primary contact is different from the applicant.

Name:

Address:

Phone:

Email:

REQUEST INFORMATION

Important: A separate Docket Request Form must be completed for each docket item requested.

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

If yes, please complete the following information:

Property Owner Name:

Address:

County Assessor's Parcel No.:

Parcel Size (sq. ft.):

If the application is submitted by an agent/consultant/attorney, please attach a signed letter of consent from all owners of the affected property demonstrating that that the application is submitted with consent.

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

Comprehensive Plan Amendment ☐ Development code Amendment ☑

Is this submission a ***suggestion*** for a Comprehensive Plan or Development Code amendment, or is this an ***application*** for a specific amendment? (Check one box below.)

Note: Applications are subject to applicable permit fees.

Suggestion ☑ Application ☐

DOCKET REQUEST NARRATIVE – REQUIRED FOR ALL APPLICATIONS

Please attach a separate narrative responding to all five (5) questions outlined below. Attach additional sheets, supporting maps, or graphics as necessary. Answer each question separately and reference the question number in your answer.

The application will be considered incomplete without a narrative answering all five 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).
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?

Please sign and date below acknowledging application requirements.

Signature: Regan McClellan Digitally signed by Regan McClellan DN: CN=Regan McClellan, E=regan@mccarch.com Reason: I am approving this document Location: seattle Date: 2023.09.25 14:03:37-07'00' Foxit PDF Editor Version: 12.1.3 **Date:** 9/25/2023

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Please attach a separate narrative responding to the above questions.

DOCKETING CRITERIA

MICC 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. 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. 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.

COMPREHENSIVE PLAN DECISION CRITERIA

MICC 19.15.230(F) Decision criteria. Decisions to amend the comprehensive plan shall be based on the criteria specified below. An applicant for a comprehensive plan amendment proposal shall have the burden of demonstrating that the proposed amendment complies with the applicable regulations and decision criteria.

1. The amendment is consistent with the Growth Management Act, the countywide planning policies, and the other provisions of the comprehensive plan and city policies; and:
    a. There exists obvious technical error in the information contained in the comprehensive plan; or
    b. The amendment addresses changing circumstances of the city as a whole.
2. If the amendment is directed at a specific property, the following additional findings shall be determined:
    a. The amendment is compatible with the adjacent land use and development pattern;
    b. The property is suitable for development in conformance with the standards under the potential zoning; and
    c. The amendment will benefit the community as a whole and will not adversely affect community facilities or the public health, safety, and general welfare.

DEVELOPMENT CODE AMENDMENT DECISION CRITERIA

MICC 19.15.250(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.

Docket Request Narrative

1. The proposed amendment is to clarify the residential height limit standard for homes on sloped lots by clarifying the definition of the term “Façade” consistent with historical practice. The term *Façade* should acknowledge, consistent with historical practice, that a building face can be articulated/divided into multiple *façades* and those *façades* each have their own relationship to grade. The relevant Code sections with the proposed amendment are as follows:

MICC 19.16.010 - Definitions

Façade: Any exterior wall of a structure, including projections from and attachments to the wall. Projections and attachments include balconies, decks, porches, chimneys, unenclosed corridors and similar projections.

MICC 19.02.020.E *Building Height Limit*

1. *Maximum building height*. No building shall exceed 30 feet in height above the **average building elevation to the highest point of the roof**. (emphasis added)
2. *Maximum building height on downhill building façade*. The maximum building *façade* height on the downhill side of a sloping lot shall not exceed 30 feet in height. The building *façade* height shall be measured from the existing grade or finished grade, whichever is lower, at the furthest downhill extent of the proposed building, to the top of the exterior wall facade supporting the roof framing, rafters, trusses, etc. A building face can be articulated/divided into multiple *façades.* Those *façades* each have their own relationship to grade, and shall be treated as separate walls for determining maximum building *façade* height on the downhill side of a sloping lot.

. . . .

4. The formula for calculating average building elevation is as follows: Formula: Average Building Elevation = (Weighted Sum of the Mid-point Elevations) ÷ (Total Length of Wall Segments)

Where: Weighted Sum of the Mid-point Elevations = The sum of: ((Mid-point Elevation of Each Individual Wall Segment) × (Length of Each Individual Wall Segment))

For example for a house with ten wall segments:

(A×a) + (B×b) + (C×c) + (D×d) + (E×e) + (F×f) + (G×g) + (H×h) + (I×i) + (J×j)

a + b + c + d + e + f + g + h + i + j

Where: A, B, C, D… = The existing or finished ground elevation, whichever is lower, at midpoint of wall segment.

And: a, b, c, d… = The length of wall segment measured on outside of wall.

2. The "Downhill Building Façade" standard was adopted in 2017. Ord. 17C-15 § 1 (Att. A). Since 2017, the standard has been interpreted to allow a significant break in the plane of the façade to create two or more façades. This allowed the architect to reduce the apparent scale and size of the downhill façade and comply with the code. This is interpretation in March of 2021 by Lauren Anderson, Planner:

> ***The code states that it is the furthest downhill wall façade that is limited to a maximum of 30 feet. Thank you for providing the helpful diagram attached. From looking at your diagram, the furthest downhill wall façade would be the basement only since the main and upper level are setback and are structurally separate walls. However, if the main and upper floor weren't setback and were structurally one wall, then the maximum downhill height would be measured to the upper floor.***

Appendix A: Mercer Island Planner Email; email and diagram that was referenced above.

The historical interpretation is consistent with the definition of façade in Section 19.16.010, above. That definition refers to "**Any** exterior wall of a structure," thus recognizing the ability to allow a break in the plane to create two or more façades.

Significantly, the historical interpretation allows the ABE height limit in subsection E.4 to coexist with E.2. If the façade is interpreted as the aggregate of all the faces of the downhill slope side, then it obviates the ABE height limit. There is no condition in which the downhill slope definition would not determine height limit. The obvious intent of the ABE is to allow for the variations of grade that can be found on most building lots on Mercer Island.

This proposal benefits the community of property owners on Mercer Island in allowing reasonable development of sloped lots. The vast majority of high value properties on Mercer Island are located on a considerable slope, i.e. and property waterward of North, West, or East Mercer Way. This proposed amendment would ensure, consistent with historical practice, that a 3-story home is allowed on sloped lots. The current interpretation makes it extremely difficult to provide a 3-story home with reasonable ceiling heights. This is a hardship not borne by a property owner on a mostly flat lot.

Unfortunately, the Interim DPD Director recently reversed the established interpretation and eliminated the concept that the facade can be articulated to reduce the apparent size. As explained above, if the façade includes the aggregate of all the faces of the downhill slope, reasonable development of sloped lots becomes much more difficult. This is coming at a time when we are being more than encouraged to create more housing to help meet a nationwide housing shortage and help mitigate the meteoric rise in housing costs. As noted above, not

maintaining the historical interpretation obviates the ABE height limit. This would render the ABE provisions meaningless, which is not proper.

3. This request is appropriate to the Docket Process as a Code Amendment.
4. The request meets the criteria of MICC 19.15.250(D):
    a) Presents a matter appropriately addressed through the code.
    b) The scope of the request can be easily provided by the city.
    c) This does not raise land issues more appropriately addressed by any ongoing item by the city council.
    d) This will serve the public's interest, i.e. and landowner interested in developing their residential property and ensuring that sloped lots that are otherwise developable can in fact be reasonably developed.
    e) This has not been considered by the city council
4. This proposal does not seek to amend the Comprehensive Plan.
5. The proposal aligns with the goals of the City's Comprehensive Plan in providing reasonable development of residential property while maintaining aesthetic goals.

Gmail

Chris Tellone <chris@mccarch.com>

Fwd: 4045 W Mercer Way - Max Building Height

Joey Pasquinelli <joey@mccarch.com> Wed, Feb 22, 2023 at 10:27 AM
To: Chris Tellone <chris@mccarch.com>

See below

Joey Pasquinelli, RA
joey@mccarch.com
McClellan Architects
3309 Wallingford Avenue North
Seattle WA, 98103

Ph: 206-728-0480
www.mccarch.com

---------- Forwarded message ---------
From: **Lauren Anderson** <Lauren.Anderson@mercergov.org>
Date: Wed, Mar 24, 2021 at 1:24 PM
Subject: RE: 4045 W Mercer Way - Max Building Height
To: Joey Pasquinelli <joey@mccarch.com>
Cc: Regan McClellan <regan@mccarch.com>, LandUse Planning <landuse.planning@mercergov.org>

Joey,

The code states that it is the furthest downhill wall façade that is limited to a maximum of 30 feet. Thank you for providing the helpful diagram attached. From looking at your diagram, the furthest downhill wall façade would be the basement only since the main and upper level are setback and are structurally separate walls. However, if the main and upper floor weren't setback and were structurally one wall, then the maximum downhill height would be measured to the upper floor.

Sincerely,

Lauren Anderson
Planner
City of Mercer Island- Community Planning & Development
206.275.7704 | mercerisland.gov/cpd

Due to the COVID-19 outbreak, Community Planning and Development has modified our operations. City Hall and the Permit Center are closed to the public. There is no "walk in" permit service; staff are working remotely and services are being continued via remote operations. More information is available on the City's website: mercerisland.gov/cpd. *Please contact us by phone for general customer support at 206-275-7626.*

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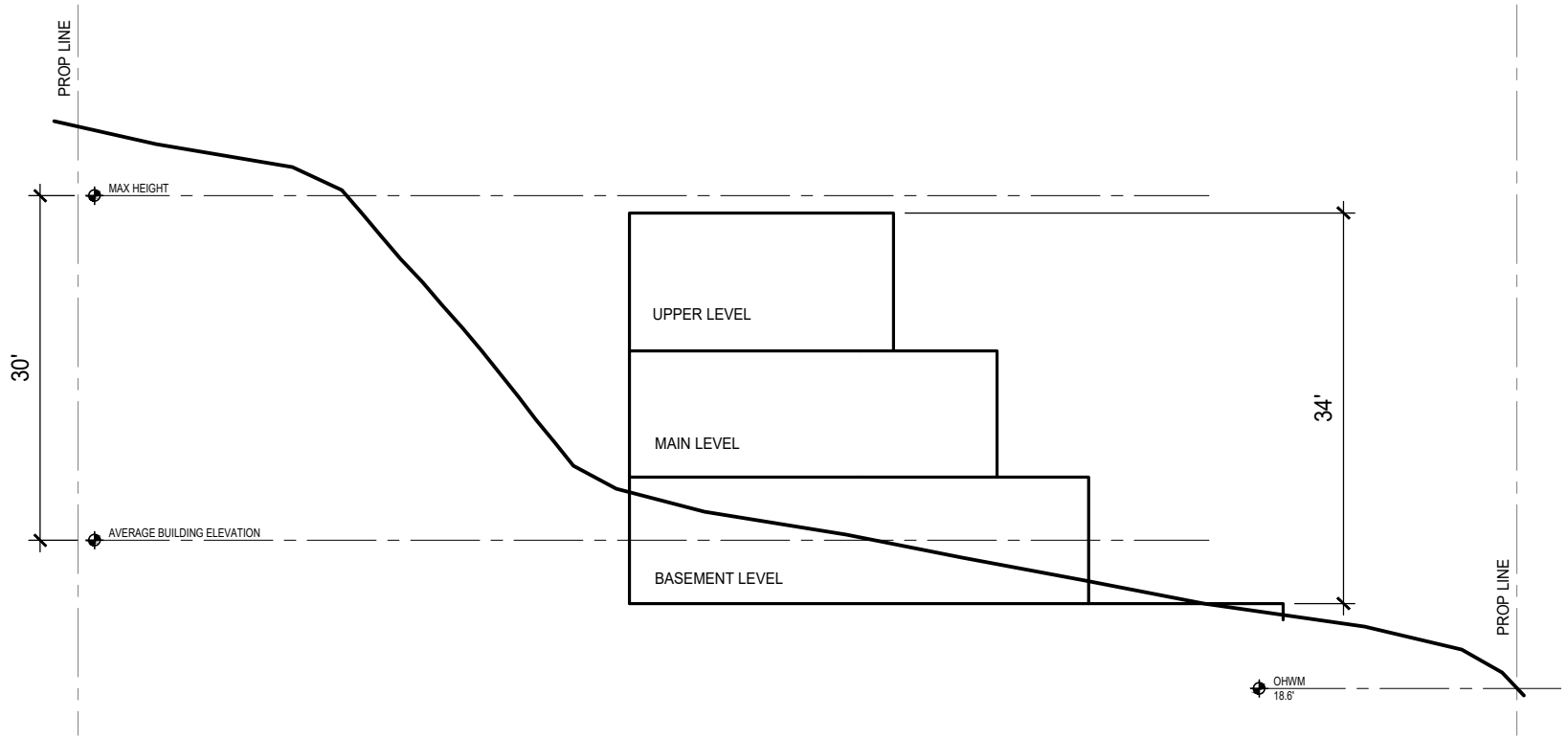
PROP LINE
MAX HEIGHT
30'
UPPER LEVEL
MAIN LEVEL
BASEMENT LEVEL
34'
AVERAGE BUILDING ELEVATION
PROP LINE
OHWM
18.6'

COMMUNITY PLANNING & DEVELOPMENT
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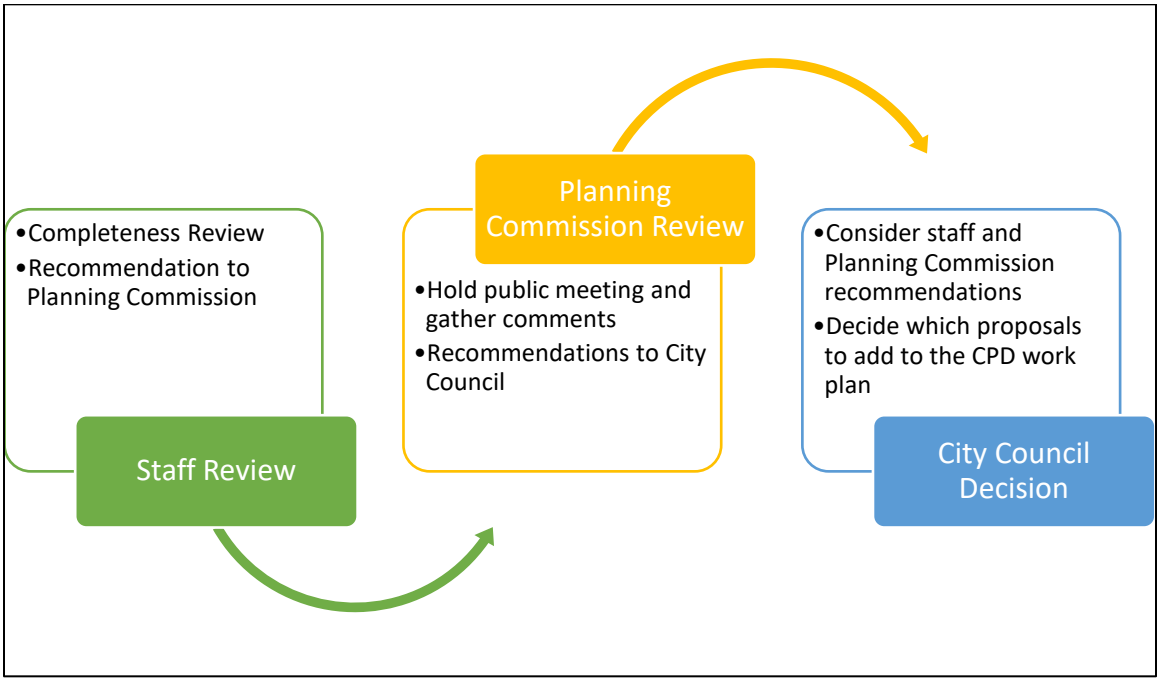
2024 DOCKET REQUEST FORM

APPLICATION REVIEW PROCESS

Docket requests are the first step in the process of amending the City's Comprehensive Plan or development regulations. The Mercer Island City Code (MICC) describes the process for these amendments in MICC 19.15.230-.260. The illustration below summarizes the annual docket process.



Staff review all docket requests for timeliness and completeness and will use the information provided in the application form to present a request to the Mercer Island Planning Commission and City Council. The Planning Commission will review the docket requests and make a recommendation to the City Council regarding which docket items to add to the final docket.

The City Council has decision-making authority over all annual docket proposals. The City Council determines whether to add a proposal to the final docket. Items added to the final docket will be incorporated in the Community Planning and Development work plan for the upcoming year. Docket requests are evaluated based on alignment with the current City work plan, current policies, programmatic priorities, staff capacity, and budget to complete the legislative process for the request in the following year. The City Council will approve the final docket by December 31 each year. Items placed on the final docket will be scheduled for legislative review by the Planning Commission and City Council in the following year.

DOCKET REQUEST FORM

The following information is required. 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 Country Club
Address: 8700 S.E. 71st Street, Mercer Island, WA 98040
Phone: (206)232-5600
Email: dpnordale@gmail.com

AGENT/CONSULTANT/ATTORNEY

Complete this section if the primary contact is different from the applicant.

Name: Abigail Pearl DeWeese and Rachel Mazur (Hillis, Clark, Martin & Peterson P.S.)
Address: 999 3rd Avenue, Suite 4600, Seattle, WA 98104
Phone: (206)470-7651
Email: abigail.deweese@hcmp.com; rachel.mazur@hcmp.com

REQUEST INFORMATION

Important: A separate Docket Request Form must be completed for each docket item requested.

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

If yes, please complete the following information:

Property Owner Name: Mercer Island Country Club
Address: 8700 SE 71st Street, Mercer Island, WA 98040
County Assessor's Parcel No.: 545110-0575
Parcel Size (sq. ft.): 242,480 sq. ft.

If the application is submitted by an agent/consultant/attorney, please attach a signed letter of consent from all owners of the affected property demonstrating that that the application is submitted with consent.
Is this request for a Comprehensive Plan amendment or a development code amendment?

Comprehensive Plan Amendment ☐ Development code Amendment ☑

Is this submission a ***suggestion*** for a Comprehensive Plan or Development Code amendment, or is this an ***application*** for a specific amendment? (Check one box below.)
Note: Applications are subject to applicable permit fees.

Suggestion ☐ Application ☑

DOCKET REQUEST NARRATIVE – REQUIRED FOR ALL APPLICATIONS

Please attach a separate narrative responding to all five (5) questions outlined below. Attach additional sheets, supporting maps, or graphics as necessary. Answer each question separately and reference the question number in your answer.

The application will be considered incomplete without a narrative answering all five 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).
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?

Please sign and date below acknowledging application requirements.

Signature: DocuSigned by: AC60B1A27DD6434... **Date:** 9/27/2023

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Please attach a separate narrative responding to the above questions.

DOCKETING CRITERIA

MICC 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. 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. 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.

COMPREHENSIVE PLAN DECISION CRITERIA

MICC 19.15.230(F) Decision criteria. Decisions to amend the comprehensive plan shall be based on the criteria specified below. An applicant for a comprehensive plan amendment proposal shall have the burden of demonstrating that the proposed amendment complies with the applicable regulations and decision criteria.

1. The amendment is consistent with the Growth Management Act, the countywide planning policies, and the other provisions of the comprehensive plan and city policies; and:
    a. There exists obvious technical error in the information contained in the comprehensive plan; or
    b. The amendment addresses changing circumstances of the city as a whole.
2. If the amendment is directed at a specific property, the following additional findings shall be determined:
    a. The amendment is compatible with the adjacent land use and development pattern;
    b. The property is suitable for development in conformance with the standards under the potential zoning; and
    c. The amendment will benefit the community as a whole and will not adversely affect community facilities or the public health, safety, and general welfare.

DEVELOPMENT CODE AMENDMENT DECISION CRITERIA

MICC 19.15.250(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.

Mercer Island Country Club

Docket Request Narrative

September 28, 2023

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

Applicant Introduction

The Mercer Island Country Club (the "Club") is a member-owned non-profit organization that operates a tennis, swim, and fitness facility at 8700 SE 71st Street.

Envisioned back in the early-1960's, the original club facilities completed in 1967 consisted of a swimming pool and eight outdoor tennis courts. It has since grown incrementally to an approximately 72,000 square foot facility, housing 7 indoor tennis courts, a seasonally covered pool, a 6,000 square foot fitness facility, accompanying locker rooms, and social spaces.

The Club is run by a volunteer Board of Trustees comprised entirely of member-owners. The overwhelming majority of the current 861 member families, representing more than 3,200 individuals, are Mercer Island residents, and the Board is tasked to keep costs, and by extension dues and fees, controlled to promote membership accessibility to as many Islanders and their families as possible.

The Club is a cherished community, recreational, and gathering space within a residential setting. The Club pre-dates the Conditional Use Permit ("CUP") process and most versions of the Mercer Island development code, yet, since inception, it has existed within single family residential zoning, in harmony with neighbors, while receiving entitlements for reasonable changes to adapt to changing member needs. The Club is grateful for collaboration between Club members, city staff, City Council, Planning Commissioners, Design Commissioners, neighbors, and the broader community over the past six decades.

Proposed Amendment Introduction

In order to better serve its members, and in particular the demand for youth participation in junior tennis programs, the Club proposes to cover its four northern, outdoor tennis courts seasonally with an air-supported temporary structure (colloquially, a "bubble"). This will add an additional four USTA conforming courts to the community during the rainy season. These four tennis courts were covered with an air-supported structure years ago, and the Club would like to return to that historic precedent. The temporary seasonal structure will house the Club's junior tennis training program, which makes available exercise and sporting opportunities to Mercer Island youth, almost equally split between girls and boys. The Club's youth program has served approximately 2,000 youth over the last decade and, if allowed the covered court space in question, is poised to serve even more in the coming decade. Please note that there is no membership expansion proposed as part of this project; rather, the Club seeks to increase the use of the courts during the winter months to better serve its existing members and its junior tennis training program in particular.

The Club is in a R 9.6 residential zone, which unfortunately sets development standards for residential uses and does not set separate standards for private clubs and other kinds of neighborhood institutions that are unlike single family homes but exist in residential zones. Because of its location and history, the Club is already nonconforming to several development standards, including height, gross floor area, and setbacks. The proposed temporary seasonal structure would increase these nonconformities and conflict with other standards.

The Club has discussed the proposal with City staff for several years, and they have instructed the only way to construct the structure within the limits of the current Mercer Island City Code ("MICC") in light of these conflicts is to seek three different variance approvals from the City's Hearing Examiner. Staff have advised they will recommend the Hearing Examiner to rule against approval of the variances because they would not be for a residential use. **Although it is still possible to seek approval of the variances, a more straightforward solution is to change the Code to allow temporary structures through a long-term temporary use or structure permit as outlined in this Docket Request. Therefore, the proposed amendment is intended to allow the temporary seasonal structure over the Club's four northern tennis courts and avoid the need for any variance approvals. This proposal would support recreational opportunities for Islander youth.**

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

The Club's proposal would amend MICC Chapter 19.06 to create a new section 19.06.130 - "Temporary Use or Structure Permits." The proposal would also amend MICC 19.15.030 Table A to conform to the new section.

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 texts to be deleted indicated with ~~strikeouts~~.

The proposal would amend MICC Chapter 19.06 to create a new Section 19.06.130 which would read as follows:

19.06.130 – Temporary Use or Structure Permits

A. *Scope*. This Section 19.06.130 establishes the procedure and criteria that the city will use in deciding upon an application for a Temporary Use or Structure Permit.

B. *Applicability*. This Section applies to each application for a Temporary Use or Structure Permit located on private property.

C. *Purpose*. A Temporary Use or Structure Permit is a mechanism by which the city may permit a use or structure to locate within the city on an interim basis without requiring full compliance with the development standards of the zoning district or by which the city may permit seasonal or transient uses or structures not otherwise permitted.

D. *Applicable procedure.*

1. The director of Community Planning and Development ("director") shall, in consultation with the Public Works Department, the Fire Department, and the

Police Department as appropriate, review and decide upon each application for a Temporary Use or Structure Permit as a Type I decision.

2. The Temporary Use or Structure Permit decision may be appealed pursuant to MICC 19.15.130.

E. *Who may apply.* The property owner may apply for a Temporary Use or Structure Permit on private property.

F. *Decision criteria.* The director may approve or modify and approve an application for a Temporary Use or Structure Permit if:

1. The temporary use or structure will not be materially detrimental to the public health, safety, or welfare, nor injurious to property or improvements in the immediate vicinity of the temporary use or structure; and

2. The temporary use or structure is not incompatible in intensity and appearance with existing land uses in the immediate vicinity of the temporary use or structure; and

3. Adequate parking is provided to serve the temporary use or structure, or if the permit is for a temporary structure serving existing uses, parking is already provided onsite; and

4. Hours of operation of the temporary use or structure are specified; and

5. The temporary use or structure will not cause noise, light, or glare which adversely impacts surrounding uses.

G. *Time limitation.* A Temporary Use or Structure Permit is valid for up to 8 months from the effective date of the permit. The director may establish a shorter time frame. For temporary structures intended for use on an annual basis to serve athletic pursuits in locations where seasonal athletic facility temporary structures previously existed, the director's approval may allow the temporary use or structure annually for up to 8 months per year for a term of 20 years.

H. *Removal or abatement of temporary use*.

1. The director shall establish, as a condition of each Temporary Use or Structure Permit, a time within which the use or structure and all physical evidence of the use or structure must be removed.

2. If the applicant has not removed the use as required by the Temporary Use or Structure Permit, the city may abate the use or structure as provided in this subsection. Prior to the approval of a Temporary Use or Structure Permit, the applicant shall submit to the director an irrevocable, signed statement granting the city permission to summarily abate the temporary use, and all physical evidence of that use if it has not been removed as required by the terms of the Permit. The statement shall also indicate that the applicant will reimburse the city for any expenses incurred in abating a temporary use.

The proposal would also include a conformance amendment to MICC 19.15.030, Table A to include the text below under the "Type I" column:

- Temporary use or structure permit

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

No map amendment is proposed.

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

As a threshold matter, the Club's proposed Code Amendment bears a substantial relation to the public health, safety, or welfare (MICC CRITERIA 19.15.250(D)(2)).

The Code Amendment empowers installation of a seasonal structure on the Mercer Island Country Club property. This increases access to and the utility of existing tennis courts in fall, winter, and early spring months with inclement weather and positively impacts public health, safety, and welfare.

Specifically, the Code Amendment supports public health, safety, and welfare by providing increased opportunities for physical activity on the Island during the rainy season. The average temperatures on Mercer Island between November and March range between 38.8 degrees and 43.8 degrees Fahrenheit. This time of year is also the rainiest, with 11-13 rainy days per month from November through March. The temporary seasonal structure will facilitate tennis during these months, in accordance with the U.S. Department of Health and Human Services health guidelines that "[r]egular physical activity is one of the most important things people can do to improve their health."

The Code Amendment is in the best interest of the community as a whole (MICC CRITERIA 19.15.250(D)(3)).

The Code Amendment is in the best interests of the community. The Code Amendment will allow Mercer Island Country Club to operate its tennis court facilities more efficiently during the winter months. The summer program supports nearly 300 more kids than the current rainy-season program. Installing a bubble over half of the eight outdoor tennis courts will allow year-round play for more Mercer Island youth. At present, junior members of the Club are not afforded the same opportunities due to the seasonal limitations of outdoor courts. The Club does not have capacity to support weekend junior team practices, meet private and group lesson demand for juniors, nor host a USTA junior tournament. Allowing greater access to tennis during the winter months for our youth is in the best interest of the entire Mercer Island community—physical exercise and developing social skills like teamwork, collaboration, and sportsmanship are important now, perhaps more than ever, as we continue to emerge from the COVID-19 pandemic. The seasonal covering of these courts will also increase fall and winter access to pickleball courts to meet the demand for the fastest growing sport in the US.

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).

Under MICC 19.15.250(D), the city may approve or approve with modifications a proposal to amend the Code only if:

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

   Please see Question #5 of this Docket Request Narrative for explanation of comprehensive plan consistency.

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

   Please see Question #2 of this Docket Request Narrative for explanation of the relationship to public health, safety, and welfare.

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

   Please see Question #2 of this Docket Request Narrative for explanation of how this amendment would serve the interests of the community.

4. For Comprehensive Plan amendments: Is the proposal consistent with the Growth Management Act and King County Countrywide Planning Policies?

Not applicable. This proposal does not involve a Comprehensive Plan amendment.

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

Mercer Island's Comprehensive Plan reflects its intrinsic values. The Code Amendment is directly consistent with several specific Comprehensive Plan Goals and Policies.

The Code Amendment squarely aligns with one of the stated goals listed in the Comprehensive Plan's Land Use Element. Goal 17.4 states:

> "Social and recreation clubs, schools, and religious institutions are predominantly located in single family residential areas of the Island. **Development regulation should reflect the desire to retain viable and healthy social, recreational, educational, and religious organizations as community assets which are essential for the mental, physical and spiritual health of Mercer Island.**" (Emphasis added).

The Code Amendment implements this Goal by directly contributing to the overall viability and health of the Mercer Island Country Club, a recognized community asset furthering the physical health of Islanders. It allows for optimization of tennis facilities during winter months to provide increased opportunities to play tennis through the temporary use of a bubble structure. As the Comprehensive Plan accurately identifies, recreation clubs are essential for the mental, physical, and spiritual health of Mercer Island. This modest amendment to the Code will allow a recreational club on the Island to retain its viability and health, and meet the needs of the community by allowing them to serve the demand for year-round youth recreational activities.

The Code Amendment also carries out the Comprehensive Plan's Land Use Goals for residential zones. Goal 15 recognizes "Mercer Island should remain principally a low density, single family residential

community" and implementing Policy 15.4 advises "[c]ompatible permitted uses such as education, **recreation**, open spaces, government social services and religious activities **will be encouraged**." The Comprehensive Plan recognizes that recreational opportunities are consistent and compatible with a vibrant single family residential community. The Code Amendment supports and encourages recreational uses year-round in furtherance of this Goal and Policy.

The Code Amendment also advances Natural Environment Goal 18.8, namely, that "[t]he City's development regulations should encourage long term sustainable stewardship of the natural environment. Examples include preservation and enhancement of native vegetation, tree retention, and rain gardens." Here, the allowance of a temporary recreational accessory structure will not increase impervious surface coverage due to its temporary nature atop an existing tennis courts. Installation of this temporary structure provides a sustainable option in terms of native vegetation and tree retention because it does not expand the floorplan of permanent, structured recreational facilities.

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: 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

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 ☐

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).
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: _____ **Date:** 9/27/22

Docket Request Narrative

1. Proposal: Modify MICC 19.07.180.C(6) ("Piped Watercourse Setbacks") to create more realistic and reasonable setbacks for property owners and to establish an additional limited exception for existing homes. As a Code change, it is appropriately addressed through a Code amendment per MICC 19.15.230(E)(1)(b)(i).

   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~~ 10 feet from the centerline of piped watercourses.

c. Piped watercourses setback widths shall be reduced to a ~~1~~7.5-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;

e. Piped watercourse setback shall not apply when:

i. The owners of a legally established existing lot with an existing residence are unable to make otherwise lawful improvements within the existing building footprint or within five (5) feet of the existing building footprint; or

ii~~v~~. The owners~~inability~~ of a legally established existing lot are unable to meet the building pad standards in MICC 19.09.090.

f. Nothing contained in this Section 6 shall alter or affect any restrictions contained in recorded easements for storm mains located on private property.

g. Nothing contained in this Section 6 shall entitle a property owner to construct or install a new vertical structure over an existing storm main.

Narrative Justification:

The proposed amendments are intended to reduce an onerous and probably unintended burden on over a hundred 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. The amendments are also intended to make the MI Code more consistent with state law and our peer jurisdictions that do not impose a 45-foot setback for storm mains.

The provisions regarding "Piped Watercourses" were added to our code in 2019 under Ord. 19C-05. They appear to have been prompted 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 a well-intentioned experiment, but the consequences of it were not fully evaluated.

The existing 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 that accompanies this proposal reveals that many of these 90-foot setbacks cover large swaths of existing lots and 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. This prevents MI residents from updating existing homes to make them serviceable for decades to come, or allow older residents to age in place. Most people do not even know that they have this burden, until they apply for a permit for even a simple remodel or addition. Unlike side yard setbacks, which total 15' from the boundary, these "Piped Watercourse" setbacks, can extend as much as 45 feet into a lot from a neighboring lot, or can cover much of a lot if the storm line is on the property, rendering that area unusable by the homeowner for an improvement that would otherwise be Code compliant. This amounts to a massive taking of property rights from many of our neighbors with little corresponding benefit because most of these "Piped Watercourses" will never be daylighted given their location and function.

Further, the way the provisions were drafted, there is really no incentive to "daylight" the storm main. Daylighting the storm main can reduce the "Piped Watercourse" 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." When you "daylight" a storm main, however, you create a "stream" which has a 60 foot buffer under the Code. Given the dimensions of most MI lot, that 60-foot buffer will almost certainly 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 landsides, other unmitigable environmental damage, prevent driveway access to a legal lot, or prevent you from having a minimum building pad (for an undeveloped lot). These are extremely limited exceptions.

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 assessment and expenditure if this is a public good. Simply classifying virtually every storm main that is not in an arterial or primary roadway as a "Piped Watercourse" does not further the putative goal. 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." Accordingly, this proposal does not conflict with the Comprehensive Plan per MICC 19.15.230(E)(1)(b)(iv).

Last year I proposed to eliminate the piped watercourse setback entirely. The proposal was not included in the 2023 Work Plan, and there is no reason to believe that this issue is part of any other work program approved by the City Council. Thus, the criteria of MICC 19.15.230(E)(1)(b)(iii) & (v) are met.

At the Council level there was apparently confusion about the 2022 proposal, and perhaps concern that it was asking for too much. This proposal, by contrast, retains the "Piped Watercourse" setback concept, and simply seeks to establish more reasonable setback distances, thereby preserving a more realistic corridor for future daylighting in this urban environment. Reducing the setbacks to a more reasonable width and allowing one additional exception for existing homes will not impair the structure, function, or ecological benefits of our existing storm water system. Modifying 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. Thus, this proposal does not adversely affect any other Codes or impair policies of the Comprehensive Plan. MICC 19.15.230(E)(1)(b)(iv). The modification of these provisions, however, will allow our neighbors to reasonably utilize their property, and to permit normal improvements and additions on their lots that otherwise comply with the Development Code, an objective that is entirely consistent with the Comprehensive Plan.

Finally, it is important to note that the existing 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.

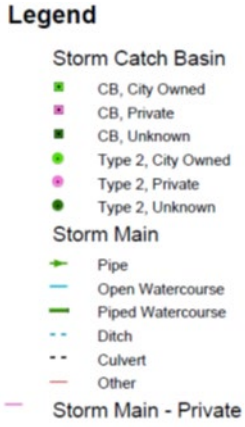
2. The foregoing narrative addresses the three decision criteria in MICC 19.15.250(D). As discussed above, the proposal is consistent with the Comprehensive Plan in multiple ways. The proposal bears a substantial relation to the public welfare by reducing unreasonable restrictions on the improvement of property. And it is in the best interest of the community and especially the affected homeowners to reduce those unreasonable restrictions.

3. The 2022 Docket Request:

In the 2022 docketing process, the staff report recommended that the Planning Commission and City Council not include in the 2023 Work Plan my 2022 proposal to eliminate the entire provision regarding "Piped Watercourses." This proposal, by contrast, is much more

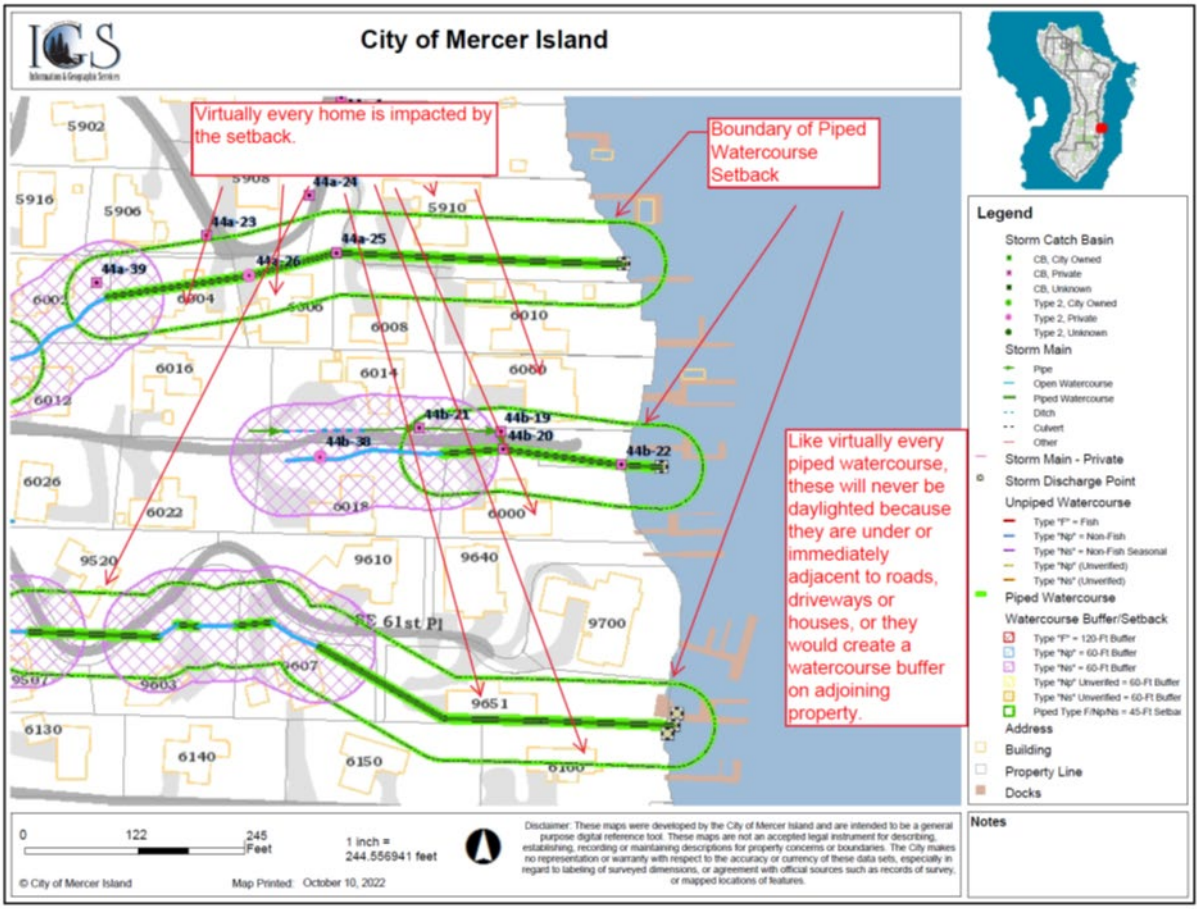
limited. As explained above, it seeks to make the setbacks more reasonable and realistic, and establishes an additional exception for existing homes. I am concerned, however, that the 2023 staff report may take a similar approach as last year. Accordingly, I submit the following comments regarding the 2022 staff report as they apply here:

- First, the 2022 staff report stated that my characterization of "piped watercourses" as "storm mains is incorrect." That assertion was not correct. The City's own GIS map legend clearly identified piped watercourses as a Storm Main.



  And in practice they clearly are just that, as demonstrated by the 31 maps accompanying this Docket Request.

- The 2022 Staff Report stated said that "[s]torm mains are pipes ***typically*** installed in the public right-of-way." Even a cursory review of the 31 maps shows that many city storm mains cross private property. An example is below. Moreover, even if that statement were true, it does not mitigate the impact of a 45-foot setback that encompasses a large portion of affected lots and homes.



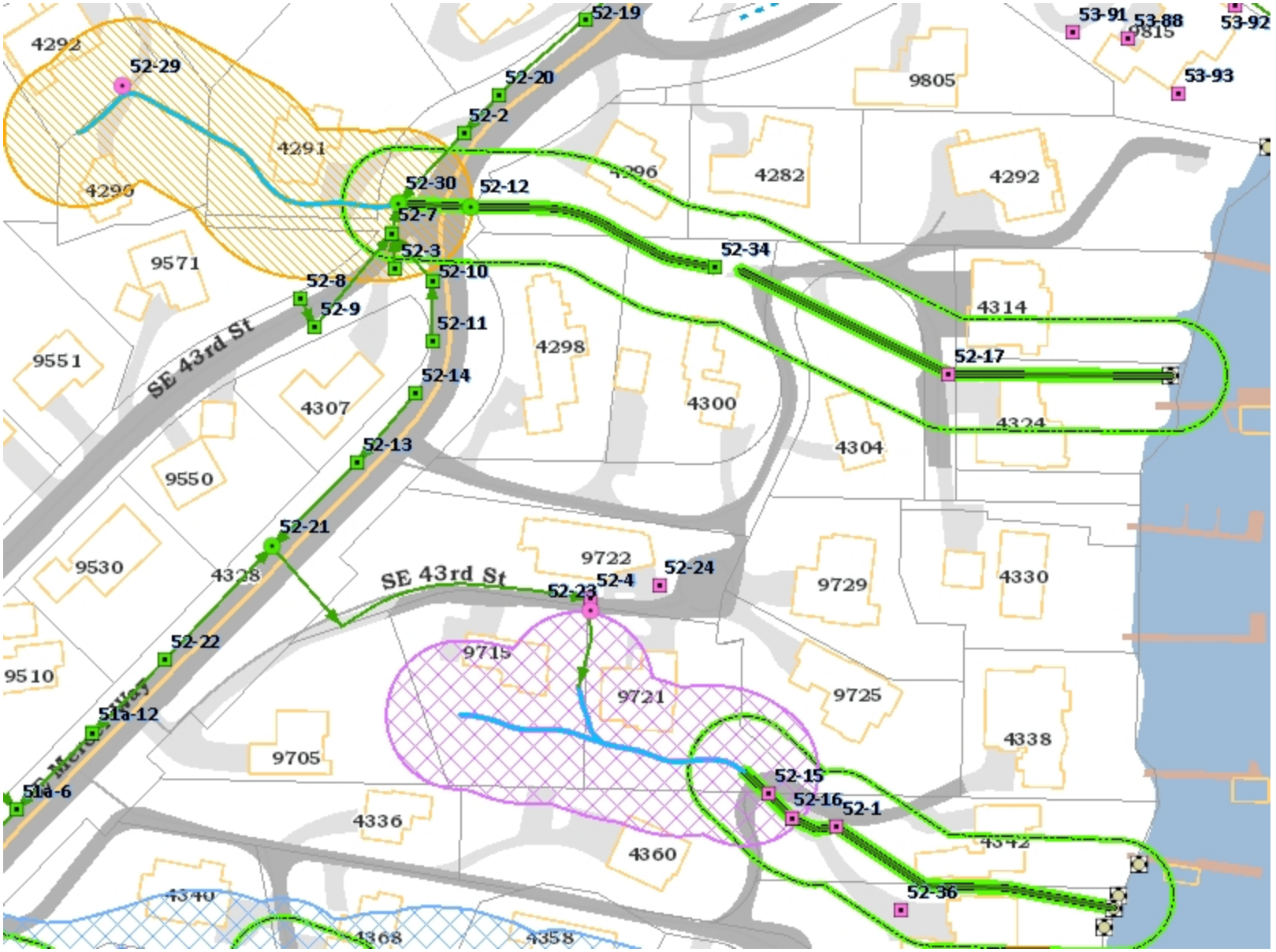
- The 2022 Staff Report correctly observed that some drainage courses move between open stream beds (often, if not mostly, man-made ditches) and pipes as they proceed along their course. That is what the 31 maps show. But more importantly, the 31 maps reveal that most of those piped sections will never be daylighted, unless we start removing private roads, driveways, homes, and neighborhoods. That undeniable fact strongly favors the proposed changes.

- As Chair of the Planning Commission, I realize that staff has a lot on their plate this coming year, and I have no desire to unnecessarily add to that burden. But the plea of insufficient resources has become the norm, not the exception. The limited and reasonable changes proposed here do not require weeks of work for staff, thus it does not run afoul of MICC 19.15.230(E)(1)B)(ii).
    - Neither our neighboring jurisdictions nor Ecology treat “Piped Watercourses” as critical areas in this way. That can be verified in a few hours.
    - This proposal does not involve a change to the Shoreline Master Plan, or implicate state regulated critical areas either. In fact, the Growth Management Hearings Board ruled back in 1993 that Mercer Island’s inclusion of “Piped Watercourses” in its Critical Areas Code was not in compliance with the Growth Management Act. Why it is still in the Code is a mystery.

- It is true that the City would have to do the normal notice and reading process for any Code amendment, but if that alone is too onerous, why do we go through the State Law mandated docketing process every fall if we are not actually giving citizens the right to propose Code amendments and have them fairly considered? It would take minimal effort to notice these provisions.
- Finally, the suggestion in 2022 that this proposal is "low priority" raises the question of priority for whom? It is not low priority for the numerous affected property owners.

City of Mercer Island

Item 2.



Legend

- Storm Catch Basin
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  - Piped Type F/Np/Ns = 45-Ft Setbac
- Address
- Building
- Property Line
- Docks

0 122 245 Feet

1 inch = 244.556941 feet

131 Mercer Island

Map Printed: October 10, 2022

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Notes

City of Mercer Island

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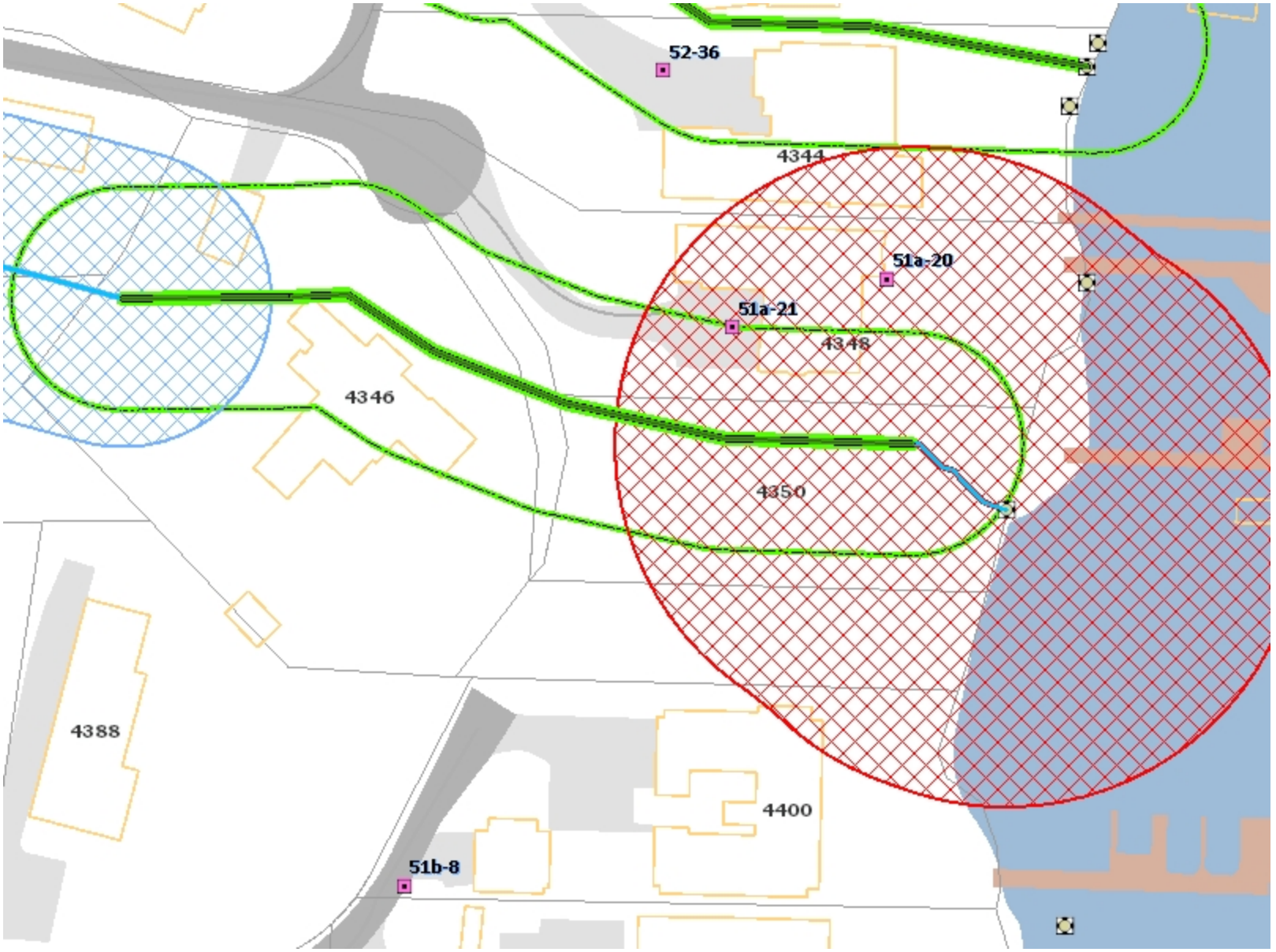

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0 61 122 Feet

1 inch = 122.2784705 feet

132 Mercer Island

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City of Mercer Island

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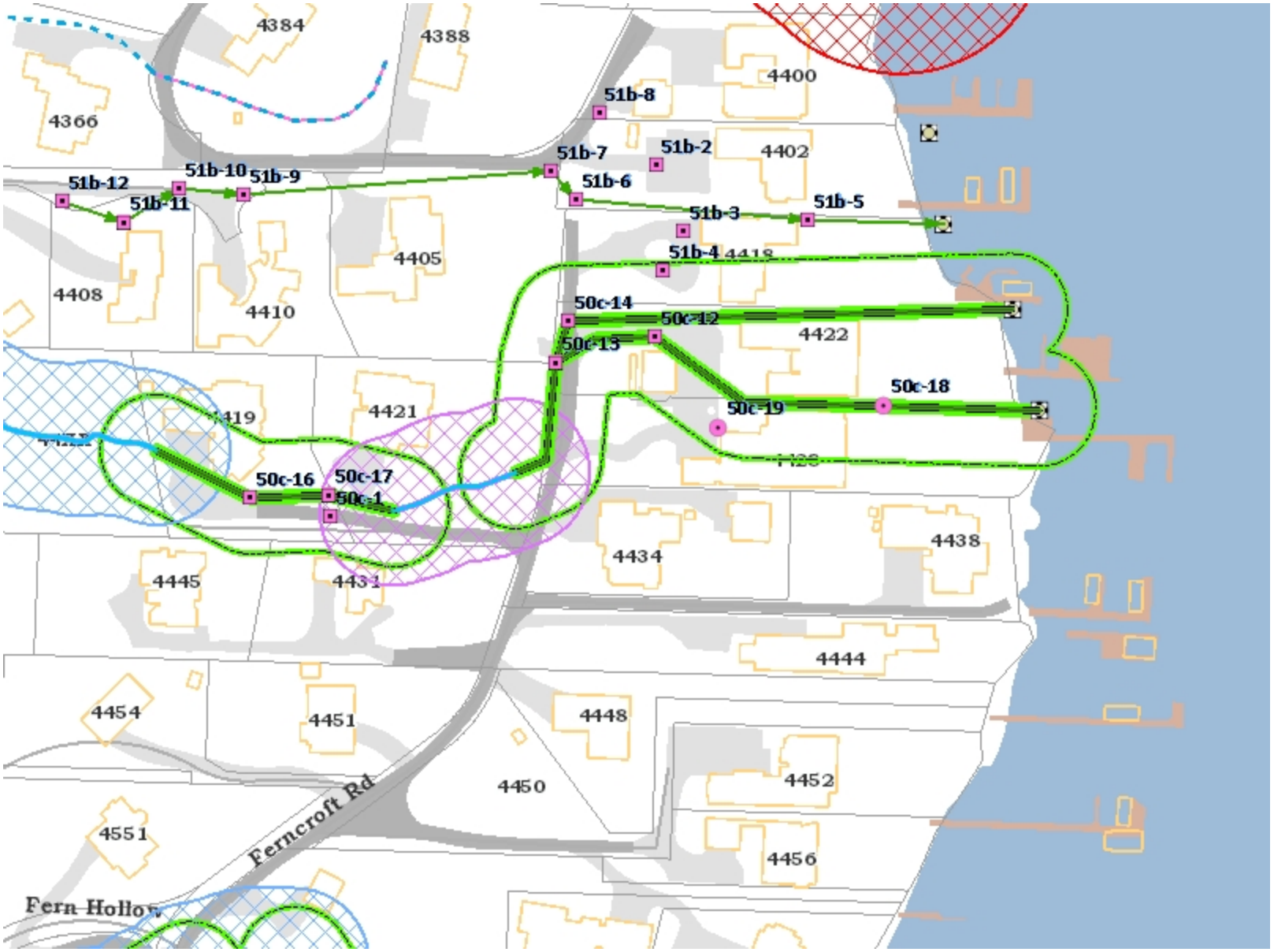

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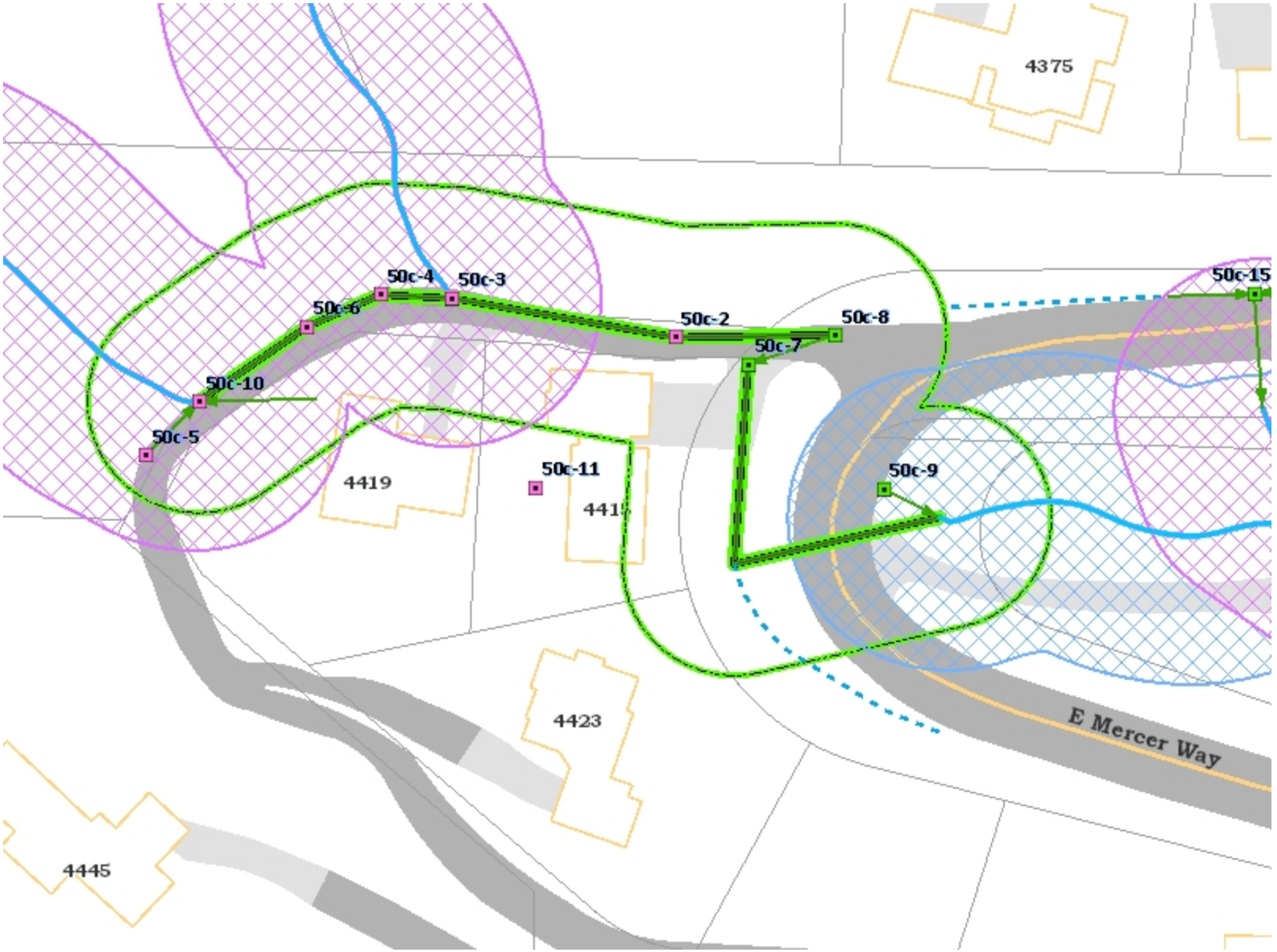

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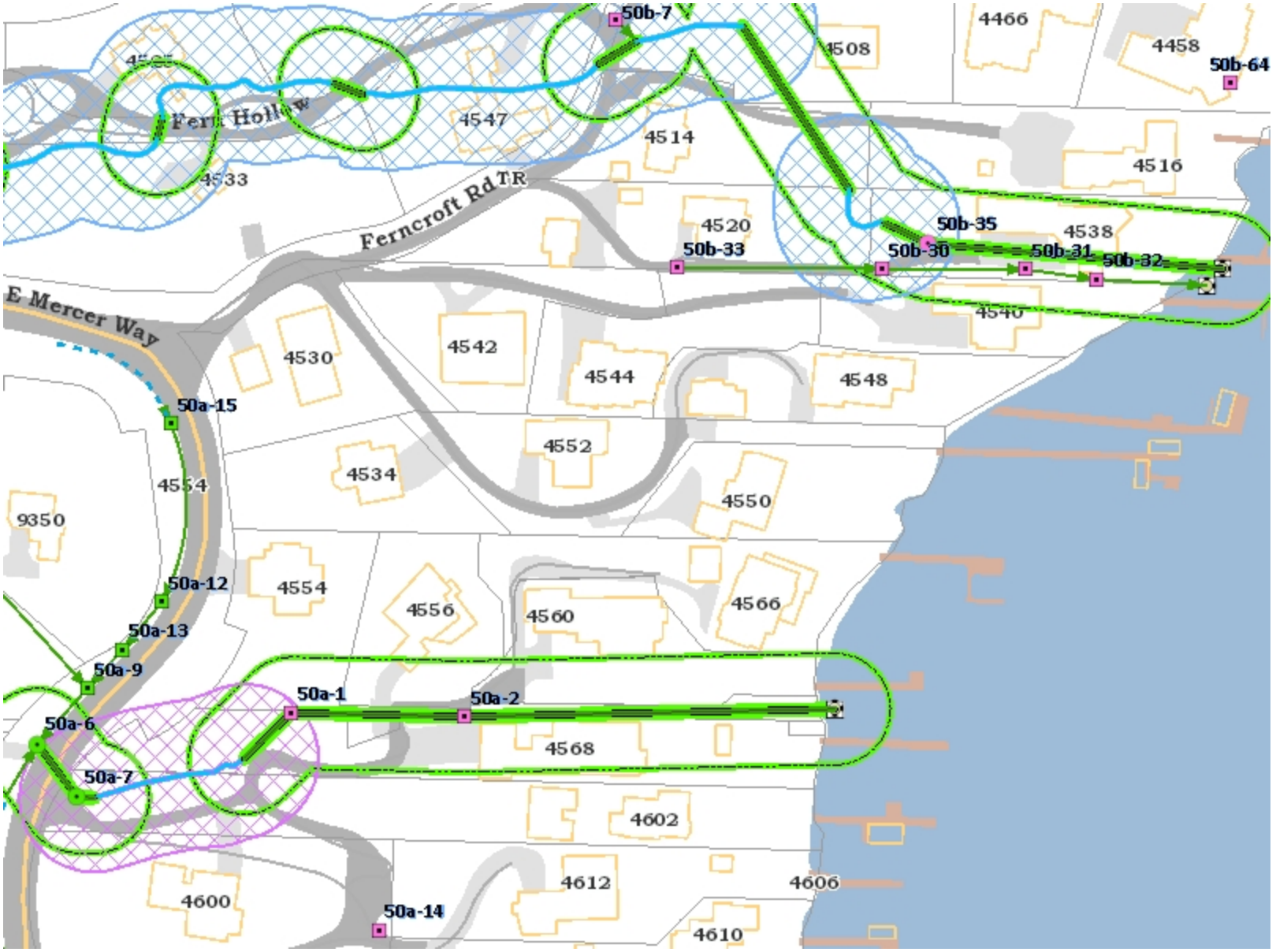

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135 Mercer Island

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City of Mercer Island

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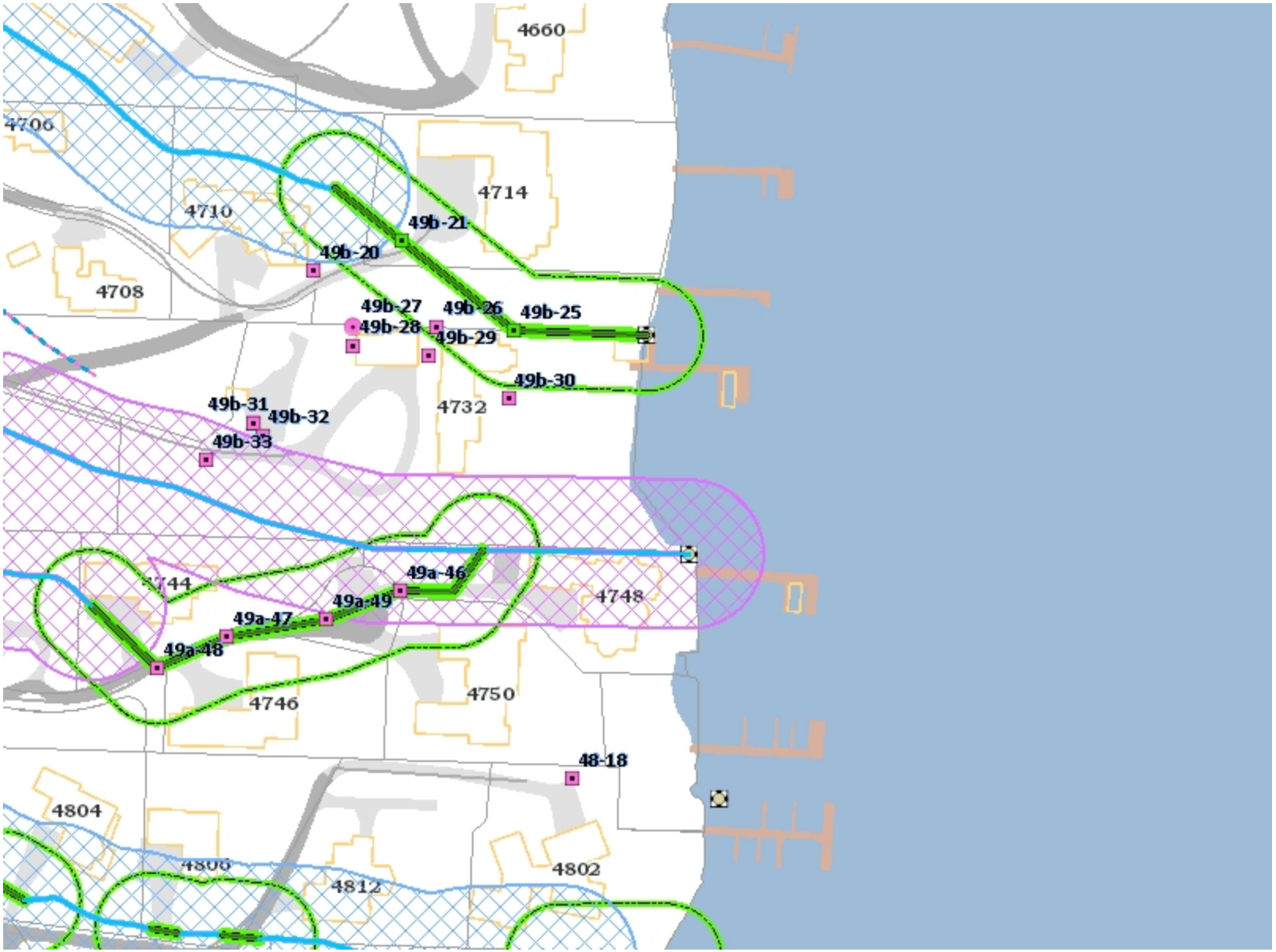

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0 122 245 Feet

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136 Mercer Island

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Notes

City of Mercer Island

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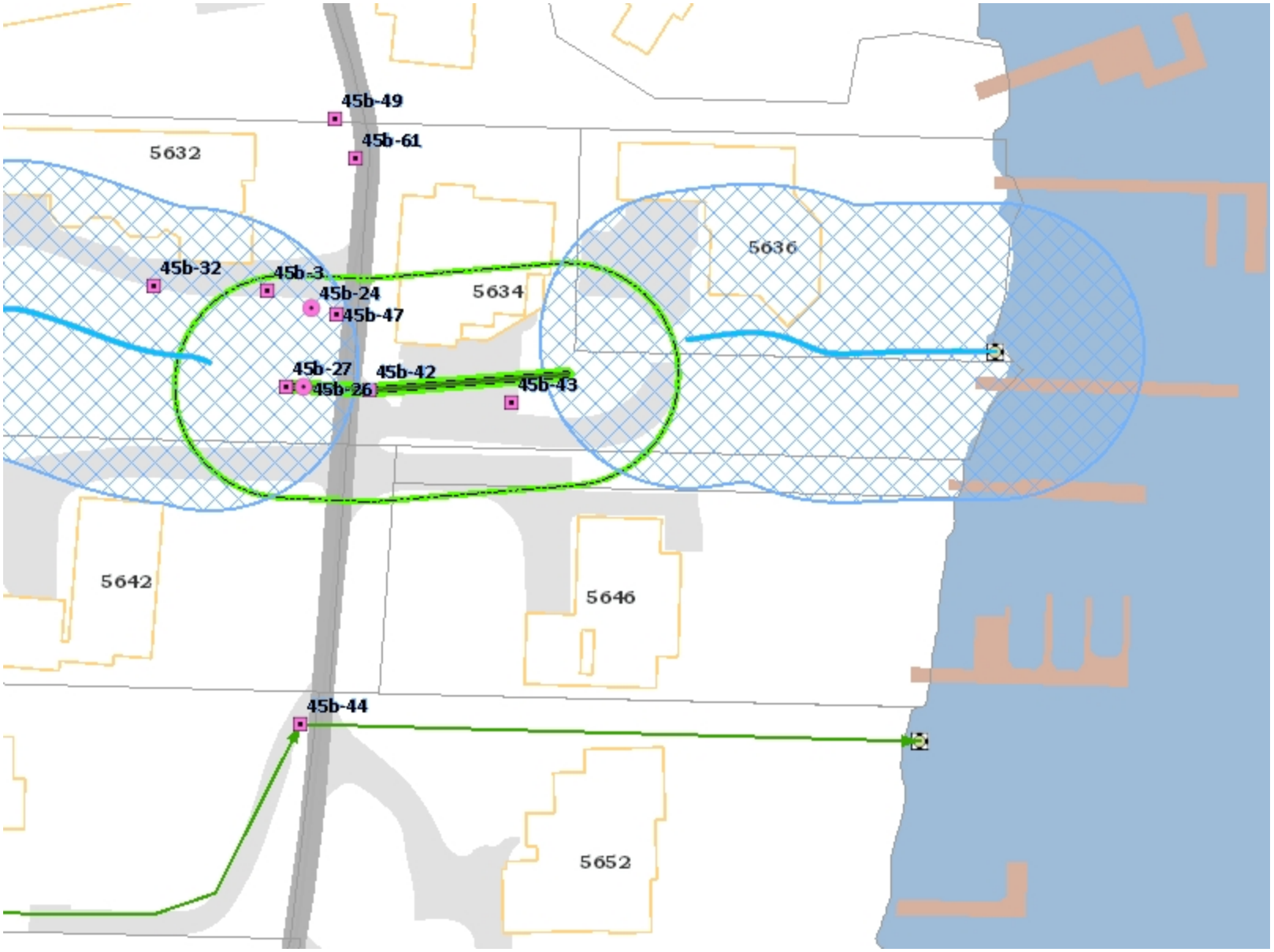

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0 61 122 Feet

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137 Mercer Island

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Notes

City of Mercer Island

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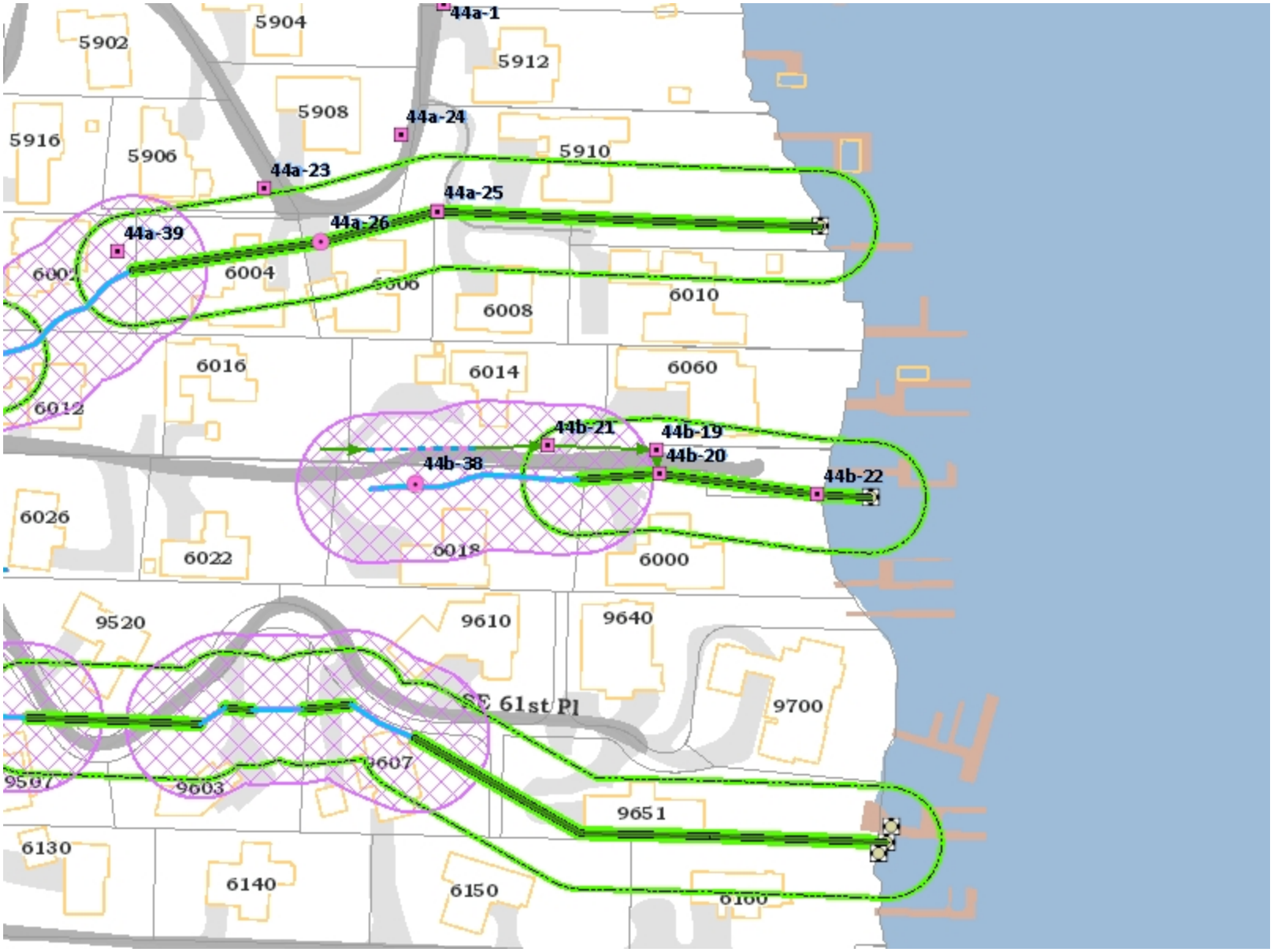

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0 122 245 Feet

1 inch = 244.556941 feet

138 Mercer Island

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City of Mercer Island

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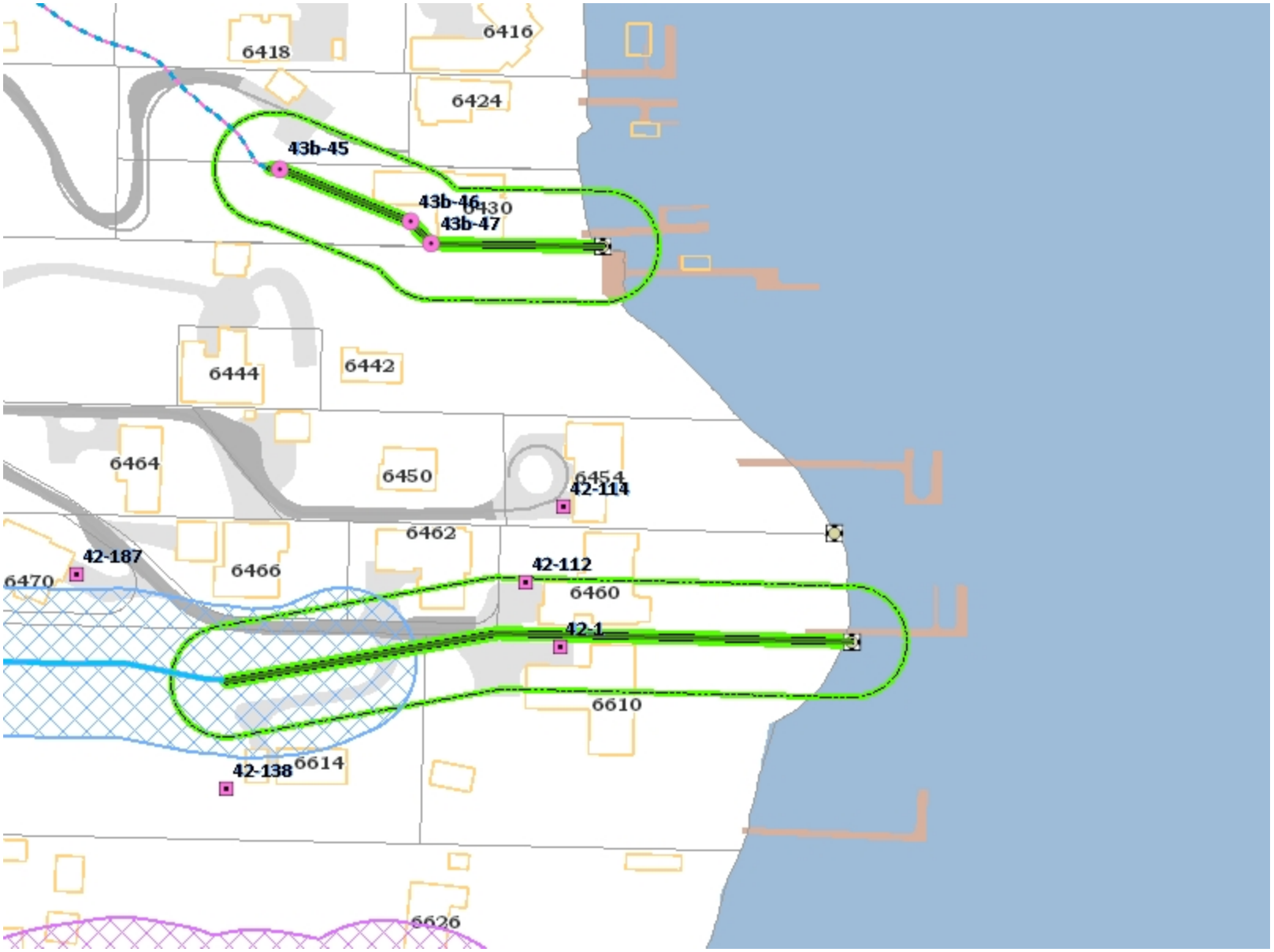

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139 Mercer Island

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City of Mercer Island

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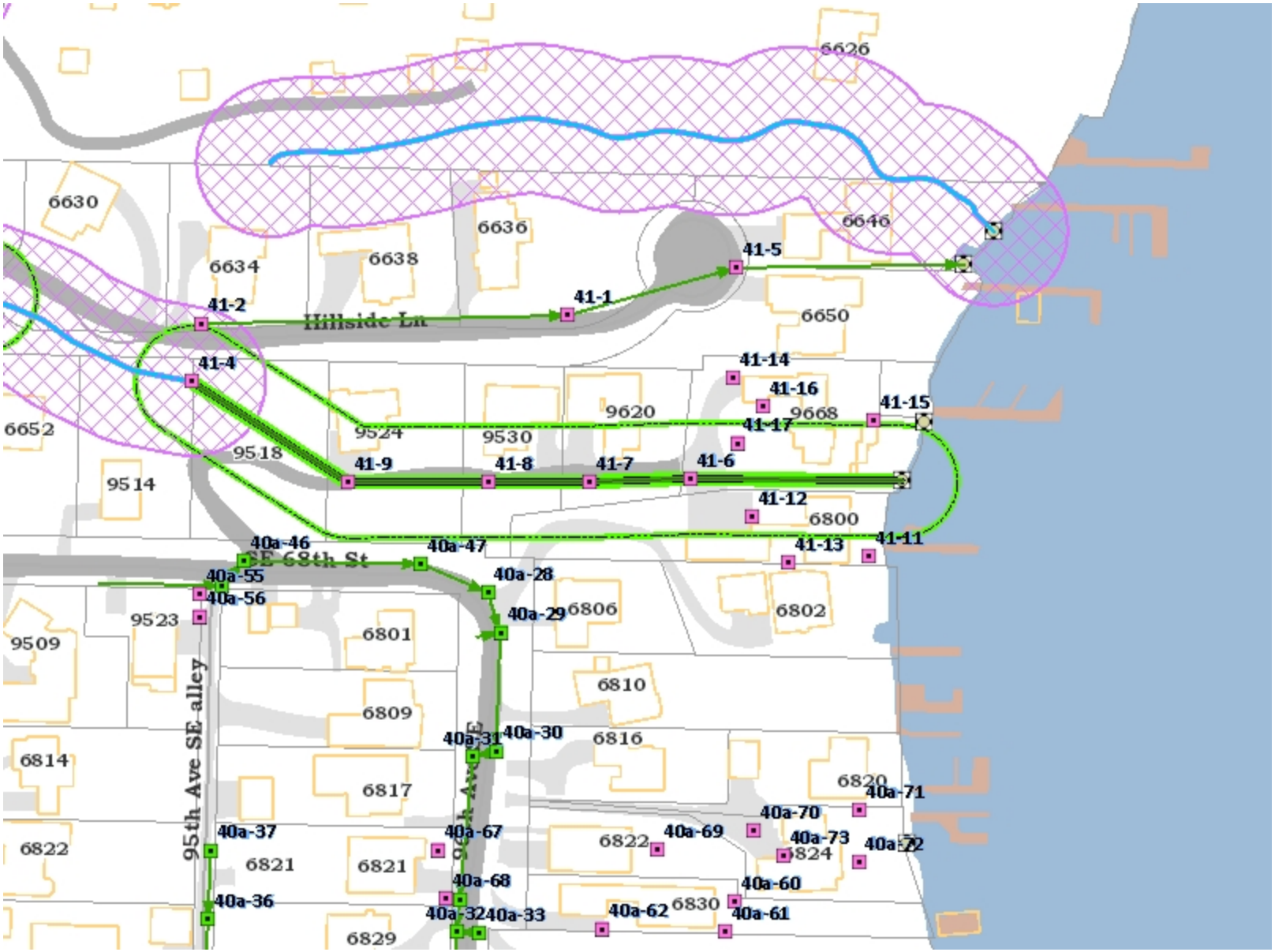

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Mercer Island

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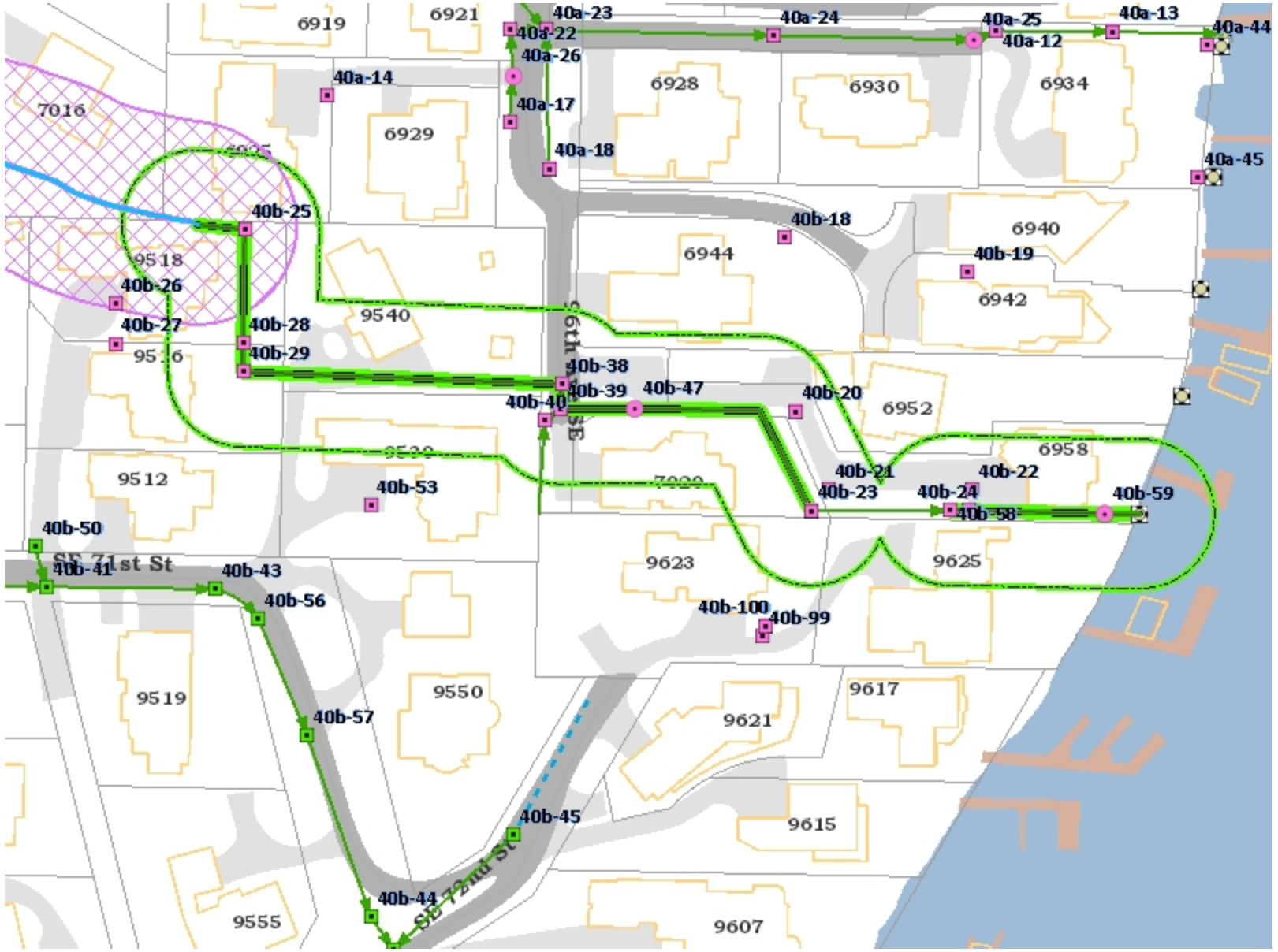
City of Mercer Island

Information & Geographic Services



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0 91 182 Feet

1 inch = 181.914282 feet

141 Mercer Island

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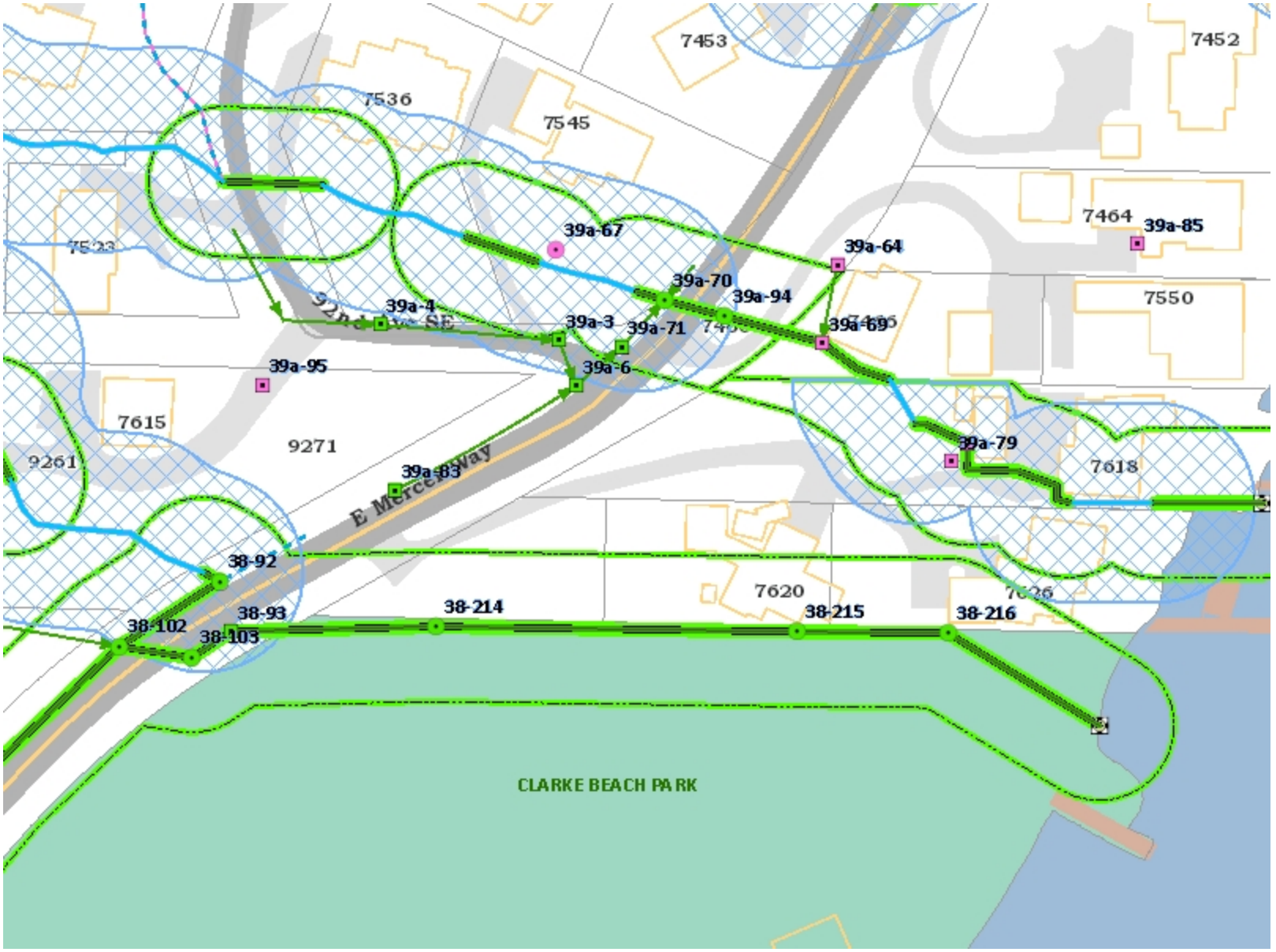

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  - Piped Type F/Np/Ns = 45-Ft Setbac
- Address
- Building
- Property Line
- Docks

0 91 182 Feet

1 inch = 181.914282 feet

142 Mercer Island

Map Printed: October 10, 2022

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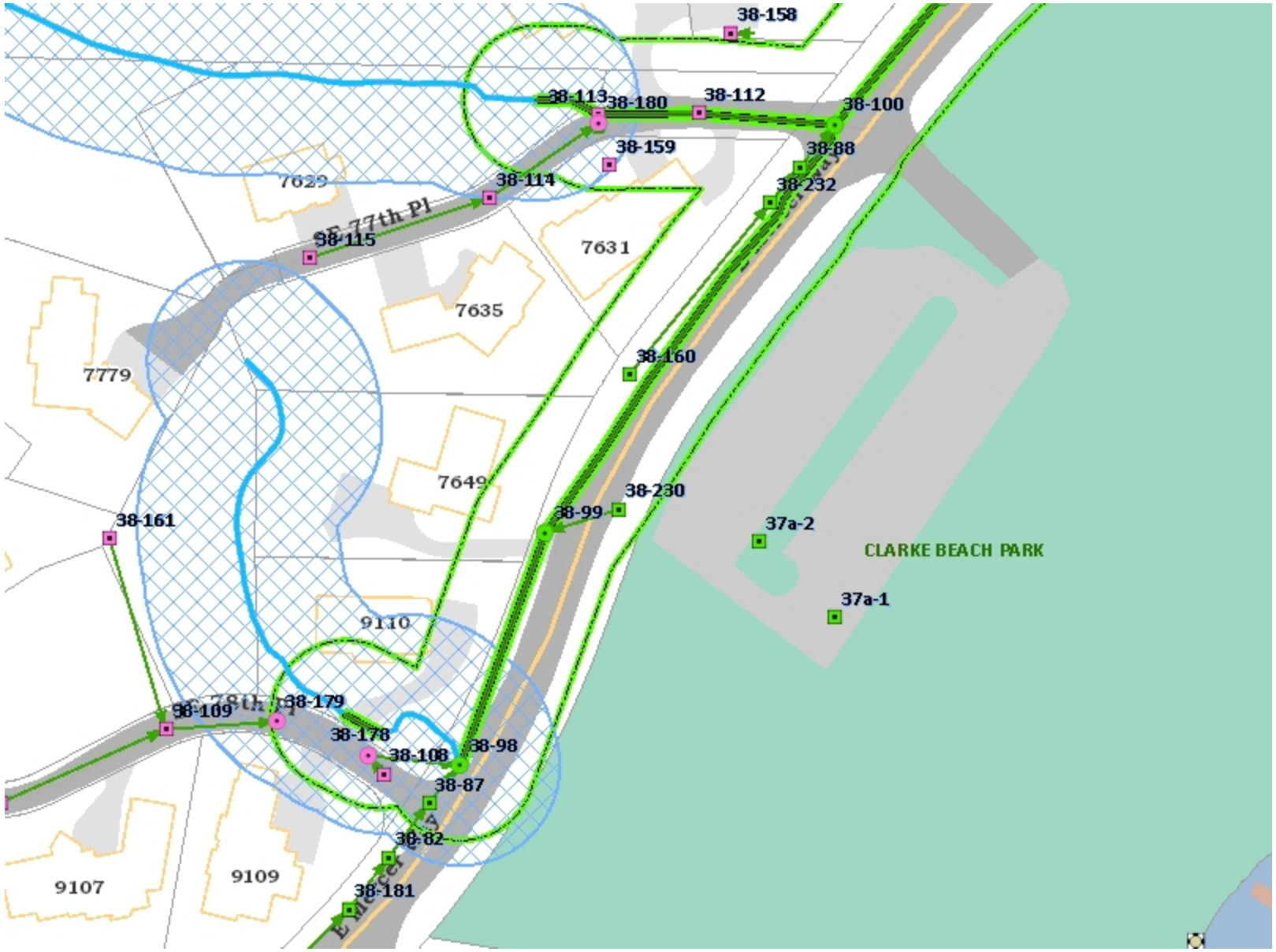
Notes

City of Mercer Island

Item 2.



Legend

- Storm Catch Basin
  - CB, City Owned
  - CB, Private
  - CB, Unknown
  - Type 2, City Owned
  - Type 2, Private
  - Type 2, Unknown
- Storm Main
  - Pipe
  - Open Watercourse
  - Piped Watercourse
  - Ditch
  - Culvert
  - Other
- Storm Main - Private
- Storm Discharge Point
- Unpiped Watercourse
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  - Type "Np" = Non-Fish
  - Type "Ns" = Non-Fish Seasonal
  - Type "Np" (Unverified)
  - Type "Ns" (Unverifed)
- Piped Watercourse
- Watercourse Buffer/Setback
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  - Type "Np" = 60-Ft Buffer
  - Type "Ns" = 60-Ft Buffer
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City of Mercer Island

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City of Mercer Island

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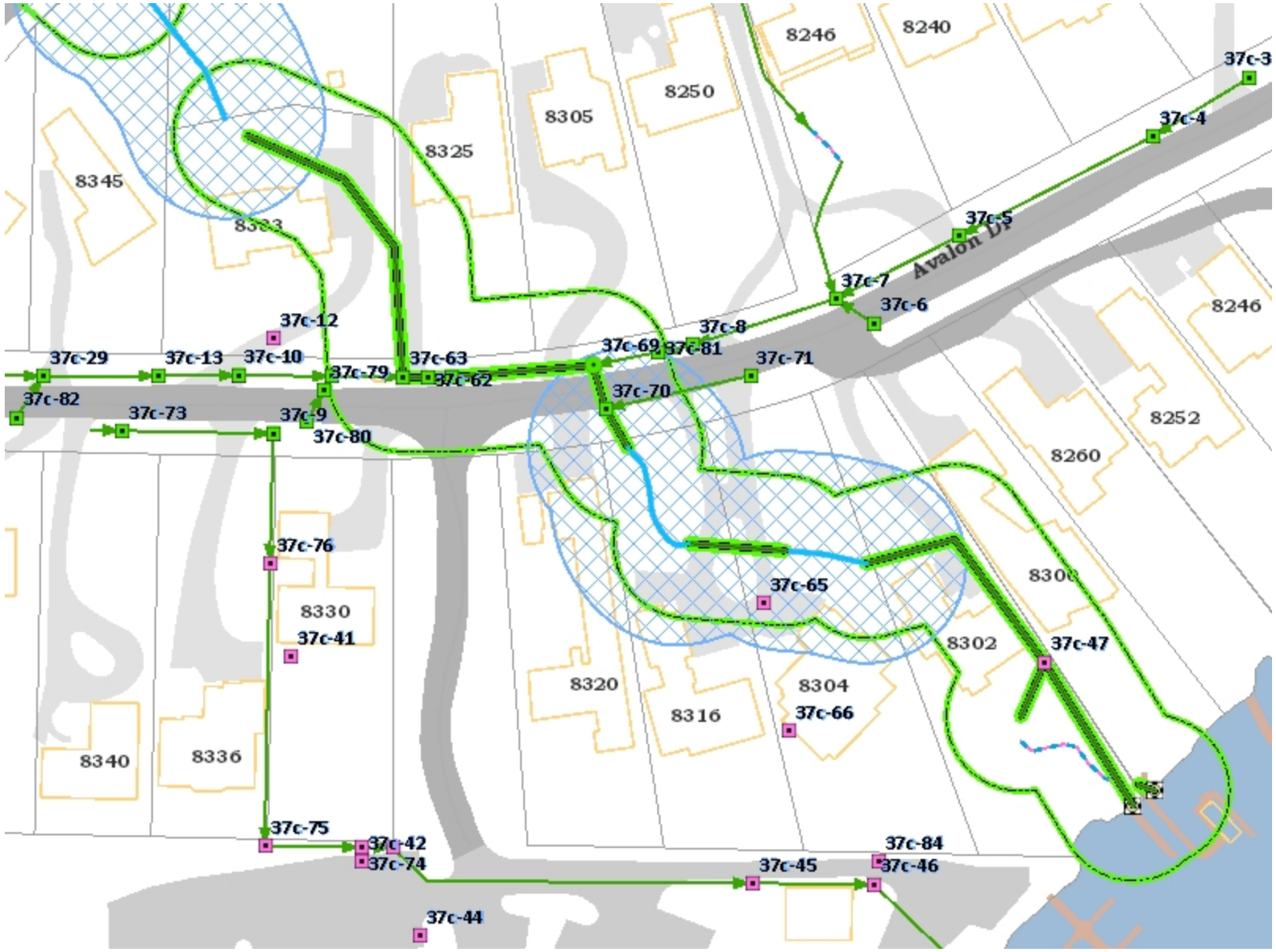

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Notes

Mercer Island

Map Printed: October 10, 2022

City of Mercer Island

Information & Geographic Services

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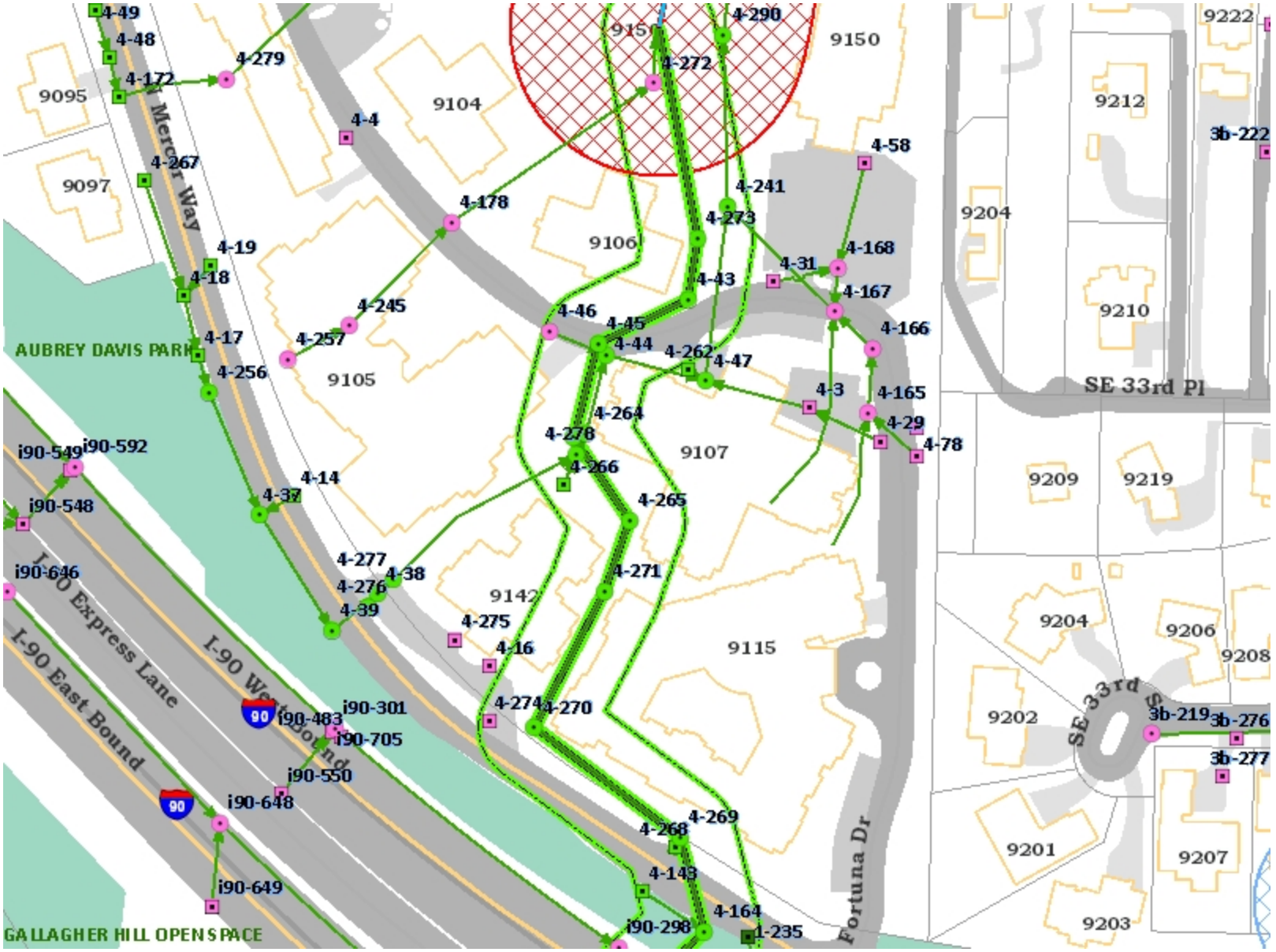

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0 122 245 Feet

1 inch = 244.556941 feet

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City of Mercer Island

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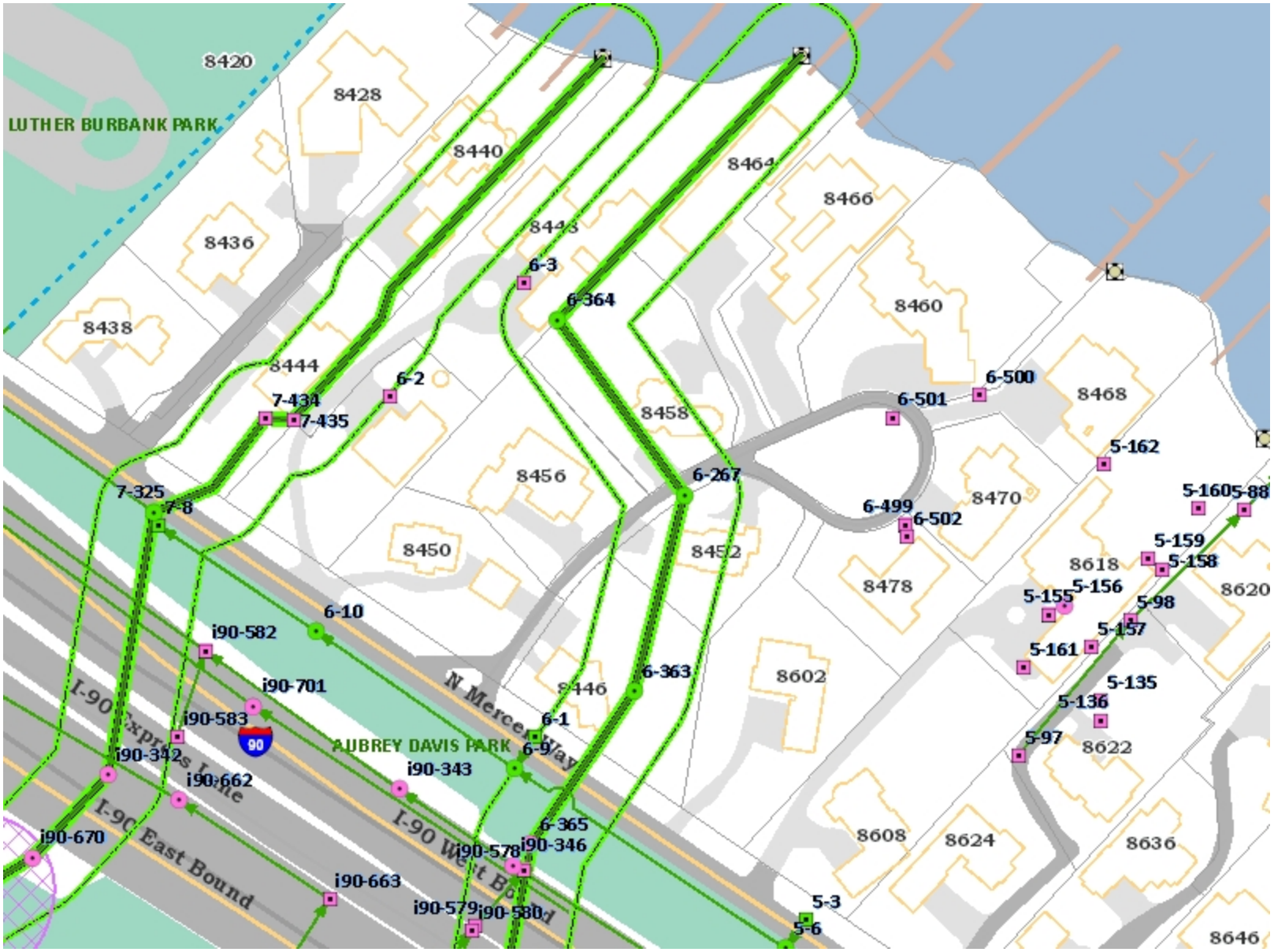

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0 122 245 Feet

1 inch = 244.556941 feet

147 Mercer Island

Map Printed: October 10, 2022

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Notes

City of Mercer Island

Information & Geographic Services

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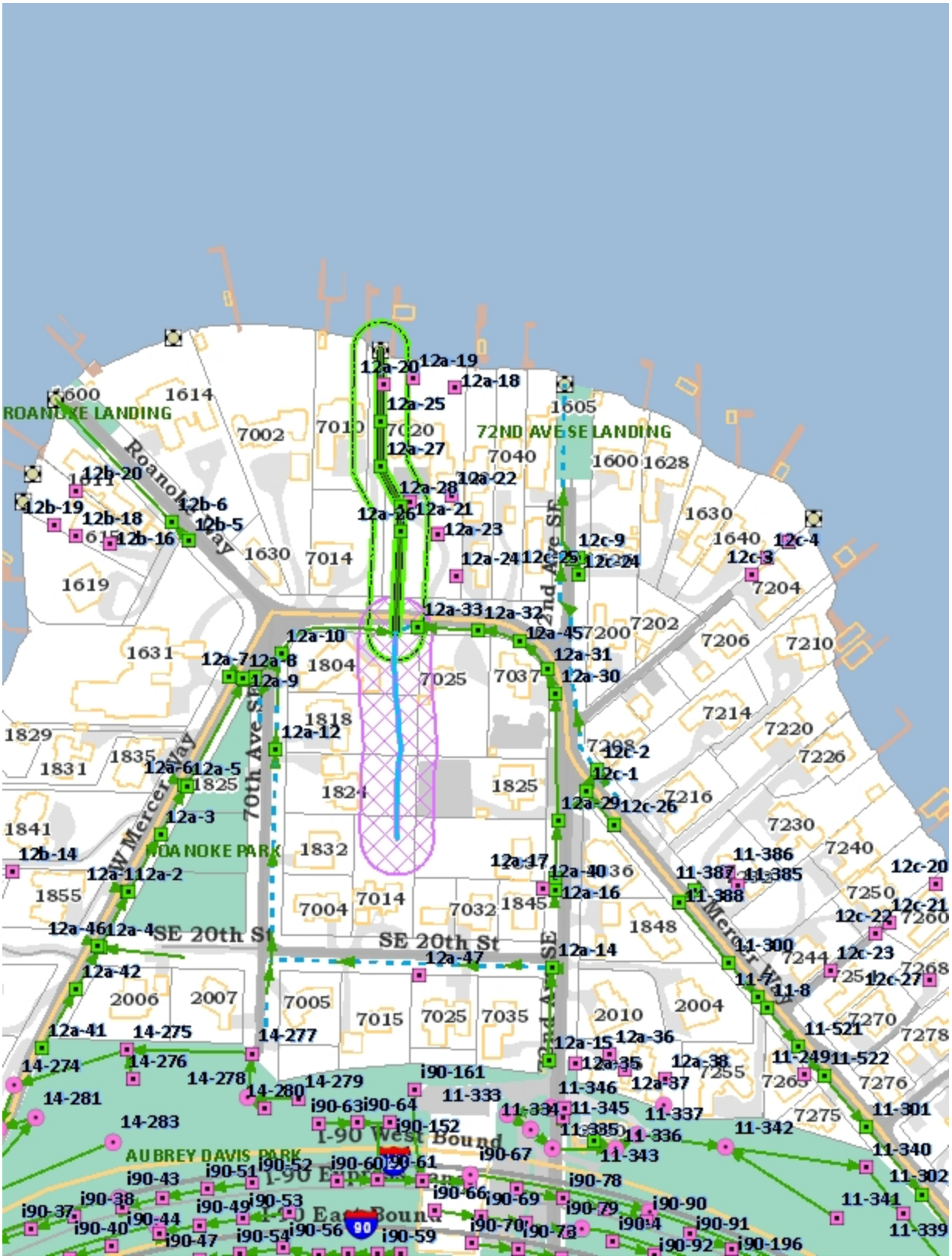

Legend

Storm Catch Basin
- CB, City Owned
- CB, Private
- CB, Unknown
- Type 2, City Owned
- Type 2, Private
- Type 2, Unknown

Storm Main
- Pipe
- Open Watercourse
- Piped Watercourse
- Ditch
- Culvert
- Other

Storm Main - Private

Storm Discharge Poir

Unpiped Watercourse
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- Type "Ns" (Unverifed)

Piped Watercourse

Watercourse Buffer/S
- Type "F" = 120-Ft Buff
- Type "Np" = 60-Ft Buff
- Type "Ns" = 60-Ft Buff
- Type "Np" Unverified =
- Type "Ns" Unverified =
- Piped Type F/Np/Ns =

Address

Building

Property Line

Docks

Freeway

Major Street

Street

Paved Driveway

Paved Road

Paved Parking Area

Parks

1: 2,935

0.1 0 0.04 0.1 Miles

148 Mercer Island

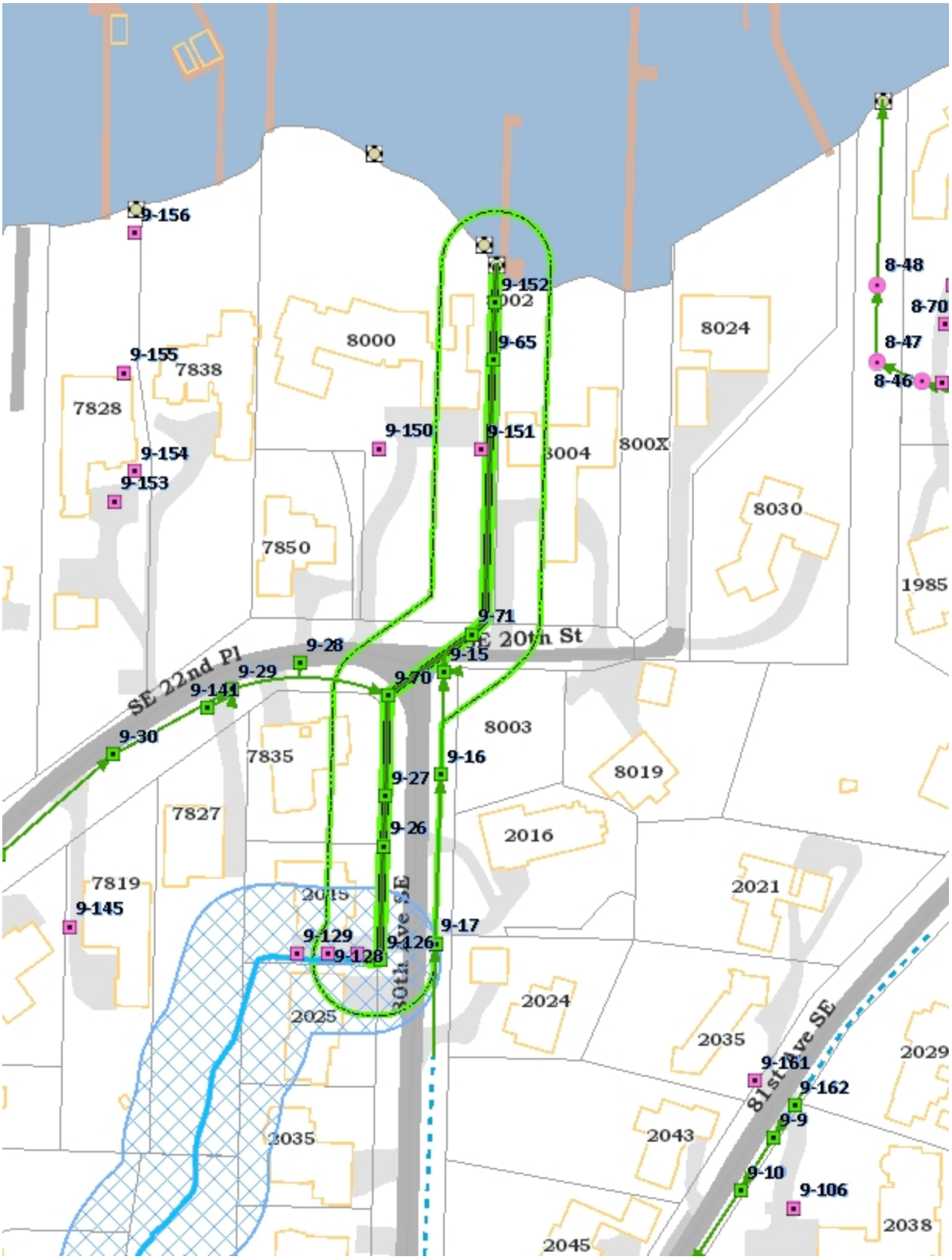
Map Printed: October 10, 2022

Notes

City of Mercer Island

Information & Geographic Services

Item 2.



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  - Type "Ns" Unverifed =
  - Piped Type F/Np/Ns =
- Address
- Building
- Property Line
- Docks
- Freeway
- Major Street
- Street
- Paved Driveway
- Paved Road
- Paved Parking Area
- Parks

1: 1,467

0.0 0 0.02 0.0 Miles

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Notes

Mercer Island

Map Printed: October 10, 2022

City of Mercer Island

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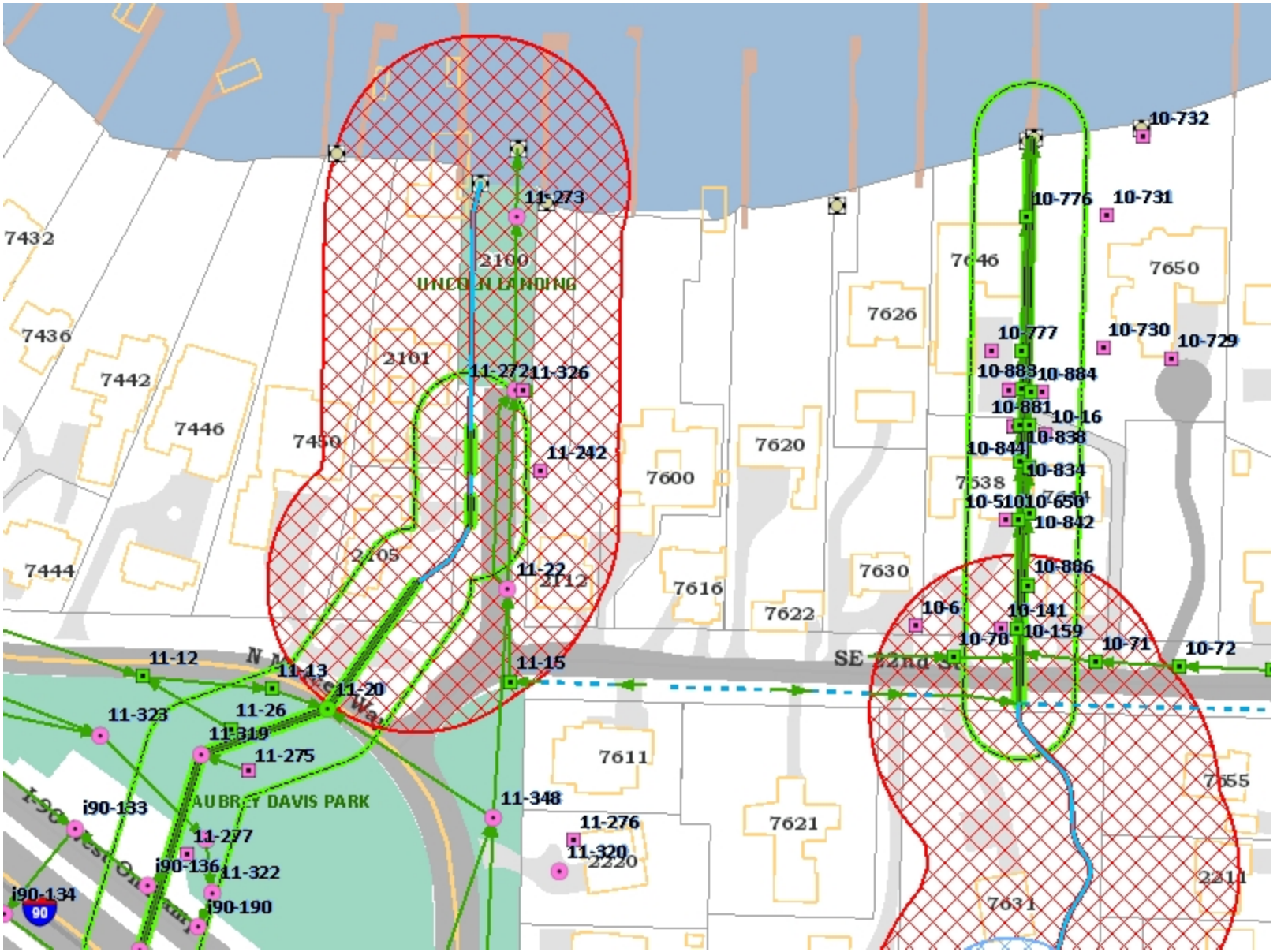

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- Property Line
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0 122 245 Feet

1 inch = 244.556941 feet

150 Mercer Island

Map Printed: October 10, 2022

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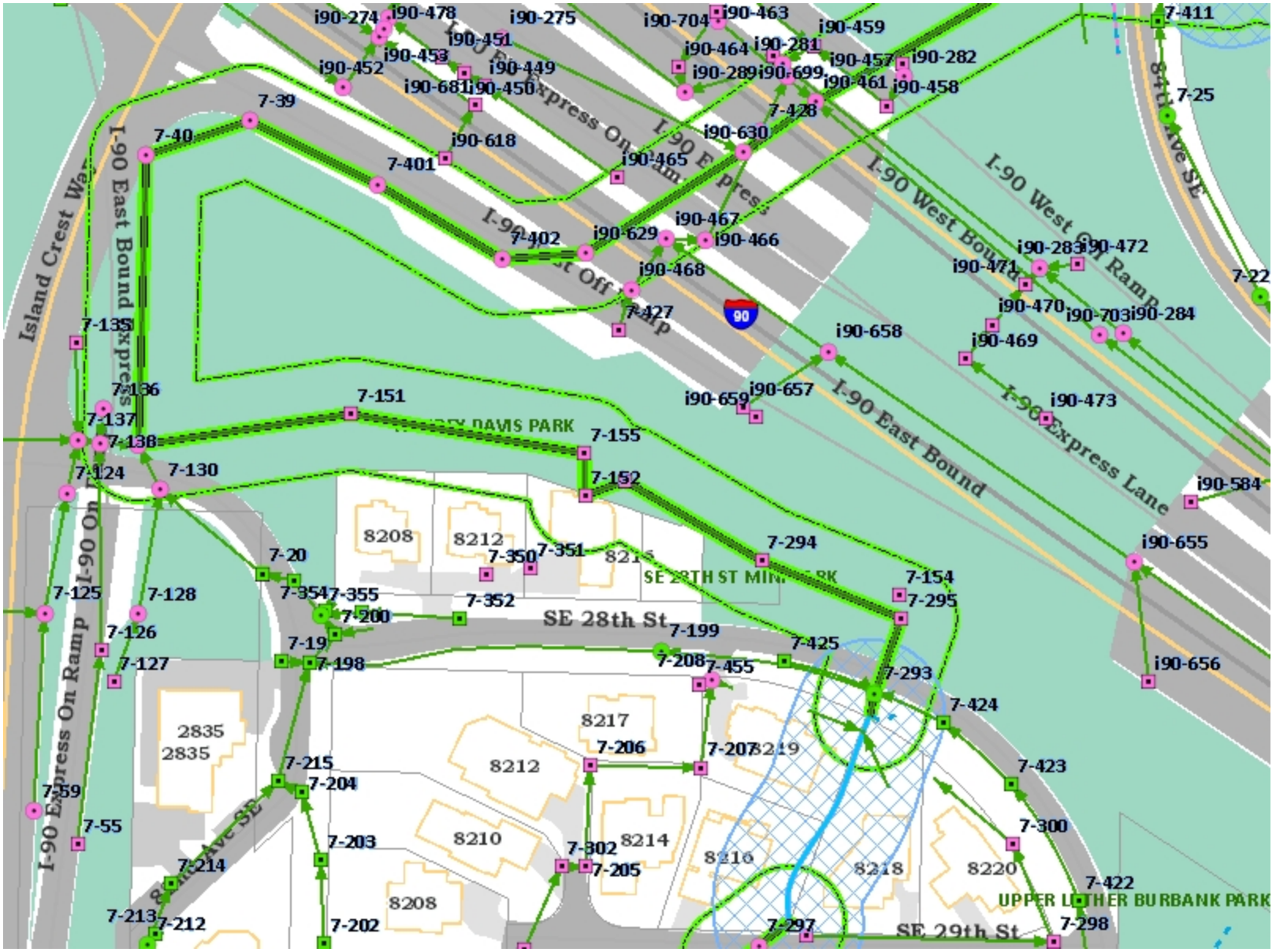

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151 Mercer Island

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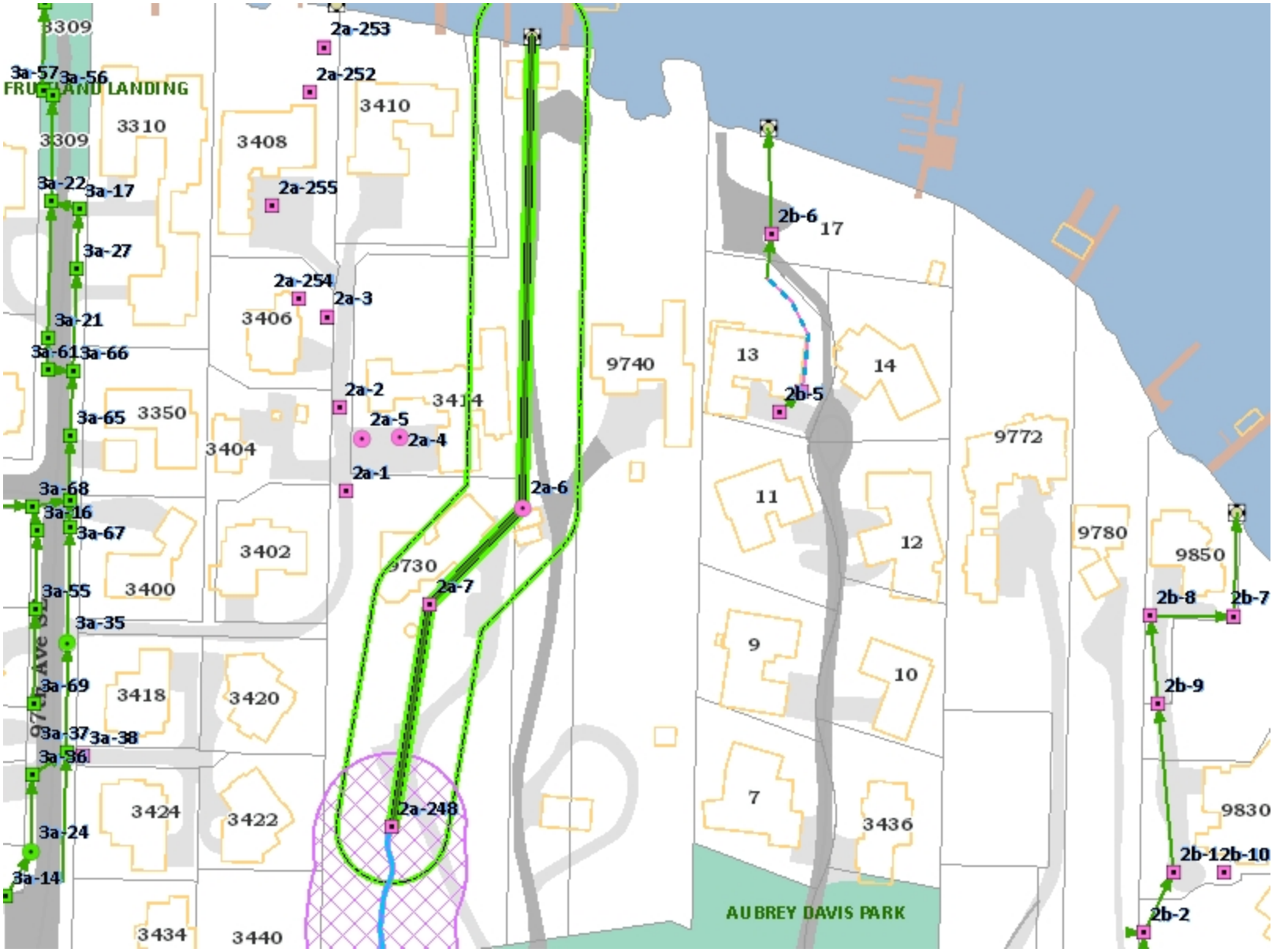

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 Mercer Island Map Printed: October 10, 2022

City of Mercer Island

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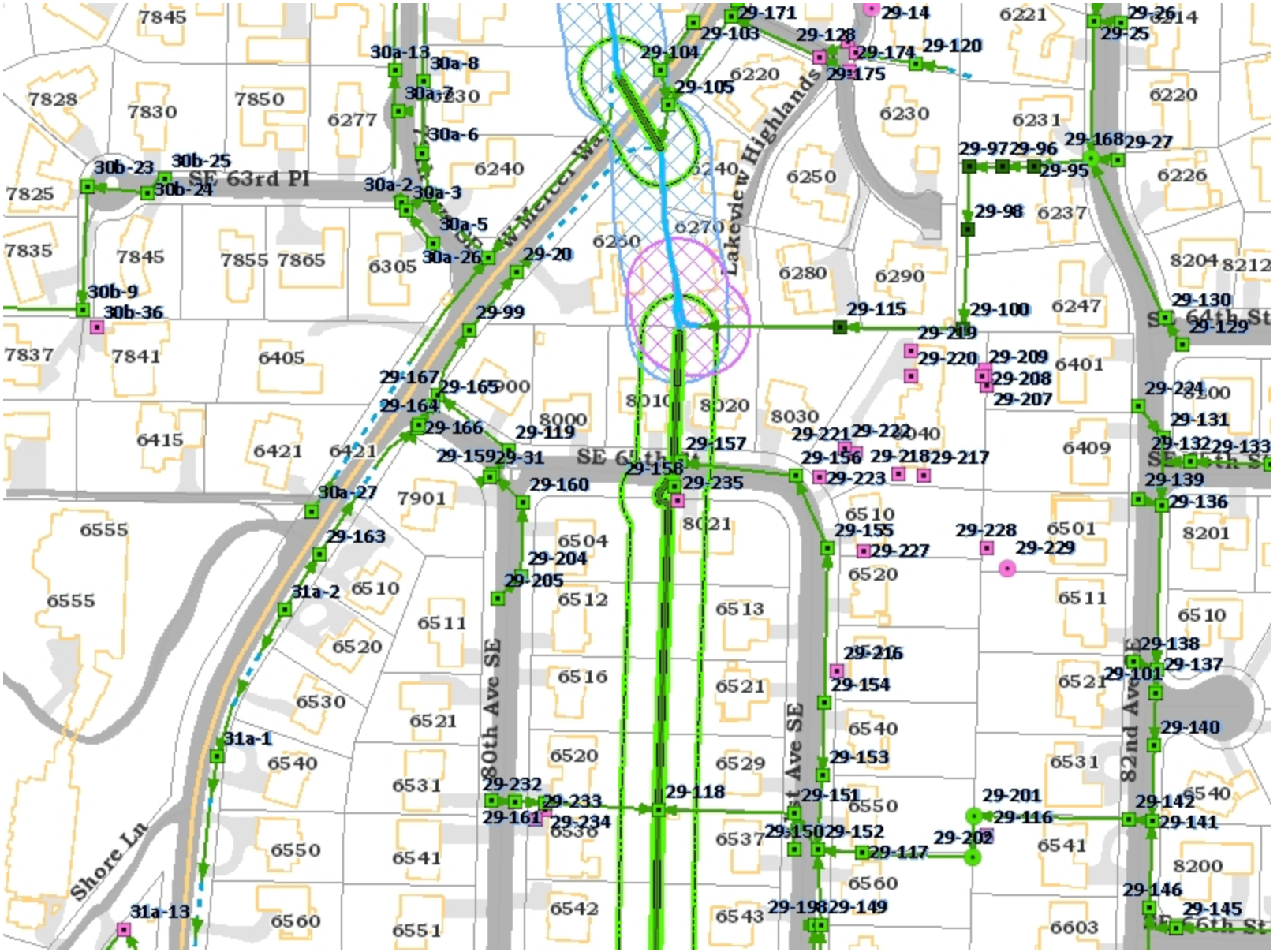

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0 182 364 Feet

1 inch = 363.828563833333 feet

153 Mercer Island

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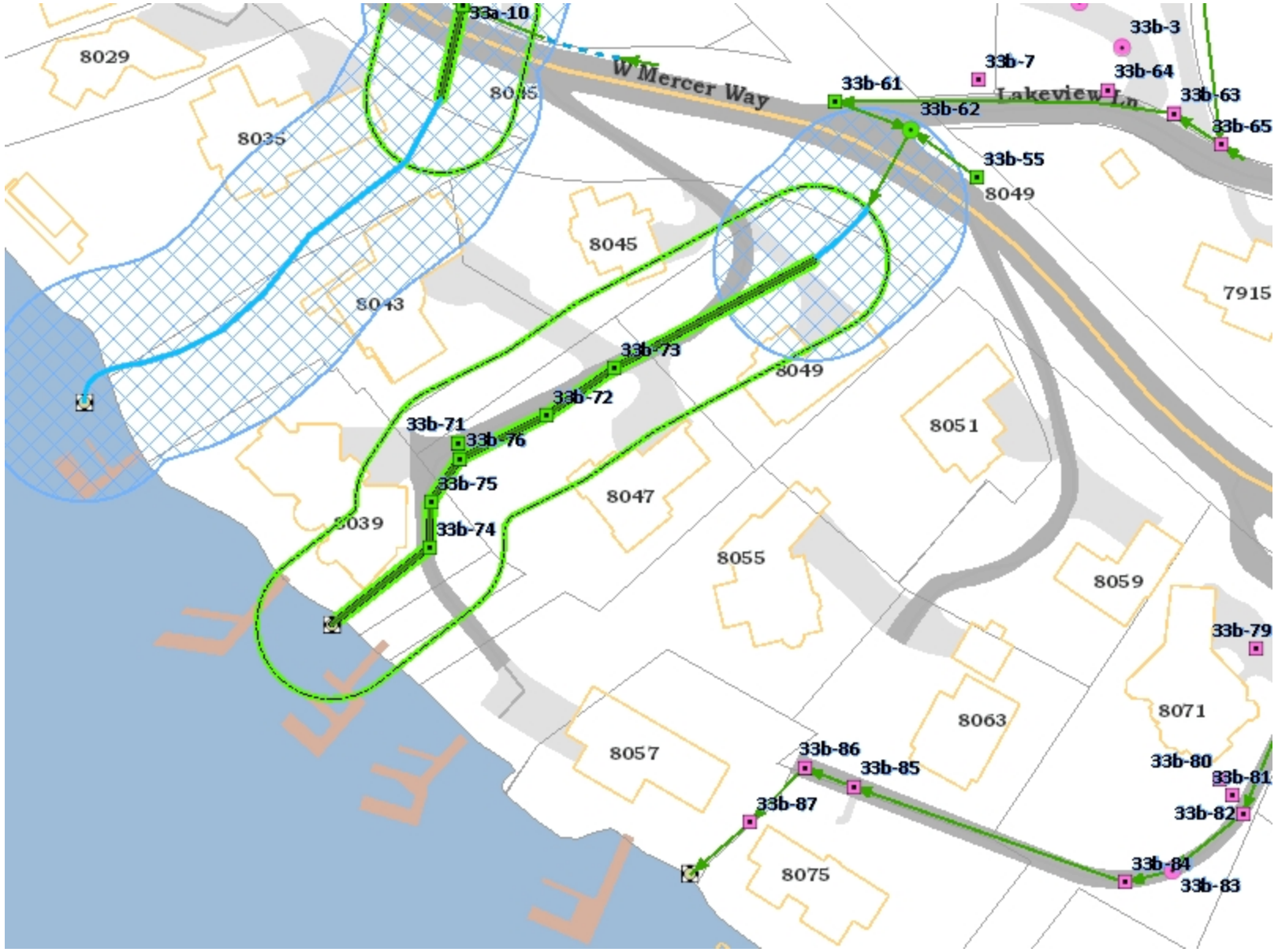

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0 91 182 Feet

1 inch = 181.914282 feet

154 Mercer Island

Map Printed: October 10, 2022

Notes

City of Mercer Island

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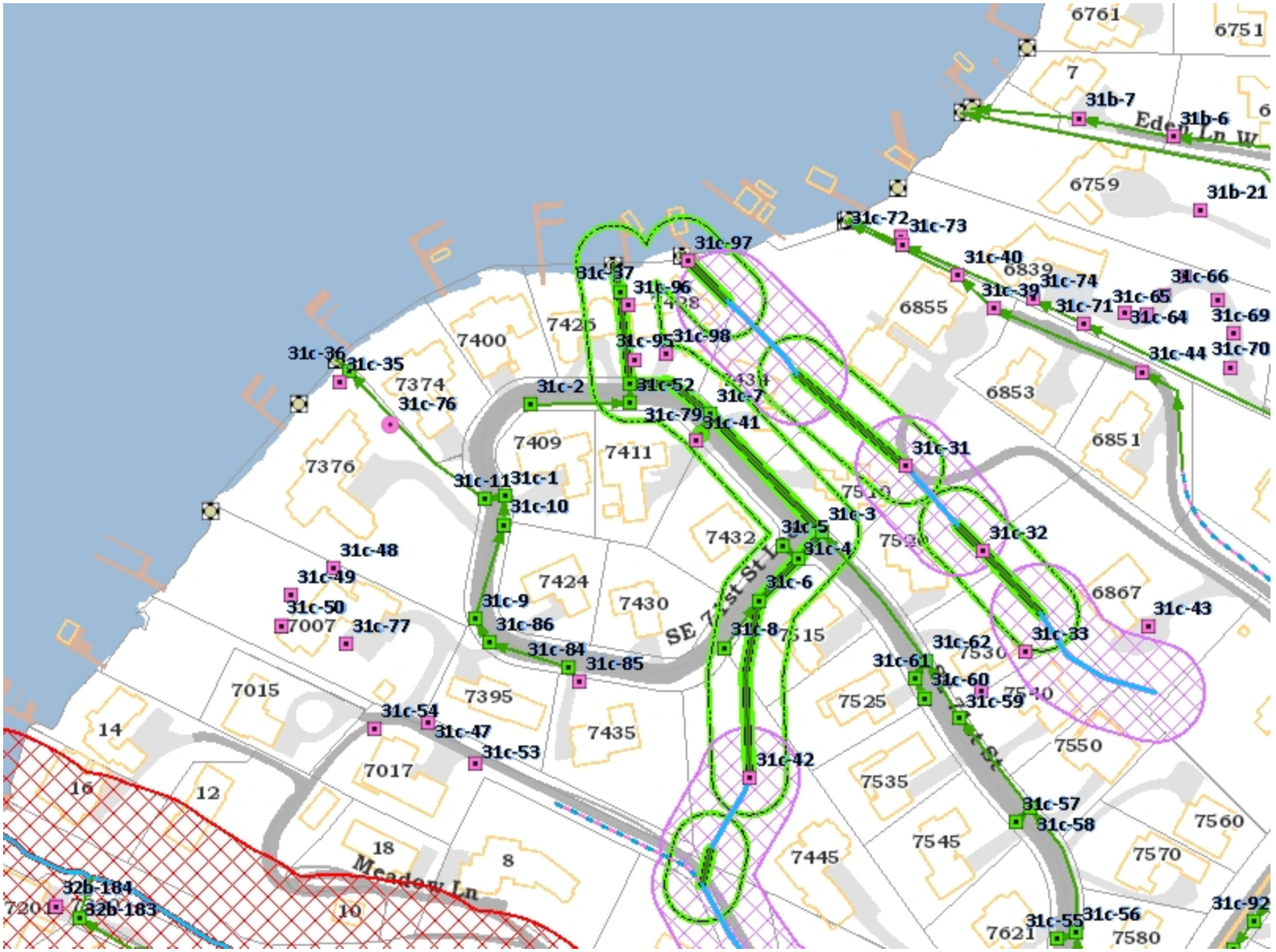

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0 182 364 Feet

1 inch = 363.828563833333 feet

155 Mercer Island

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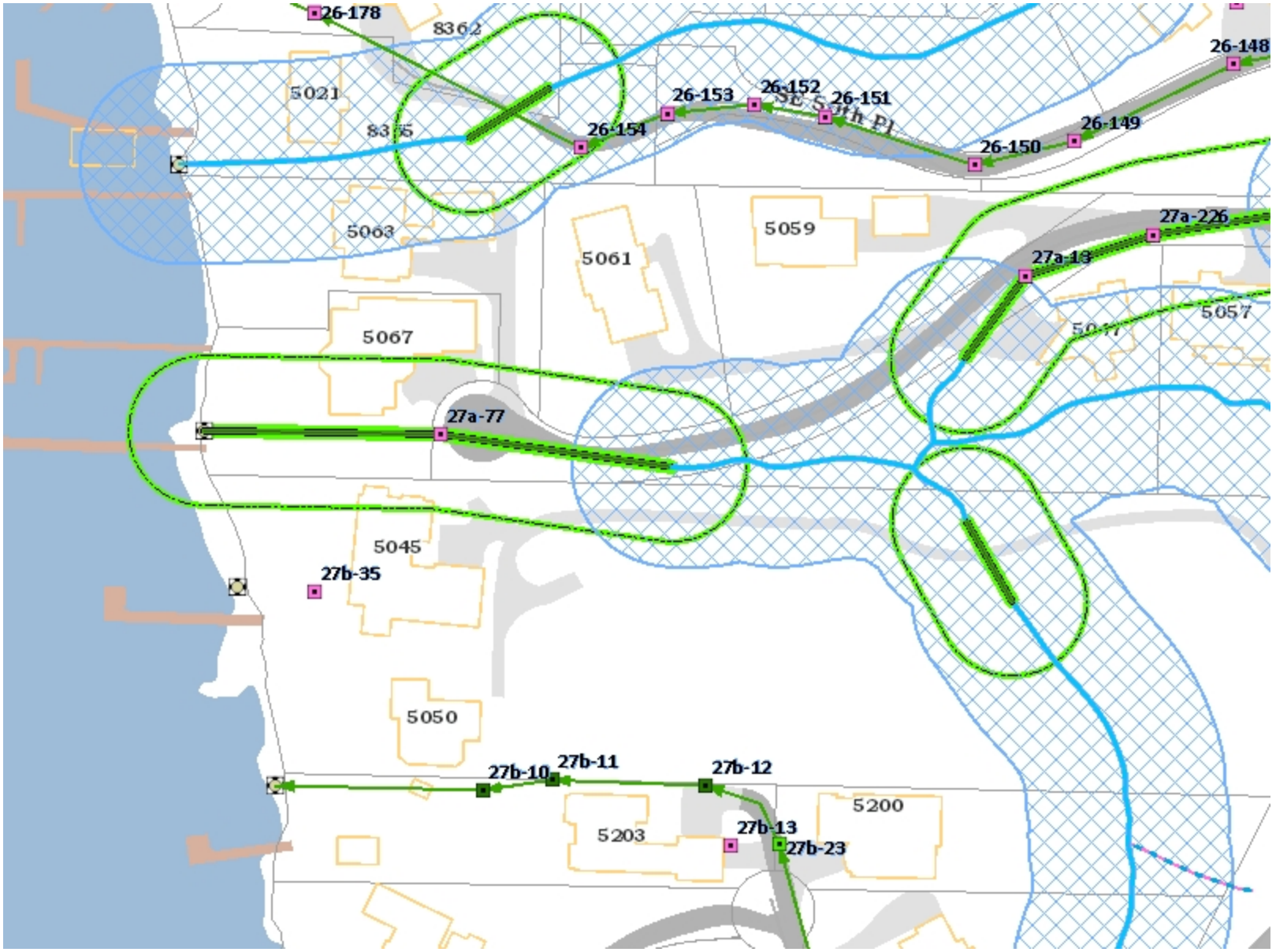

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  - Type "Ns" = Non-Fish Seasonal
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  - Type "Ns" (Unverifed)
- Piped Watercourse
- Watercourse Buffer/Setback
  - Type "F" = 120-Ft Buffer
  - Type "Np" = 60-Ft Buffer
  - Type "Ns" = 60-Ft Buffer
  - Type "Np" Unverifed = 60-Ft Buffer
  - Type "Ns" Unverified = 60-Ft Buffer
  - Piped Type F/Np/Ns = 45-Ft Setbac
- Address
- Building
- Property Line
- Docks

0 91 182 Feet

1 inch = 181.914282 feet

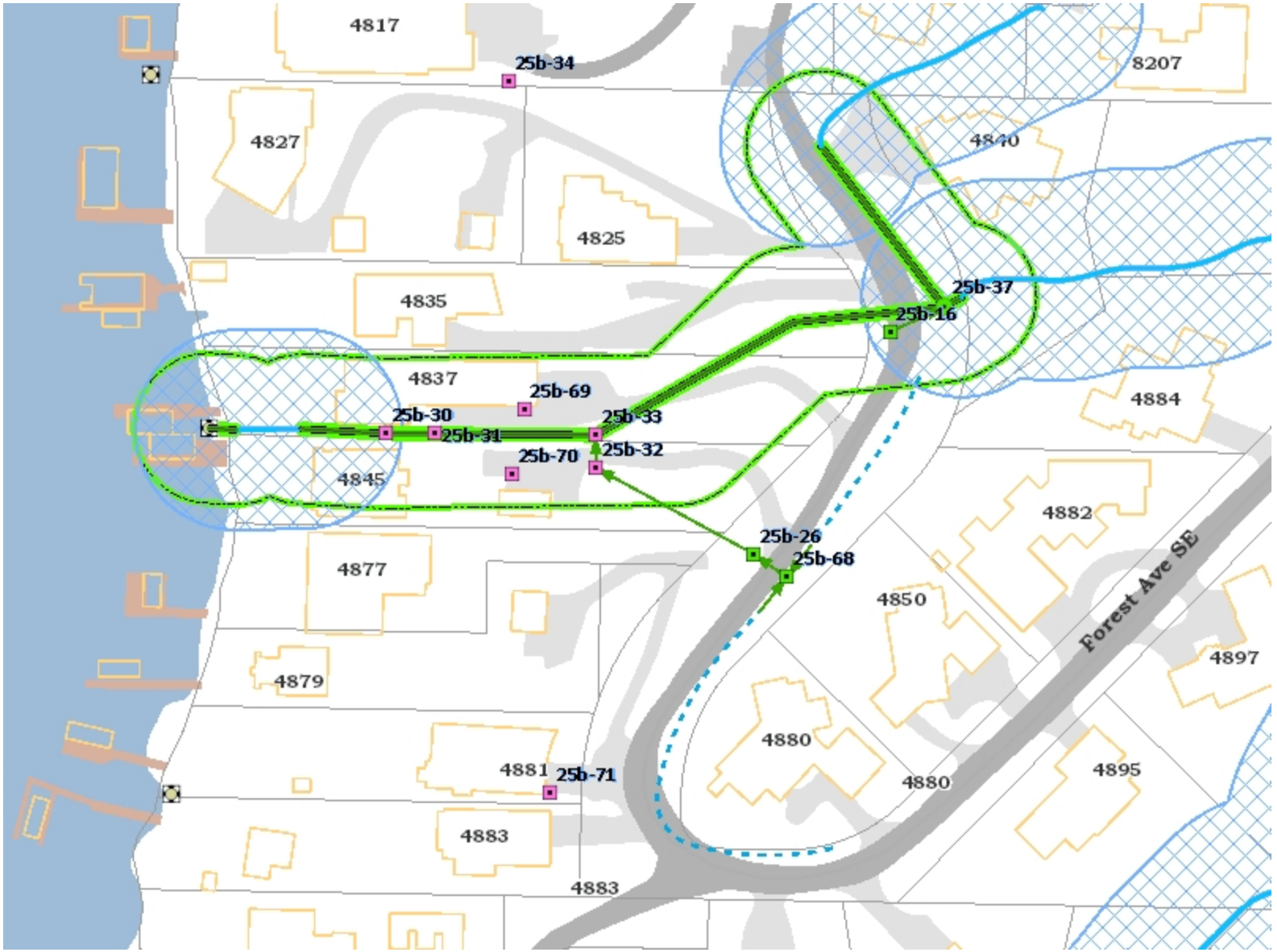
Disclaimer: These maps were developed by the City of Mercer Island and are intended to be a general purpose digital reference tool. These maps are not an accepted legal instrument for describing, establishing, recording or maintaining descriptions for property concerns or boundaries. The City makes no representation or warranty with respect to the accuracy or currency of these data sets, especially in regard to labeling of surveyed dimensions, or agreement with official sources such as records of survey, or mapped locations of features.

Notes

Map Printed: October 10, 2022

City of Mercer Island

Item 2.



Legend

- Storm Catch Basin
  - CB, City Owned
  - CB, Private
  - CB, Unknown
  - Type 2, City Owned
  - Type 2, Private
  - Type 2, Unknown
- Storm Main
  - Pipe
  - Open Watercourse
  - Piped Watercourse
  - Ditch
  - Culvert
  - Other
- Storm Main - Private
- Storm Discharge Point
- Unpiped Watercourse
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  - Type "Ns" = Non-Fish Seasonal
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  - Type "Ns" (Unverifed)
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  - Piped Type F/Np/Ns = 45-Ft Setbac
- Address
- Building
- Property Line
- Docks

0 91 182 Feet

1 inch = 181.914282 feet

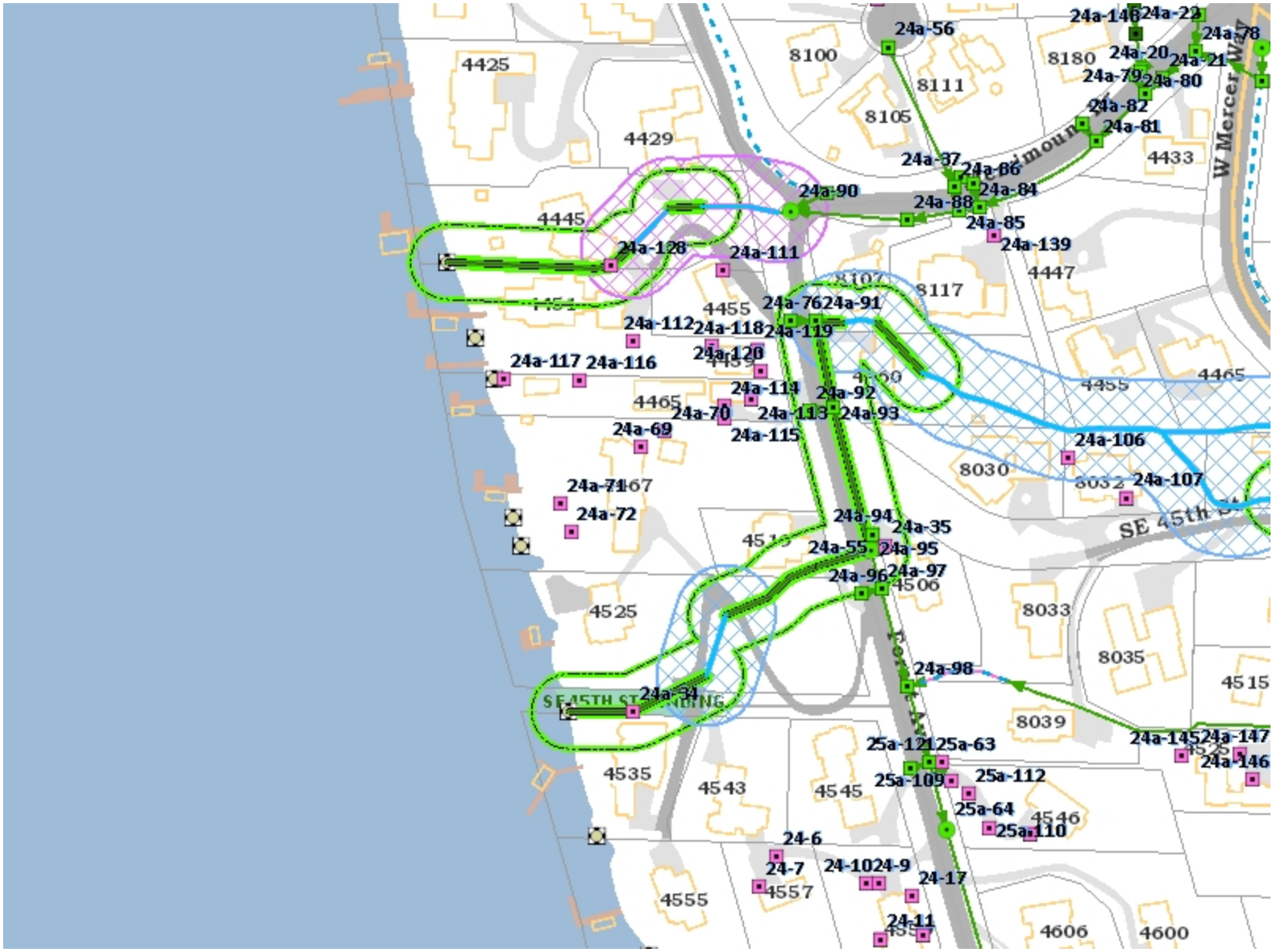
157 Mercer Island

Map Printed: October 10, 2022

Notes

City of Mercer Island

Item 2.



Legend

- Storm Catch Basin
  - CB, City Owned
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  - Type "Ns" Unverified = 60-Ft Buffer
  - Piped Type F/Np/Ns = 45-Ft Setbac
- Address
- Building
- Property Line
- Docks

0 182 364 Feet

1 inch = 363.828563833333 feet

158 Mercer Island

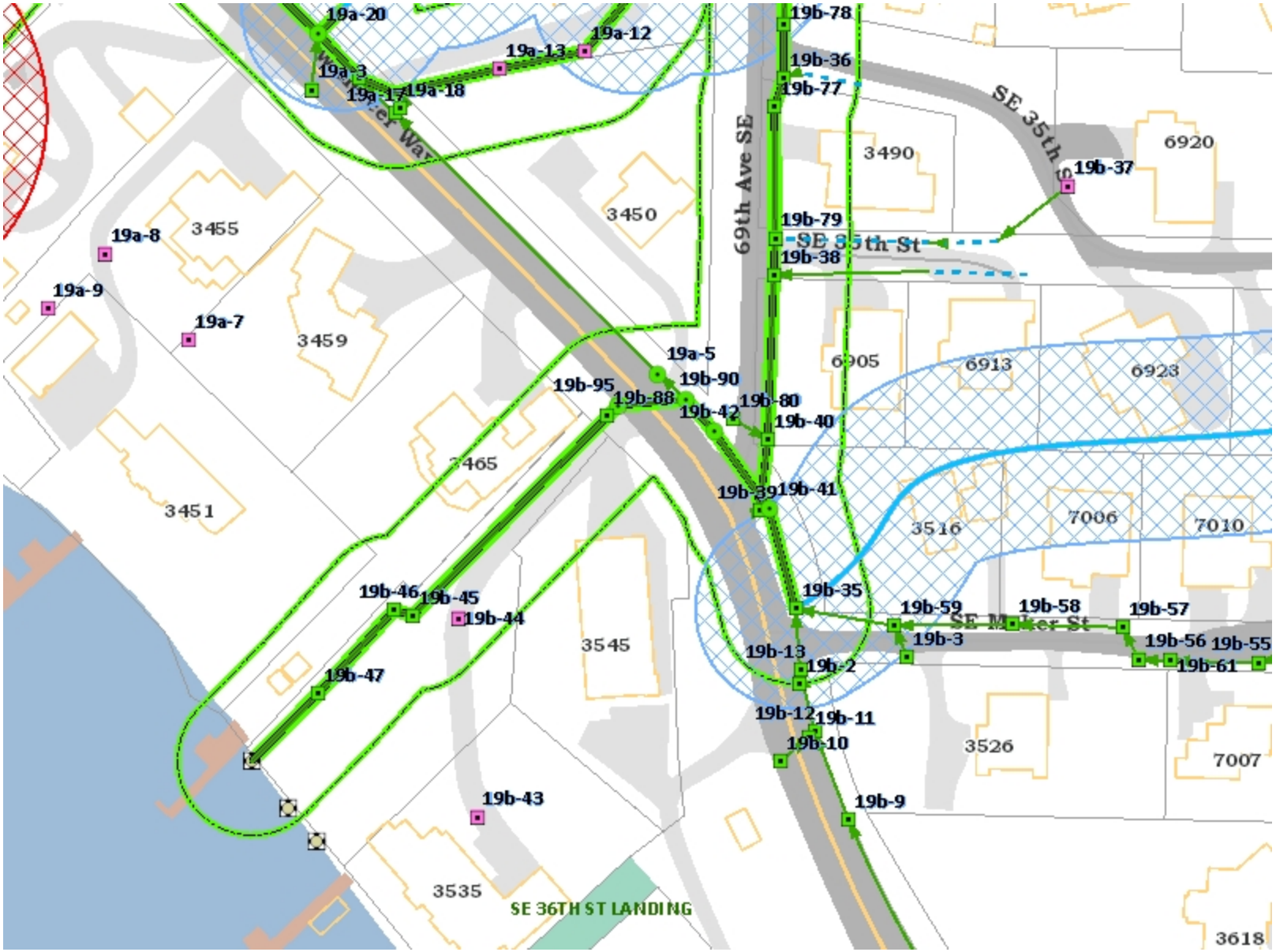
Map Printed: October 10, 2022

Disclaimer: These maps were developed by the City of Mercer Island and are intended to be a general purpose digital reference tool. These maps are not an accepted legal instrument for describing, establishing, recording or maintaining descriptions for property concerns or boundaries. The City makes no representation or warranty with respect to the accuracy or currency of these data sets, especially in regard to labeling of surveyed dimensions, or agreement with official sources such as records of survey, or mapped locations of features.

Notes

City of Mercer Island

Item 2.



Legend

- Storm Catch Basin
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- Address
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- Docks

0 91 182 Feet

1 inch = 181.914282 feet

159 Mercer Island

Map Printed: October 10, 2022

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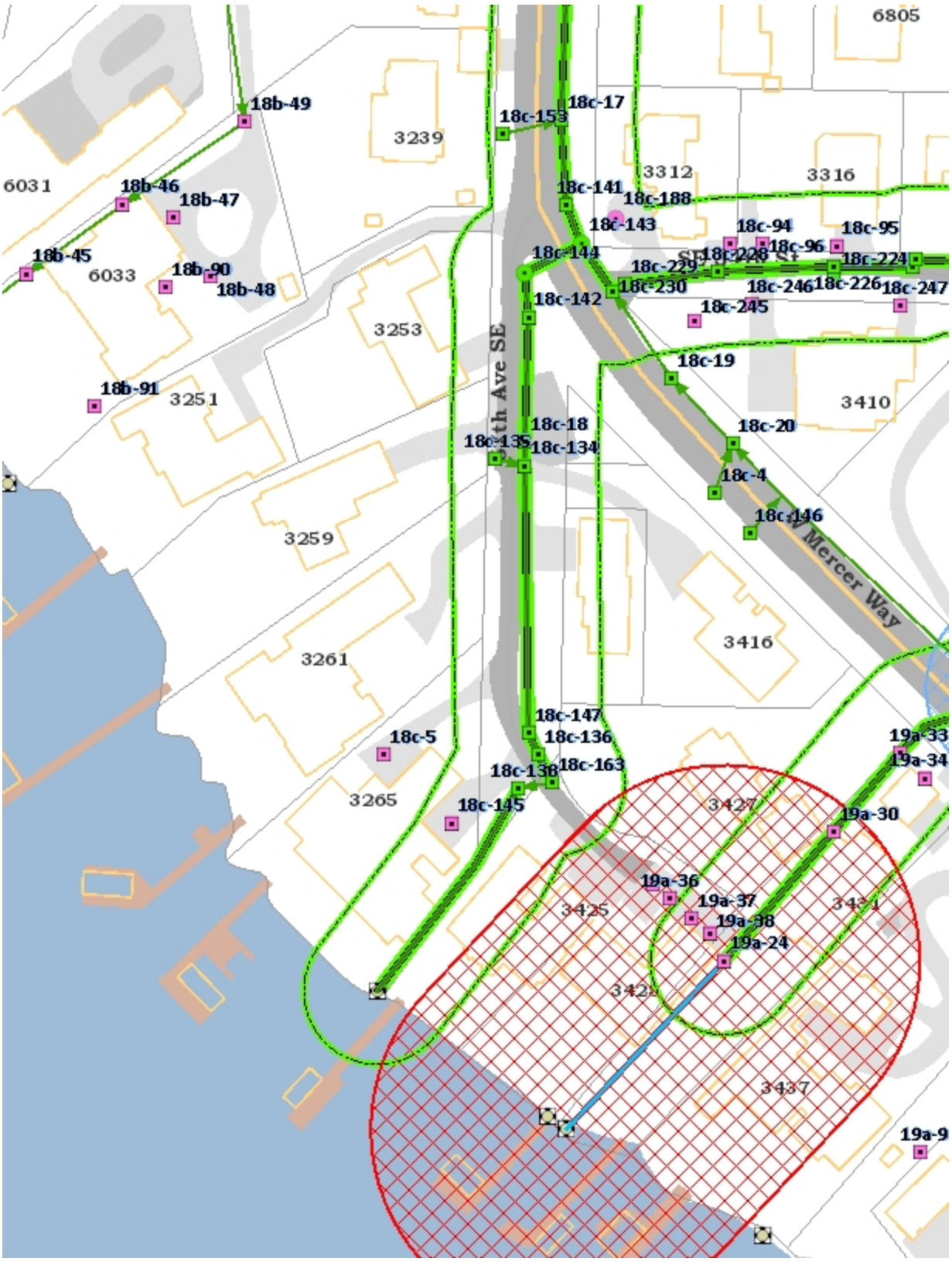
Notes

City of Mercer Island

Information & Geographic Services



Legend

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  - Type "Np" Unverifed =
  - Type "Ns" Unverified =
  - Piped Type F/Np/Ns =
- Address
- Building
- Property Line
- Docks
- Freeway
- Major Street
- Street
- Paved Driveway
- Paved Road
- Paved Parking Area
- Parks

1: 1,091

0.0 0 0.01 0.0 Miles

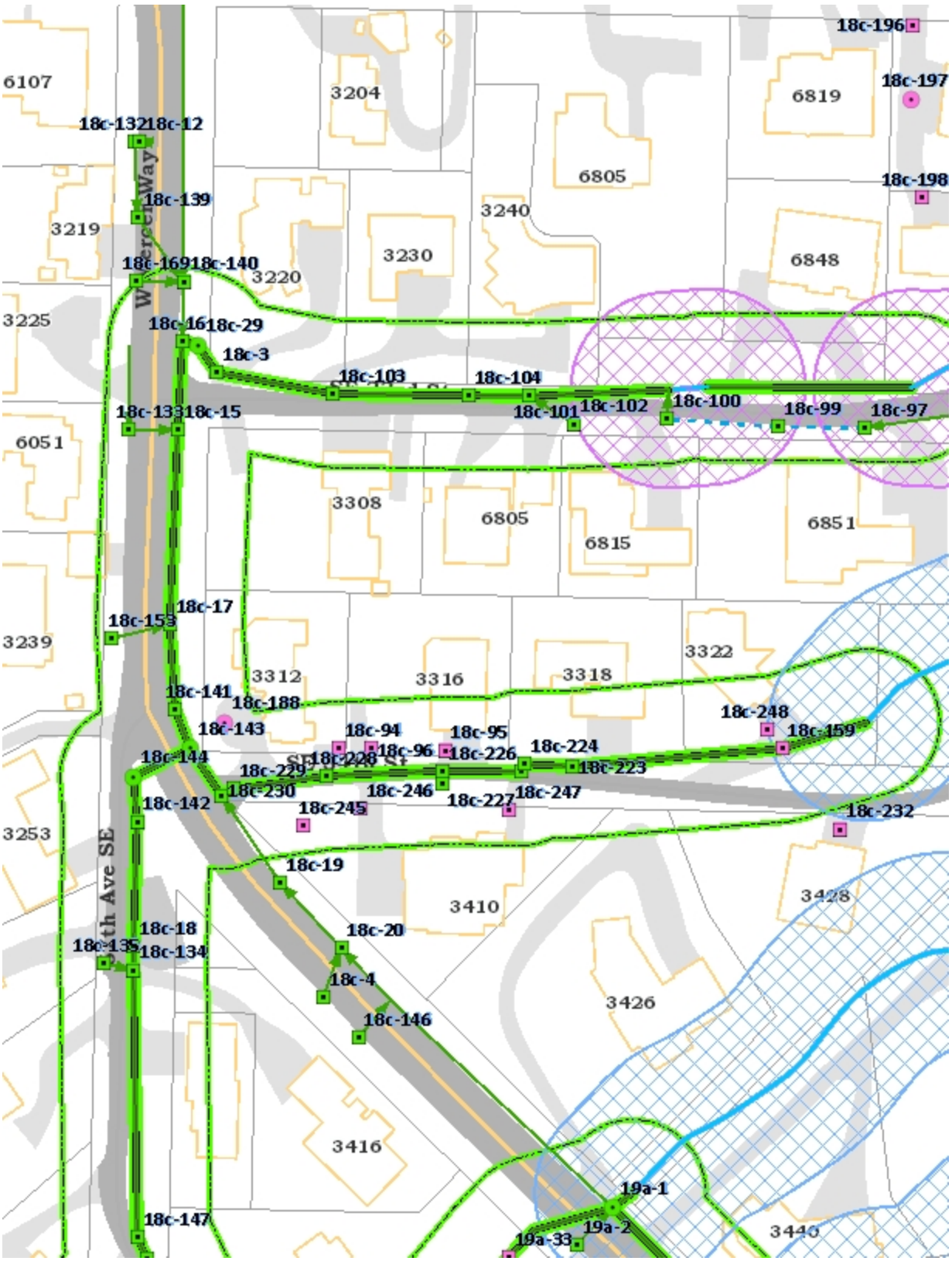
160 Mercer Island

Map Printed: October 10, 2022

Notes

City of Mercer Island

Information & Geographic Services



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  - Type "Np" Unverifed =
  - Type "Ns" Unverifed =
  - Piped Type F/Np/Ns =
- Address
- Building
- Property Line
- Docks
- Freeway
- Major Street
- Street
- Paved Driveway
- Paved Road
- Paved Parking Area
- Parks

1: 1,091

0.0 0 0.01 0.0 Miles

161 Mercer Island

Map Printed: October 10, 2022

Notes

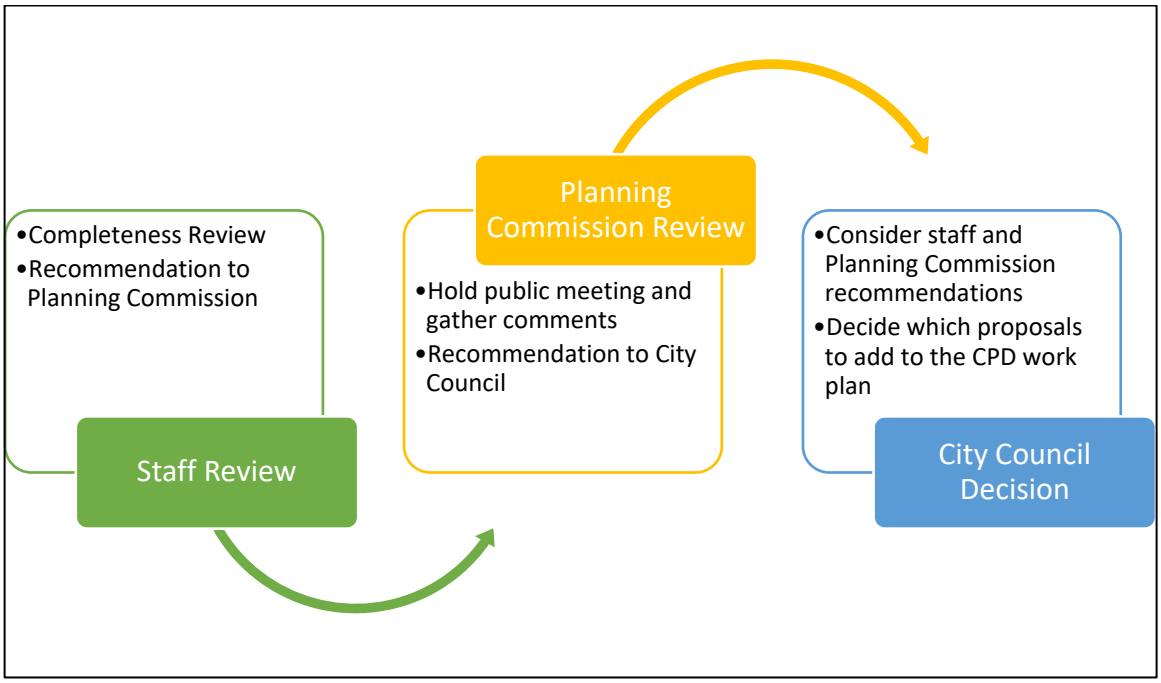
CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT
9611 SE 36TH STREET | MERCER ISLAND, WA 98040
PHONE: 206.275.7605 | www.mercerisland.gov

DOCKET REQUEST FORM

APPLICATION REVIEW PROCESS

Docket Requests are the first step in the process of amending the City's Comprehensive Plan or development regulations. The Mercer Island City Code (MICC) describes the process for these amendments in MICC 19.15.230-.260. Figure 1 summarizes the annual docket process.



Staff review all docket requests for timeliness and completeness and will use the information provided in the application form to present your request to the Mercer Island Planning Commission and City Council. The Planning Commission will review the docket requests and make a recommendation to the City Council regarding which docket items to add to the final docket.

The City Council has decision-making authority over all annual docket proposals. The City Council determines whether to add a proposal to the final docket. Items added to the final docket will be incorporated in the Community Planning and Development work plan for the upcoming year. Docket requests are evaluated based on alignment with the current City work plan, current policies, programmatic priorities, staff capacity, and budget to complete of the legislative process for the request in the following year. The City Council will approve the final docket by December 31 each year. Items placed on the final docket will be scheduled for legislative review by the Planning Commission and City Council in the following year.

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: 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

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 ☐

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).
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: _____ **Date:** 9/30/2023

DOCKETING CRITERIA (MICC 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. 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. 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.

COMPREHENSIVE PLAN DECISION CRITERIA (MICC 19.15.230 (F)):

Decision criteria. Decisions to amend the comprehensive plan shall be based on the criteria specified below. An applicant for a comprehensive plan amendment proposal shall have the burden of demonstrating that the proposed amendment complies with the applicable regulations and decision criteria.

1. The amendment is consistent with the Growth Management Act, the countywide planning policies, and the other provisions of the comprehensive plan and city policies; and:
    a. There exists obvious technical error in the information contained in the comprehensive plan; or
    b. The amendment addresses changing circumstances of the city as a whole.
2. If the amendment is directed at a specific property, the following additional findings shall be determined:
    a. The amendment is compatible with the adjacent land use and development pattern;
    b. The property is suitable for development in conformance with the standards under the potential zoning; and
    c. The amendment will benefit the community as a whole and will not adversely affect community facilities or the public health, safety, and general welfare.

DEVELOPMENT CODE AMENDMENT DECISION CRITERIA (MICC 19.15.250 (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.

Suggestion for Residential Code Amendment

MICC 19.02.020 Residential Development Standards

MICC 19.02.020(G)(2)(c) Parking Requirements (proposing a new item (c))

Suggested Code Amendment:

I suggest adding a new Residential Development Standards Section 19.02.020(G)(2)(c) - Parking Requirements. It would require that "each residential dwelling unit outside of the Town Center with a gross floor area of less than 3,000 sqft shall have at least two parking spaces sufficient in size to park a passenger automobile and charge it; provided, at least two of the stalls shall be a covered stall. Any residential dwelling unit with a gross floor area of 3,000 sqft or more shall be treated the same as a single family residence and subject to the requirements of 19.02.020(G)(2)(a)."

If MICC 19.02.020(G)(2)(a) and (b) are reduced from 3,000 sqft GFA to 2,000 sqft GFA per a Docket proposal from last year, then it would be reasonable and prudent to also reduce the proposed (G)(2)(c) threshold to 2,000 sqft GFA.

Docket Request Narrative:

The intent of this code amendment is to ensure that newer development on Mercer Island is capable of supporting off-street EV use and charging. Current parking requirements (2)(a) and (2)(b) refer only to single-family dwellings, so small multifamily dwellings or other non-single-family dwellings in my understanding have no current parking requirements outside of Town Center. I do not wish to burden any future apartment development in the Town Center, nor come into conflict with MICC 19.11.130(B)(1)(a), hence the exclusion of the Town Center area.

Supporting EV use and charging is well within the goals of the Comprehensive Plan as it benefits the environment by encouraging people to use EVs which are less-polluting than fossil-fuel powered vehicles. Off-street, or curbside EV charging generally falls on municipalities to install and maintain and thus those costs would be passed on to all residents – the community benefits from off-street EV charging because it does not add additional costs to the city. The community also benefits from off-street EV charging because less cars on the sides of the street is safer for vehicle drivers or passengers, pedestrians, bicyclists, and other non-automobile users of the streets. This is a significant safety issue as many Mercer Island residential neighborhoods do not have sidewalks, many streets are narrow, winding, have significant flora along their edges, have no painted lines, have no curbs, or are steep; thus I am confident that an empirical study would clearly demonstrate that not enacting these parking requirements would be significantly less safe for vehicle drivers or passengers, pedestrians, or bicyclists.

MI Can and multiple parts of the Comprehensive Plan address reductions in greenhouse gases and promotion of EV use. Additionally, revisions to the Comprehensive Plan articulate that too much on-street parking can cause risk to pedestrians, cyclists, and other non-automobile users of the streets.

It is well documented that on-street/curbside EV charging can be expensive, unreliable and inconvenient. Additionally, the infrastructure needs then inevitably fall on the municipalities. To ensure that EVs park in

a potential on-street EV spot, a parking enforcement or registration program would have to be grown, also coming at a cost to the city.

Some neighborhoods do not have electrical poles on which to install curbside EV chargers. Those chargers would then have to be installed at ground level and would be prone to copper thieves, a well-documented occurrence nearby in Seattle.

This is also a time-sensitive matter - as new, smaller residential units are constructed, we run the risk of builders building the minimum necessary to close the sale. Only after inhabiting a dwelling unit would a resident observe the significant downsides of curbside EV charging compared to off-street charging. This will work against EV adoption (and thus against the city's goal of encouraging greener transportation) or would require expensive retrofit to dwellings which would cause financial strain to new residents or drive them to not purchase an EV and instead purchase a fossil-fueled vehicle.

This proposal satisfies the five decision criteria in MICC 19.15.250(D) as summarized below:

i. Parking is mentioned in the Comprehensive Plan and City Codes, thus this concern is appropriately addressed through comp plan and/or code revisions too.
ii. This is a simple code revision (addition) and I am happy to assist if/as needed.
iii. I am not aware of an ongoing work plan related to on-street parking outside of the City Center
iv. Supports MI Can's vision of reducing carbon footprint. Also, various elements of the Comprehensive Plan encourage the use of EVs or reduction of greenhouse gas emissions and
v. This is a new proposal based on new state laws and recent/pending revisions to as well as existing goals of the Comprehensive Plan

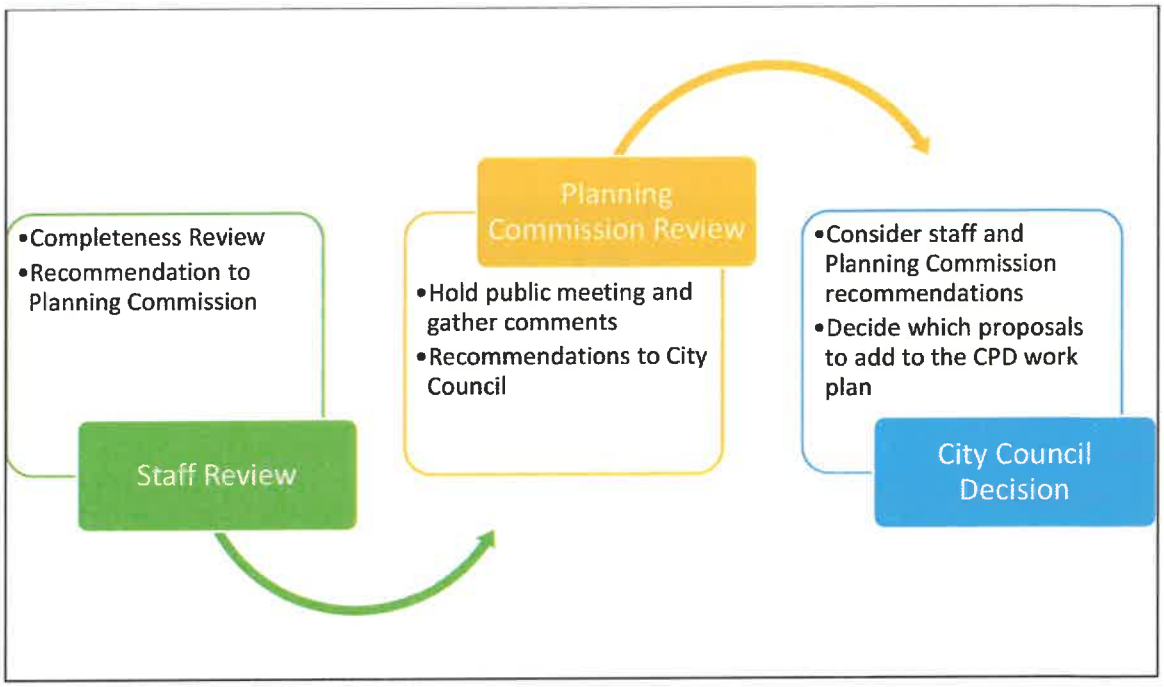
Please support this common-sense code addition. It will encourage and facilitate the use of EVs on Mercer Island and is thus environmentally friendly. It will avoid the City having to install and maintain curbside EV charging which benefits all residents by not adding additional work and cost to the city. Finally, it will make the streets safer for pedestrians, cyclists, and all other non-motorized users of our mostly-sidewalkless streets. These are all in the best interests of the Mercer Island community as a whole, will help improve public health and safety, and is consistent with the Comprehensive Plan. Thank you for your time and consideration.

COMMUNITY PLANNING & DEVELOPMENT
9611 SE 36TH STREET | MERCER ISLAND, WA 98040
PHONE: 206.275.7605 | www.mercerisland.gov/cpd

2024 DOCKET REQUEST FORM

APPLICATION REVIEW PROCESS

Docket requests are the first step in the process of amending the City's Comprehensive Plan or development regulations. The Mercer Island City Code (MICC) describes the process for these amendments in MICC 19.15.230-.260. The illustration below summarizes the annual docket process.



Staff review all docket requests for timeliness and completeness and will use the information provided in the application form to present a request to the Mercer Island Planning Commission and City Council. The Planning Commission will review the docket requests and make a recommendation to the City Council regarding which docket items to add to the final docket.

The City Council has decision-making authority over all annual docket proposals. The City Council determines whether to add a proposal to the final docket. Items added to the final docket will be incorporated in the Community Planning and Development work plan for the upcoming year. Docket requests are evaluated based on alignment with the current City work plan, current policies, programmatic priorities, staff capacity, and budget to complete the legislative process for the request in the following year. The City Council will approve the final docket by December 31 each year. Items placed on the final docket will be scheduled for legislative review by the Planning Commission and City Council in the following year.

DOCKET REQUEST FORM

The following information is required. 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: Stroum Jewish Community Center, c/o Amy Lavin

Address: 3801 East Mercer Way, Mercer Island, WA 98040

Phone: 206-275-7115

Email: amyl@sjcc.org

AGENT/CONSULTANT/ATTORNEY

Complete this section if the primary contact is different from the applicant.

Name: Jessica Clawson

Address: 8475 SE 45th Street, Mercer Island WA 98040

Phone: 206-812-3378

Email: jessie@mhseattle.com

REQUEST INFORMATION

Important: A separate Docket Request Form must be completed for each docket item requested.

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

If yes, please complete the following information:

Property Owner Name: Stroum Jewish Community Center

Address: 3801 East Mercer Way, Mercer Island, WA 98040

County Assessor's Parcel No.: 2655500137, 2655500136, 2655500132, portion of 2655500115

Parcel Size (sq. ft.): Appx 381,468 s.f.

If the application is submitted by an agent/consultant/attorney, please attach a signed letter of consent from all owners of the affected property demonstrating that that the application is submitted with consent.

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

Comprehensive Plan Amendment ☑ Development code Amendment ☑

Is this submission a ***suggestion*** for a Comprehensive Plan or Development Code amendment, or is this an ***application*** for a specific amendment? (Check one box below.)

Note: Applications are subject to applicable permit fees.

Suggestion ☐ Application ☑

DOCKET REQUEST NARRATIVE – REQUIRED FOR ALL APPLICATIONS

Please attach a separate narrative responding to all five (5) questions outlined below. Attach additional sheets, supporting maps, or graphics as necessary. Answer each question separately and reference the question number in your answer.

The application will be considered incomplete without a narrative answering all five 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).
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?

Please sign and date below acknowledging application requirements.

Signature: _____ **Date:** 9/28/23

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Please attach a separate narrative responding to the above questions.

DOCKETING CRITERIA

MICC 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;
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      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. 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. 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.

COMPREHENSIVE PLAN DECISION CRITERIA

MICC 19.15.230(F) Decision criteria. Decisions to amend the comprehensive plan shall be based on the criteria specified below. An applicant for a comprehensive plan amendment proposal shall have the burden of demonstrating that the proposed amendment complies with the applicable regulations and decision criteria.

1. The amendment is consistent with the Growth Management Act, the countywide planning policies, and the other provisions of the comprehensive plan and city policies; and:
   a. There exists obvious technical error in the information contained in the comprehensive plan; or
   b. The amendment addresses changing circumstances of the city as a whole.
2. If the amendment is directed at a specific property, the following additional findings shall be determined:
   a. The amendment is compatible with the adjacent land use and development pattern;
   b. The property is suitable for development in conformance with the standards under the potential zoning; and
   c. The amendment will benefit the community as a whole and will not adversely affect community facilities or the public health, safety, and general welfare.

DEVELOPMENT CODE AMENDMENT DECISION CRITERIA

MICC 19.15.250(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.

Stroum Jewish Community Center
3801 E Mercer Way
Mercer Island, WA 98040

September 27, 2023

Jeff Thomas
Director, Community Planning & Development
City of Mercer Island
9611 SE 36th Street
Mercer Island, WA 98040

Dear Director Thomas,

I write to let you know that Jessica M. Clawson, an Attorney with McCullough Hill PLLC, has the consent of the owners and leadership of the Stroum Jewish Community Center to submit the enclosed comprehensive plan and zoning map amendment application for the SJCC property.

Please do not hesitate to contact me if you have any questions about the application Jessica will submit with the consent of SJCC's owners and leadership.

Thank you,

Amy Lavin
Executive Director
Stroum Jewish Community Center

2023 Stroum Jewish Community Center Comprehensive Plan Map Amendment

Thank you for your consideration of our Comprehensive Plan Map Amendment. Answers to the various application and code criteria are in bold below.

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

The proposed Comprehensive Plan Amendment redesignates Parcels 2655500137, 2655500136, 2655500132, and a small portion of 2655500115 from Single Family to Commercial Office on the Comprehensive Plan's Future Land Use Map.

The proposed map change will facilitate a rezone to Commercial Office, which will allow for a rebuild/renovation of the Stroum Jewish Community Center ("SJCC"). Under the current single-family designation, rebuilding and renovation is not possible, and variances necessary for the rebuild/renovation are not available under the current single family code provisions.

The SJCC has been intently pursuing the ability renovate our aging facilities for over six years. In this timeframe, we've taken many opportunities to share the hopes we have for a re-envisioned facility with our members, our neighbors, and the broader Mercer Island community.

Through multiple SJCC open houses, community meetings and even through public testimony provided during 2018-2019 council consideration of a broader Mercer Island initiative, we shared our priorities, and also learned what the community and our neighbors care about the most:

- **Facilitating better traffic flow and provide enough safe parking so there is less impact on our neighbors;**
- **Designing our use of space to ensure less noise or light impact, and minimize visibility impact;**
- **Supplementing foliage and trees to enhance the buffer between our facilities and our neighbors; and**
- **Ensuring that any changes to the SJCC property through zoning don't have secondary impact on other Mercer Island community facilities or neighborhoods.**

With these guiding principles, the SJCC revised our designs to reflect what was learned from our engagement with the community and hosted a series of community conversations to share, discuss, and receive additional input from SJCC members, community organizations, the community at large, and our neighbors. In the last two years, this outreach included organized community conversations with immediate neighbors and organization stakeholders, meetings with similarly situated Mercer Island community organizations, and regular written and verbal communication with interested community members.

On September 7, 2023, the SJCC hosted an open house where our revised design was presented and discussed, followed by questions and answers. Similar to prior initiatives, an

invitation was mailed to all addresses within 1000' radius of the SJCC, emailed to SJCC members, SJCC participants and users, and other Mercer Island community facilities, and was promoted widely on SJCC assets. The SJCC hosted approximately 100 attendees at this open house, and we were pleased to see our revised designs, which are the direct benefit of so much engagement and feedback over the last six years, being received so well by the community and our neighbors.

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

Please see Exhibit A. The Comprehensive Plan's Future Land Use Map would be amended per the exhibit.

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.

The proposal does not amend Comprehensive Plan or development code text. It only changes the maps.

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

Please see Exhibit A.

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

The proposal benefits the community and the environment in several ways.

<u>Community Benefits</u>

Please see Exhibit B.

<u>Environmental Benefits</u>

Please see Exhibit C.

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).

The proposal meets both the docketing criteria and the decision criteria, as follows:

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:

Yes. The request was filed prior to October 1, 2023.

a. State law requires, or a decision of a court or administrative agency has directed, such a change; or

Not applicable.

b. All of the following criteria are met:

i. The proposed amendment presents a matter appropriately addressed through the comprehensive plan or the code;

Yes. The proposed amendment is a change to the Comprehensive Plan's Future Land Use Map, which is a change that can only be addressed through the Comprehensive Plan.

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;

Yes. The proposal is occurring during the City's annual docketing cycle, which we presume is adequately staffed and resourced by the City. A simple map change should not require significant resources; any actual development on the site will require project specific environmental review and study, which costs would be borne by the applicant.

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;

No. The proposal does not raise larger policy or land use issues more appropriately addressed by an ongoing work program item. This proposal avoids any larger redesignation of similarly situated schools and institutions and focuses only on the JCC site. There is no current work program approved by the City Council that addresses redesignation of the SJCC to conform to the historic use of the property.

iv. 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

Yes. The proposal serves the public interest and implements the following specific goals and vision of the city (responses to policies, where appropriate, in italics):

- **Residential Community. Mercer Island is principally a single-family residential community supported by healthy schools, religious institutions, and recreational clubs. (Comp. Plan, Community Values).** ***The proposal will allow the JCC, which is both a school and a recreational club open to all, to continue to serve Mercer Island.***
- **Education is the Key. The community and its public and private institutions are committed to provide excellence in Education (Comp Plan, Community Values).** ***The proposal allows the SJCC's Early Childhood School to continue its excellent education of hundreds of young children on Mercer Island.***
- **Community Services. Mercer Island will continue to provide a wide range of education, cultural, and municipal services for the community's varied population.**

Balanced and flexible programs will be necessary to meet the community's evolving needs in education, recreation, and cultural enjoyment. The community will maintain its broad range of quality basic services, including public safety, human services, physical development and utilities. At the same time, community leaders recognize that delivery of these services will take place in an arena of limited resources and heightened competition for tax revenues (Comp Plan, Values Manifested). ***The SJCC provides a community center and educational, recreational, and cultural opportunities that are privately funded and do not burden the City's budget.***

- **Residential Land Use. Civic, recreation, and religious organizations are important and integral elements of the community character and fabric. Their contribution and importance to the established community character should be reflected and respected in land use permit processes. (Comp Plan, Values Manifested).** ***Unfortunately, the single-family zoning has been interpreted by the City to not allow for the variances that would be necessary to rebuild and reconfigure the SJCC that would benefit the community. We are hopeful that this request for redesignation is respectfully considered and approved, so that we can build under the current CO zoning rules and do not require extensive or complicated workarounds.***
- **Commercial Office and PBZ zones must serve the needs of the local population while remaining compatible with the overall residential character of the community. (Comp Plan, Land Use Issues, Outside the Town Center).** ***The Commercial Office zone, as developed in the future by the SJCC, will remain compatible and increase compatibility with the overall residential character of the community. First, nothing will be built on the site that is not the SJCC, and we have shared our draft plans with the community. Second, these plans improve on many of the required minimum development standards—better setbacks than required, less height than allowed, etc. Finally, the proposal is adjacent to CO designations and extends them southward. The strip of single-family homes to our west is owned by the French American School of Puget Sound.***
- **Goal 15.1. Existing land use policies, which strongly support the preservation of existing conditions in the single-family residential zones, will continue to apply. Changes to the zoning code or development standards will be accomplished through code amendments. (Comp Plan, Land Use Goals).** ***This goal is met. The existing condition in this single-family zone that has existed for 54 years (pre-dating many of the homes that now exist next to the SJCC) will be maintained. This map change simply changes the map to fit the use that has been here for 54 years.***
- **Goal 15.4. Compatible permitted uses such as education, recreation, open spaces, government social services and religious activities will be encouraged.** ***The proposed amendment maintains the SJCC which provides education, art, culture, and recreation, and are a permitted uses in the CO zone.***
- **Goal 17.4. Social and recreation clubs, schools, and religious institutions are predominantly located in single family residential areas of the Island. Development regulation should reflect the desire to retain viable and healthy social, recreational, educational, and religious organizations as community assets which are essential for the mental, physical and spiritual health of Mercer Island.** ***As the City is aware, the current single-family zone has been amended and***

development standards interpreted in a way that does not allow the maintenance of viable and healthy organizations. Further, the remodeling criteria make it impossible to maintain a nonconforming status and make upgrades to facilities that are necessary when a facility is well beyond its useful life, particularly given the concrete construction methods that were used in 1969. As such, the redesignation to the CO zone is necessary to be consistent with this Goal and retain a viable and healthy SJCC on Mercer Island.

- **Goal 21. Promote the use of green building methods, design standards, and materials…to reduce impacts on the built and natural environment and to improve the quality of life. Green building should result in demonstrable benefits, through the use of programs such as, but not limited to, Built Green, LEED+, The Living Building Challenge, Passive House, Salmon Safe, or other similar regional and recognized green building programs.** ***The new SJCC will be much more environmentally friendly than the current 54-year-old structure.***
- **Goal 23. Support the arts on Mercer Island.** ***The SJCC holds regular arts events, including the Seattle Jewish Film Festival. The arts are deeply important to the SJCC and the SJCC's auditorium, which would remain under the proposal, is one of only two large gathering spaces on the island for arts-related events. See Exhibit B.***
- **Goal 25. Preserve Mercer Island's Heritage.** ***The SJCC is a piece of Mercer Island's history. https://www.historylink.org/File/104#:~:text=In%20Seattle%2C%20the%20Jewish%20Community,Davis%20and%20secretary%20Harry%20Ash. Allowing for the redesignation of the property will allow the SJCC to remain on the island and thrive for another 60 years.***
- **Land Use Designations—CO. The commercial office land use designation represents commercial areas within Mercer Island, located outside of Town Center, where the land use will be predominantly commercial office. Complementary land uses (e.g., healthcare uses, schools, places of worship, etc.) are also generally supported within this land use designation.** ***The CO designation reflects the use of the SJCC property, which has not been in single family residential use for over 54 years. A CO designation is a much more appropriate reflection of reality.***
- **Transportation Goal 6.1: Ensure compatibility between transportation facilities and services and adjacent land uses, evaluating aspects such as: potential impacts of transportation on adjacent land use; potential impacts of land development and activities on transportation facilities and services; and need for buffering and/or landscaping alongside transportation facilities.** ***The while the designation of the property will change, the use will not change. The project-specific transportation review for the SJCC project will analyze at a project-level transportation impacts that may be mitigated via trip reduction and physical improvements.***
- **Transportation Goal 9.2. Address parking overflow impacts on neighborhoods caused by major traffic generators such as schools, businesses, parks, and multifamily developments.** ***The SJCC proposal would add many more parking stalls which will reduce parking impacts to the neighborhood.***

v. 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.

The proposal has not been considered by the city council in the last three years.

F. *Decision criteria.* Decisions to amend the comprehensive plan shall be based on the criteria specified below. An applicant for a comprehensive plan amendment proposal shall have the burden of demonstrating that the proposed amendment complies with the applicable regulations and decision criteria.

1. The amendment is consistent with the Growth Management Act, the countywide planning policies, and the other provisions of the comprehensive plan and city policies; and:

Yes. The proposal is consistent with GMA, King County's CPPs, and other provisions of the Mercer Island Comprehensive Plan.

Compliance with GMA.

WAC 365-196-405(1)(2) requires the City to designate the general location of the uses of land…for commerce (and) recreation. ***The SJCC has not been in single family use for 60 years. It is consistent with GMA to designate the SJCC as CO which is consistent with its current use.***

WAC 365-196-405(2)(b) requires the City to identify existing general distribution and location of various land uses, the appropriate acreage, and general range of density or intensity of existing uses. ***Again, the SJCC has not been in single family use for 60 years. It is appropriate for the City to identify and change the designation of the property to CO, consistent with GMA. It would be inappropriate for the City to include the SJCC in its buildable lands / housing needs assessment as single-family property, as it has not been in single family use for 60 years and is not "buildable land" for residential use.***

Compliance with King County CPPs.

The CPPs can be found here. The following goals/policies support the proposed amendment:

- **Communities across King County are welcoming places where every person can thrive. (Vision for King County 2050).** ***The SJCC welcomes all people.***
- **FW-6. Enable culturally and linguistically appropriate equitable access to programs and services and help connect residents to service options, particularly for those most disproportionately cost-burdened or historically excluded.** ***The SJCC seeks to be the Puget Sound's most open and welcoming community-center Jewish organization. Through its programs the SJCC connects Jewish and non-***

Jewish people to culture, recreation, education, and arts, and through philanthropic support ensures this connection is affordable to anyone who seeks it.

- **EN-6. Locate development and supportive infrastructure in a manner that minimizes impacts to natural features.** ***This is an infill development which will actually decrease impact to surrounding natural features after redevelopment.***
- **CDP-40. Plan for neighborhoods or subareas to encourage infill and redevelopment, reuse of existing buildings and underutilized lands, and provision of adequate public spaces, in a manner that enhances public health, existing community character, and mix of uses.** ***This change will facilitate the rebuilding and renovation of an existing building, and one of the SJCC's missions is to support a healthy community.***
- **EC-14. Celebrate the cultural diversity of local communities as a means to enhance social capital, neighborhood cohesion, the county's global relationships, and support for cultural and arts institutions.** ***The SJCC is the only Jewish community center in Washington state. The SJCC hosts many global-related programs and is an incredible social and cultural resource for Mercer Island, and the broader region.***
- **EC-26. Encourage commercial and mixed-use development that provides a range of job opportunities throughout the county to create a closer balance between the location of jobs and housing.** ***The SJCC is one of the Island's largest employers. Keeping jobs on the Island is important.***
- **PF-19. Locate schools, institutions, and other community facilities and services that primarily serve urban populations within the UGA, where they are accessible to the communities they serve. If possible, locate these facilities in places that are well served by transit and pedestrian and bicycle networks.** ***The SJCC is reachable by the I-90 bike trail, as well as the East Mercer Way bike trail. It is very accessible to all on the island, and also to those coming off of I-90 without creating a bunch of cut-through traffic on the Island.***

<u>Compliance with Mercer Island Comprehensive Plan.</u>

See above.

a. There exists obvious technical error in the information contained in the comprehensive plan; or

Not applicable.

b. The amendment addresses changing circumstances of the city as a whole.

The SJCC has been in existence in this location for 54 years. The building is past its useful life and needs significant rebuilding and replacement. In 2017, the City of Mercer Island amended its single-family code provisions to prohibit "mega-houses." In doing so, the City passed regulations that create maximum size of use limitations that rendered the SJCC nonconforming to several code provisions meant to apply to single-family homes. In 2021, the SJCC filed an interpretation request with the City to determine whether a rebuild of the SJCC could obtain variances from the single-family regulations, which

would have capped a new building at those square footage limitations meant to apply to single-family homes. On November 21, 2022, the City issued Development Code Interpretation 22-004 that stated non-residential uses could not seek variances from the relevant single-family regulations in any area beyond impervious surface. The impact of the interpretation is that the SJCC cannot renovate/rebuild in its current single-family zone due to the City's stringent nonconforming provisions and impracticable renovation restrictions. In order to renovate/rebuild to stay on Mercer Island and continue to serve the community on the Island, the comprehensive plan map and zone designation of the SJCC's parcels must be changed from SF/R-8.4 to Commercial Office.

2. If the amendment is directed at a specific property, the following additional findings shall be determined:

a. The amendment is compatible with the adjacent land use and development pattern;

Yes. The proposal would change the subject parcels to CO. There is adjacent CO land to the north of the parcel, public facilities/CO land to the west of the parcel, and CO/B land to the east of the parcel. To the south of the parcel is designated single family; the development standards of the CO zone, as well as SEPA review, can mitigate any potential incompatibilities of a future project on single family adjacencies.

c. The property is suitable for development in conformance with the standards under the potential zoning; and

Yes. The proposed rebuild/renovation of the SJCC can meet the CO zone requirements. In many areas it performs better than the CO development standards would require—it increases setbacks beyond requirements and is developed to a lower height than allowed by the CO zone.

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

The amendment would retain the SJCC on Mercer Island. The SJCC is a benefit to all residents of Mercer Island. Please see Exhibit B for a benefits statement.

The change from single family to CO would not impact community facilities. Instead, it would benefit community facilities by maintaining a community facility on the Island, which in turn reduces pressure on the City pool, the City Community Center, and all other childcare and educational facilities. Further it assures the SJCC can continue enriching the lives of thousands of Mercer Island residents every year.

The change from single family to CO would not impact public health, safety, and general welfare. Instead, retaining the SJCC in this location will benefit public health, safety and general welfare. Any potential impacts of the future SJCC project can be mitigated by application of the CO zone standards and SEPA mitigation. Please see Exhibit C regarding environmental benefits associated with the redesignation.

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

Yes. Please see above.

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

The proposal is aligned with the goals of the City's Comprehensive Plan. Please see above.

Exhibit A Comp plan change map

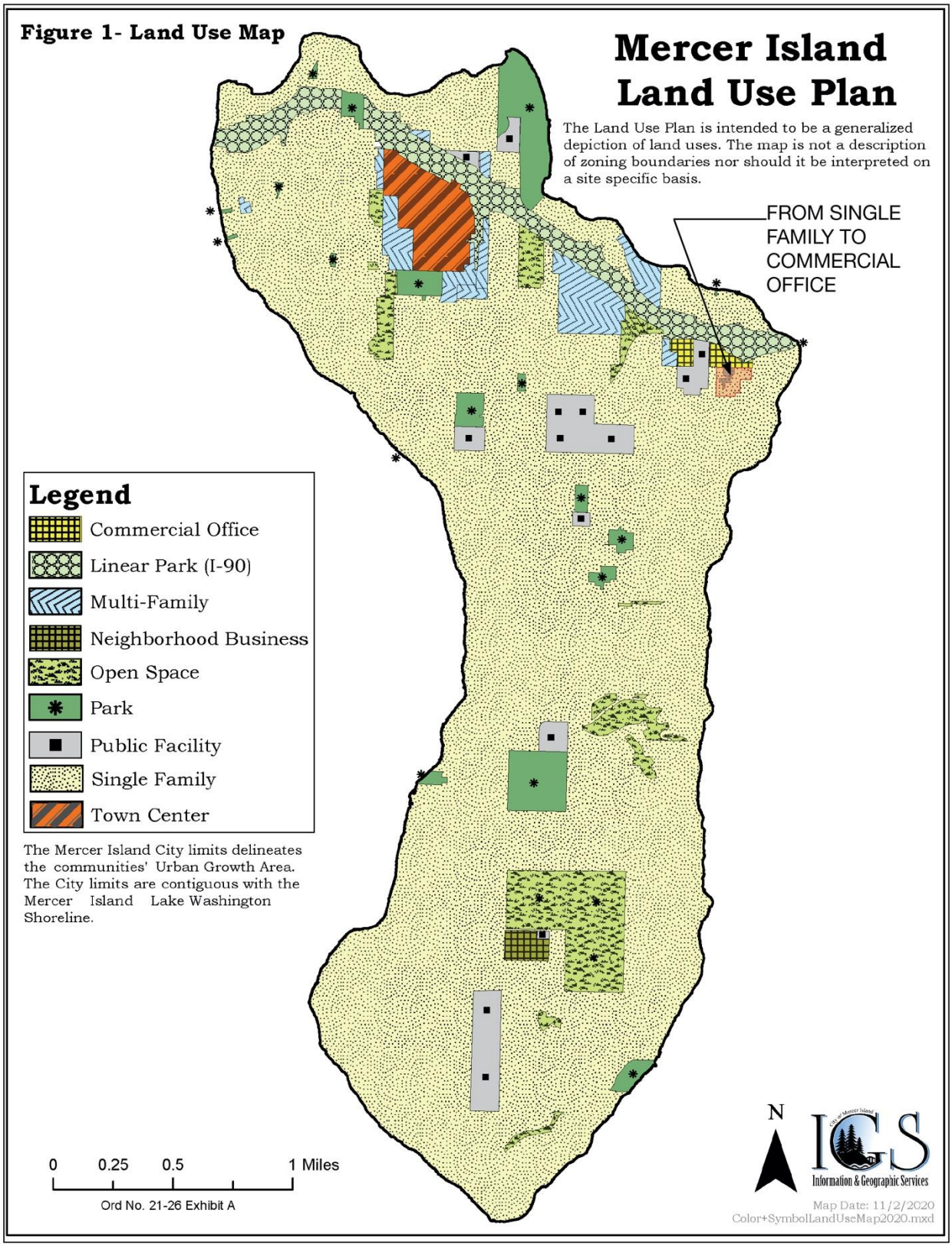

Exhibit B

Benefits of the Comprehensive Plan Map Change

There are several benefits to the Comprehensive Plan map change:

The Stroum Jewish Community Center has served Mercer Island residents since opening in 1969. For nearly 55 years, "the J" has welcomed people of every age, culture, and religion to build and amplify profound connection; creating and fortifying community that contributes significantly to the communal fabric of Mercer Island. Today the SJCC reaches nearly 3,000 Mercer Island households throughout the year. On any given day, the J welcomes hundreds of Mercer Island residents, providing year-round early childhood education to over 200 children, afterschool care and recreational programming to dozens of middle schoolers, summer camp to ~450 Mercer Island children, and a series of character-building and fitness offerings for teenagers and young adults. For adults, the SJCC presents daily recreation programs for hundreds exercising individually or in group classes, including about 30 seniors who exercise in AquaFit or Rock Steady Boxing[1], building muscle strength and friendships that endure challenges facing mature adults. Added to that, the J has a community garden, teaches and hosts mahjong and bridge, organizes communal hikes, and provides a series of cultural arts programs in Mercer Island's only functioning performing arts hall outside of the school district. With 30+ programs a year, SJCC brings feature films, dance, live music, culinary arts programs, and special topics to the entire community on Mercer Island. The SJCC ensures, through private financial support, that these programs are available to everyone, regardless of one's ability to pay.

As one of the longest-standing institutions on Mercer Island, the SJCC has helped connect and welcome generations of MI families, assuring MI residents—whether they are new or returning to their hometown—feel welcome and supported along life's journey.

The SJCC has also been one of Mercer Island's largest employers, with nearly 140 year-round employees and over 215 summer employees. For many, the J is the first job they have, building responsibility and leadership skills, lifesaving skills like CPR, and a sense of purpose and community.

In addition to the Mercer Island residents involved with the SJCC, the J brings people from around the Greater Seattle area that often, in addition to engaging with the J, will spend time and resources on Mercer Island for coffee, grocery shopping, dining, dry cleaning, and shopping at Island Books, Terra Bella, and more.

The J's vision is to be the Puget Sound's most open and welcoming community-centered Jewish organization. We lead with community in everything we do, and believe that many of the tightly woven MI bonds have started and been sustained through connections at the Stroum JCC. As a private organization, funded through programming fees and substantial private philanthropy, we are the only private organization on Mercer Island that makes it possible for anyone to

[1] Rock Steady Boxing is supported by the King County Get Active/Stay Active program, and serves people living with Parkinson's disease.

participate in our activities and programs, regardless of income, race/ethnicity, orientation, religion, or residence. With the increasing pressure of the cost of living on MI, the J remains accessible, welcoming, and community-oriented for everyone and anyone.

A departure from Mercer Island driven by an inability to rebuild facilities would leave a vacuum. People of all ages will have fewer programs to choose from and fewer affordable options for fitness, enrichment, education, entertainment, gardening, and more. With the adoption of HB110 in the State legislature in 2023, the land on which The J is built—nearly eight and a half acres of residential property—could be converted into a housing development of approximately three dozen homes, 50 or more duplexes, and potentially, over 125 quadplexes with one (1) in four (4) being developed as affordable housing. An updated SJCC, on the other hand, would provide more certainty for neighbors and MI, while also mitigating lighting, traffic, and noise issues. ADA accessibility would also ensure people of all capabilities could safely and comfortably navigate the property and facility, and modern technology would assure the J is more environmentally sustainable. With sophisticated landscaping, the J would offer more attractive and low impact vegetation, better integrating the SJCC in its surroundings.

In summary, the SJCC has been a Mercer Island mainstay for over 50 years. Hundreds of families rely on the SJCC for child development and childcare, character development, jobs, personal and professional enrichment, friendship in times of strength and strife, and the confidence knowing that they belong at the J, a place where everyone is welcome. A City Council decision to rezone the SJCC's residentially zoned properties to Commercial Office zoning would bring comfort to everyone directly and indirectly touched by the J and certainty to the surrounding neighborhood, knowing the J would continue to serve as a place that offers convenient opportunity for profound Islander connections for every generation.

Exhibit C

Environmental Benefits of the Comprehensive Plan Map Change

There are several benefits to the Comprehensive Plan Map change:

- The Comprehensive Plan Map change will align long-standing and ongoing operations with the City's Comprehensive Plan Map and facilitate the rebuild/renovation of the SJCC. This will result in the following environmental benefits from the current SJCC:
    - A building that is compliant with current energy and environmental codes. The building was constructed in 1969. A new building would use far less energy and would use sustainable building materials and techniques, including high efficiency mechanical and electrical systems.
    - A site that is compliant with current stormwater codes. Currently the parking lot sheet flows into the stormwater system. Low impact design and compliance with the current stormwater manual would be required of a new SJCC.
    - A building with sufficient parking capacity and traffic flow. Currently the parking for the SJCC and traffic flow can be congested. The new SJCC would include a one-story tall parking garage that is mostly buried underground to mitigate visual impacts, which would add parking stalls the building needs for adequate parking capacity. The rearrangement of the site would also allow for sufficient room for traffic queuing during busy pick-up and drop-off times, reducing current traffic issues in the area.
    - A large setback buffer from the single-family properties to the south is proposed in the new building. This will reduce noise and light impacts from the current SJCC.
    - No parking lights on the south side of the property near single family residents. Currently light from parking lights may spill into neighboring houses and properties. All new lights would be placed to eliminate light spillage, and any required light fixtures would be cut-off to shield light.

2023 Stroum Jewish Community Center Zoning Map Amendment

Thank you for your consideration of our Zoning Map Amendment. Answers to the various application and code criteria are in bold below.

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

The proposed Comprehensive Plan Amendment redesignates Parcels 2655500137, 2655500136, 2655500132 from R 8.4 to Commercial Office, and a small portion of 2655500115 from R 9.6 to Commercial Office on the City's Official Zoning Map.

The proposed map change will allow for a rebuild/renovation of the Stroum Jewish Community Center ("SJCC"). Under the current single-family zone, rebuilding and renovation is not possible, and variances necessary for the rebuild/renovation are not available under the current single family code provisions.

The SJCC has been intently pursuing the ability to rebuild and renovate our aging facilities for over six years. In this timeframe, we've taken many opportunities to share the hopes we have for a re-envisioned facility with our members, our neighbors, and the broader Mercer Island community.

Through multiple SJCC open houses, community meetings and even through public testimony provided during 2018-2019 council consideration of a broader Mercer Island initiative, we shared our priorities, and also learned what the community and our neighbors care about the most:

- **Facilitating better traffic flow and providing enough safe parking so there is less impact on our neighbors;**
- **Designing our use of space to ensure less noise or light impact, and minimize visibility impact;**
- **Supplementing foliage and trees to enhance the buffer between our facilities and our neighbors; and**
- **Ensuring that any changes to the SJCC property through zoning don't have secondary impacts on other Mercer Island community facilities or neighborhoods.**

With these guiding principles, the SJCC revised our designs to reflect what was learned from our engagement with the community and hosted a series of community conversations to share, discuss, and receive additional input from SJCC members, community organizations, the community at large, and our neighbors. In the last two years, this outreach included organized community conversations with immediate neighbors and organization stakeholders, meetings with similarly-situated Mercer Island community organizations, and regular written and verbal communication with interested community members.

On September 7, 2023, the SJCC hosted an open house where our revised design was presented and discussed, followed by questions and answers. Similar to prior initiatives, an invitation was mailed to all addresses within a 1,000-foot radius of the SJCC, emailed to

SJCC members, SJCC participants and users, and other Mercer Island community facilities, and was promoted widely on SJCC assets. The SJCC hosted approximately 100 attendees at this open house, and we were pleased to see our revised designs, which are the direct benefit of so much engagement and feedback over the last six years, being received so well by the community and our neighbors.

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

Please see Exhibit A. The City's Zoning Map would be amended per the exhibit.

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.

The proposal does not amend Comprehensive Plan or development code text. It only changes the maps.

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

Please see Exhibit A.

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

The proposal benefits the community and the environment in several ways.

<u>Community Benefits</u>

Please see Exhibit B.

<u>Environmental Benefits</u>

Please see Exhibit C.

3. Explain how the request relates to the applicable decision criteria (MICC 19.15.240 for code amendments, and MICC 19.15.230(F) for Comprehensive Plan amendments).

The proposal meets both the docketing criteria and the decision criteria, as follows:

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:

Yes. The request was filed prior to October 1, 2023.

a. State law requires, or a decision of a court or administrative agency has directed, such a change; or

Not applicable.

b. All of the following criteria are met:

i. The proposed amendment presents a matter appropriately addressed through the comprehensive plan or the code;

Yes. The proposed amendment is a change to the City's Zoning Map, which is a change that can only be addressed through a change of the zoning map.

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;

Yes. The proposal is occurring during the City's annual docketing cycle, which we presume is adequately staffed and resourced by the City. A simple map change should not require significant resources; any actual development on the site will require project specific environmental review and study, which costs would be borne by the applicant.

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;

No. The proposal does not raise larger policy or land use issues more appropriately addressed by an ongoing work program item. This proposal avoids any larger rezone of similarly situated schools and institutions and focuses only on the SJCC site. There is no current work program approved by the City Council that addresses rezone of the SJCC to conform to the historic use of the property.

iv. 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

Yes. The proposal serves the public interest and implements the following specific goals and vision of the city (responses to policies, where appropriate, in italics):

- **Residential Community. Mercer Island is principally a single-family residential community supported by healthy schools, religious institutions, and recreational clubs. (Comp. Plan, Community Values).** ***The proposal will allow the JCC, which is both a school and a recreational club open to all, to continue to serve Mercer Island.***
- **Education is the Key. The community and its public and private institutions are committed to provide excellence in Education (Comp Plan, Community Values).** ***The proposal allows the SJCC's Early Childhood School to continue its excellent education of hundreds of young children on Mercer Island.***
- **Community Services. Mercer Island will continue to provide a wide range of education, cultural, and municipal services for the community's varied population. Balanced and flexible programs will be necessary to meet the community's evolving needs in education, recreation, and cultural enjoyment. The community will maintain its broad range of quality basic services, including public safety,**

human services, physical development and utilities. At the same time, community leaders recognize that delivery of these services will take place in an arena of limited resources and heightened competition for tax revenues (Comp Plan, Values Manifested). ***The SJCC provides a community center and educational, recreational, and cultural opportunities that are privately funded and do not burden the City's budget.***

- **Residential Land Use. Civic, recreation, and religious organizations are important and integral elements of the community character and fabric. Their contribution and importance to the established community character should be reflected and respected in land use permit processes. (Comp Plan, Values Manifested).** ***Unfortunately, the single-family zoning has been interpreted by the City to not allow for the variances that would be necessary to rebuild and reconfigure the SJCC that would benefit the community. We are hopeful that this request for rezone is respectfully considered and approved, so that we can build under the current CO zoning rules and do not require extensive or complicated workarounds.***
- **Commercial Office and PBZ zones must serve the needs of the local population while remaining compatible with the overall residential character of the community. (Comp Plan, Land Use Issues, Outside the Town Center).** ***The Commercial Office zone, as developed in the future by the SJCC, will remain compatible and increase compatibility with the overall residential character of the community. First, nothing will be built on the site that is not the SJCC, and we have shared our draft plans with the community. Second, these plans improve on many of the required minimum development standards—better setbacks than required, less height than allowed, etc. Finally, the proposal is adjacent to CO or Public zones and extends them southward. The strip of single-family homes to our west is owned by the French American School of Puget Sound.***
- **Goal 15.1. Existing land use policies, which strongly support the preservation of existing conditions in the single-family residential zones, will continue to apply. Changes to the zoning code or development standards will be accomplished through code amendments. (Comp Plan, Land Use Goals).** ***This goal is met. The existing condition in this single-family zone that has existed for 54 years (pre-dating many of the homes that now exist next to the SJCC) will be maintained. This map change simply changes the map to fit the use that has been here for 54 years.***
- **Goal 15.4. Compatible permitted uses such as education, recreation, open spaces, government social services and religious activities will be encouraged.** ***The proposed amendment maintains the SJCC which provides education, art, culture, and recreation, and are a permitted uses in the CO zone.***
- **Goal 17.4. Social and recreation clubs, schools, and religious institutions are predominantly located in single family residential areas of the Island. Development regulation should reflect the desire to retain viable and healthy social, recreational, educational, and religious organizations as community assets which are essential for the mental, physical and spiritual health of Mercer Island.** ***As the City is aware, the current single-family zone has been amended and development standards interpreted in a way that does not allow the maintenance of viable and healthy organizations. Further, the remodeling criteria make it impossible to maintain a nonconforming status and make upgrades to facilities that are***

necessary when a facility is well beyond its useful life, particularly given the concrete construction methods that were used in 1969. As such, the redesignation to the CO zone is necessary to be consistent with this Goal and retain a viable and healthy SJCC on Mercer Island.

- **Goal 21. Promote the use of green building methods, design standards, and materials…to reduce impacts on the built and natural environment and to improve the quality of life. Green building should result in demonstrable benefits, through the use of programs such as, but not limited to, Built Green, LEED, The Living Building Challenge, Passive House, Salmon Safe, or other similar regional and recognized green building programs.** ***The new SJCC will be much more environmentally friendly than the current 54-year-old structure.***
- **Goal 23. Support the arts on Mercer Island.** ***The SJCC holds regular arts events, including the Seattle Jewish Film Festival. The arts are deeply important to the SJCC and the SJCC's auditorium, which would remain under the proposal, is one of only two large gathering spaces on the island for arts-related events. See Exhibit B.***
- **Goal 25. Preserve Mercer Island's Heritage.** ***The SJCC is a piece of Mercer Island's history. https://www.historylink.org/File/104#:~:text=In%20Seattle%2C%20the%20Jewish%20Community,Davis%20and%20secretary%20Harry%20Ash. Allowing for the redesignation of the property will allow the SJCC to remain on the island and thrive for another 60 years.***
- **Land Use Designations—CO. The commercial office land use designation represents commercial areas within Mercer Island, located outside of Town Center, where the land use will be predominantly commercial office. Complementary land uses (e.g., healthcare uses, schools, places of worship, etc.) are also generally supported within this land use designation.** ***The CO zone reflects the use of the SJCC property, which has not been in single family residential use for over 54 years. A CO zone is a much more appropriate reflection of reality.***
- **Transportation Goal 6.1: Ensure compatibility between transportation facilities and services and adjacent land uses, evaluating aspects such as: potential impacts of transportation on adjacent land use; potential impacts of land development and activities on transportation facilities and services; and need for buffering and/or landscaping alongside transportation facilities.** ***While the zone of the property will change, the use will not change. The project-specific transportation review for the SJCC project will analyze at a project-level transportation impacts that may be mitigated via trip reduction and physical improvements.***
- **Transportation Goal 9.2. Address parking overflow impacts on neighborhoods caused by major traffic generators such as schools, businesses, parks, and multifamily developments.** ***The SJCC proposal would add many more parking stalls which will reduce parking impacts to the neighborhood.***

v. 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.

The proposal has not been considered by the city council in the last three years.

19.15.250.C. *Rezone approval criteria.* Decisions to reclassify property shall be consistent with the criteria specified below, stated in MICC 19.15.240.C.

1. The amendment is consistent with policies and provisions of the Mercer Island comprehensive plan.

Yes. The proposal is consistent with the policies and provisions of the Mercer Island Comprehensive Plan, as outlined above.

2. The proposed reclassification is consistent with the purpose of the Mercer Island development code as set forth in MICC 19.01.010.

MICC 19.01.010: The general purpose of this Code is to protect and promote health, safety, and the general welfare through the regulation of development within the city of Mercer Island.

To that end, this Code classifies the land within the city into various zones and establishes the use of land and nature of buildings within those zones; controls the form of plats and subdivisions; regulates the construction of commercial and residential structures; and protects critical and sensitive areas within the city.

The provisions of this Code are designed to consider light, air and access; to conserve and protect natural beauty and other natural resources; to provide coordinated development; to avoid traffic congestion; to prevent overcrowding of land; to facilitate adequate provisions for transportation, water, sewage, schools, parks and other public requirements; and to encourage the use of solar energy practices.

This Code is to be interpreted as a whole, in view of the purpose set out in this section.

If the general purpose of this development code conflicts with the specific purpose of any chapter of this development code, the specific purpose shall control.

Yes. The proposed reclassification would protect and promote and improve the health, safety and general welfare of Mercer Island. See Exhibit B. The reclassification would extend the CO zone.

3. The proposed reclassification is an extension of an existing zone, or a logical transition between zones;

Yes. The proposal would change the subject parcels to CO. There is adjacent CO land to the north of the parcel, and this boundary would be extended to the south to include the subject parcels. The provisions of the CO zone create appropriate transitions between zones.

4. The proposed reclassification does not constitute an illegal site-specific rezone;

The proposed reclassification does not constitute an illegal site-specific rezone, often known as an "illegal spot zone."

Washington law has established several criteria for when an illegal spot zone may be found to exist, none of which are met by the current proposal:

1. A smaller area is singled out of a larger area and given some special treatment. **No. The proposal extends the CO zone and does not change the specific CO zone criteria.**

2. The classification or use allowed in the smaller area is totally different from and inconsistent with the classification of surrounding land so as to disturb the tenor of the neighborhood and create an inconsistency or conflict of use with the uses allowed in the surrounding area. **No. The SJCC use is already established on the site and will continue. The extension of the CO zone over the site simply allows for the rebuilding of the SJCC under the code. The CO zone's setbacks and development regulations ensure there is no inconsistency or conflict of use with the single family uses already adjacent to the SJCC.**

3. The action necessary to create the smaller area is taken for the private gain of one person or group of persons rather than for the general welfare of the community as a whole. **No. See above. The SJCC benefits the welfare of the community as a whole.**

4. The action taken is not in accordance with the comprehensive plan. **We agree that the comprehensive plan would need to be amended (either concurrently or prior to the rezone being adopted) in order for the rezone to occur. We have submitted a comprehensive plan amendment application concurrently with this rezone application for the city's consideration.**

***McNaughton v. Boeing*, 68 Wn.2d 659, P.2d 778 (1966). In addition, the *McNaughton* case also determined that a City may impose conditions, either unilaterally or by contract in connection with a zoning amendment**

5. The proposed reclassification is compatible with surrounding zones and land uses;

Yes. The CO zone is compatible and allows for compatible uses with the B, CO, P, and R 8.6 and R-9.6 zones, all adjacent or nearby the site. The CO zone includes development regulations ensuring compatibility, including limitation of uses, increased setbacks, and height limits.

6. The proposed reclassification does not adversely affect public health, safety, and welfare; and

The proposed reclassification will not adversely impact the public health, safety or welfare. See Exhibit B.

7. If a comprehensive plan amendment is required in order to satisfy subsection C1 of this section, approval of the comprehensive plan amendment is required prior to or concurrent with the granting of an approval of the rezone.

Agreed. The rezone would not occur unless and until the comprehensive plan map amendment redesignating the property to CO is adopted.

19.15.250.D. *Development code amendment decision 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

Yes. See above. The zoning map change is consistent with the comprehensive plan.

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

Yes. See above. The amendment benefits public health, safety, and welfare.

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

Yes. See Exhibit B as well as the application above. A rezone of property allowing the SJCC to be renovated would allow the SJCC to remain on Mercer Island, which is beneficial of the Mercer Island community as a whole.

Exhibit A Zoning Map Change

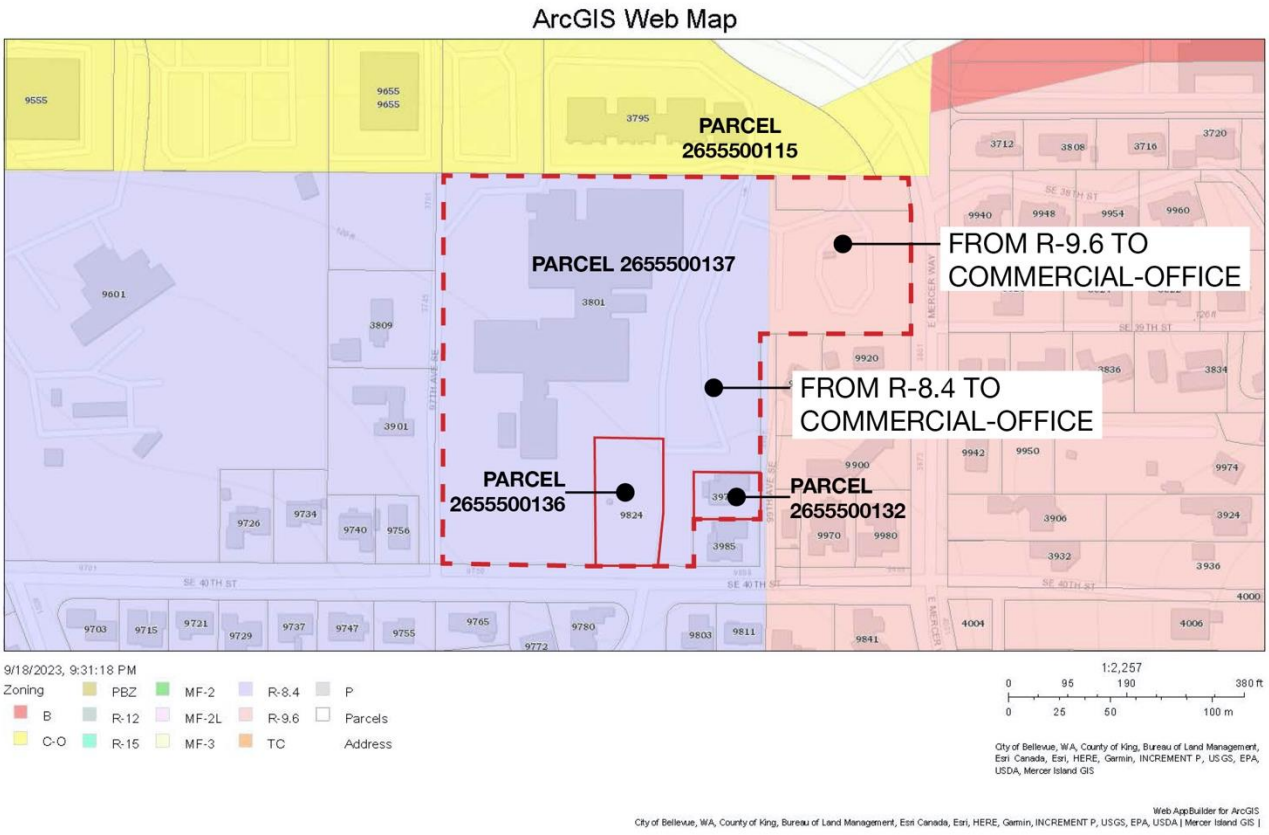

Exhibit B

Benefits of the Zoning Map Change

There are several benefits to the Zoning Map change:

The Stroum Jewish Community Center has served Mercer Island residents since opening in 1969. For nearly 55 years, "the J" has welcomed people of every age, culture, and religion to build and amplify profound connection; creating and fortifying community that contributes significantly to the communal fabric of Mercer Island. Today the SJCC reaches nearly 3,000 Mercer Island households throughout the year. On any given day, the J welcomes hundreds of Mercer Island residents, providing year-round early childhood education to over 200 children, afterschool care and recreational programming to dozens of middle schoolers, summer camp to ~450 Mercer Island children, and a series of character-building and fitness offerings for teenagers and young adults. For adults, the SJCC presents daily recreation programs for hundreds exercising individually or in group classes, including about 30 seniors who exercise in AquaFit or Rock Steady Boxing[1], building muscle strength and friendships that endure challenges facing mature adults. Added to that, the J has a community garden, teaches and hosts mahjong and bridge, organizes communal hikes, and provides a series of cultural arts programs in Mercer Island's only functioning performing arts hall outside of the school district. With 30+ programs a year, SJCC brings feature films, dance, live music, culinary arts programs, and special topics to the entire community on Mercer Island. The SJCC ensures, through private financial support, that these programs are available to everyone, regardless of one's ability to pay.

As one of the longest-standing institutions on Mercer Island, the SJCC has helped connect and welcome generations of MI families, assuring MI residents—whether they are new or returning to their hometown—feel welcome and supported along life's journey.

The SJCC has also been one of Mercer Island's largest employers, with nearly 140 year-round employees and over 215 summer employees. For many, the J is the first job they have, building responsibility and leadership skills, lifesaving skills like CPR, and a sense of purpose and community.

In addition to the Mercer Island residents involved with the SJCC, the J brings people from around the Greater Seattle area that often, in addition to engaging with the J, will spend time and resources on Mercer Island for coffee, grocery shopping, dining, dry cleaning, and shopping at Island Books, Terra Bella, and more.

The J's vision is to be the Puget Sound's most open and welcoming community-centered Jewish organization. SJCC leads with community in everything they do, and believes that many of the tightly woven MI bonds have started and been sustained through connections at the Stroum JCC. As a private organization, funded through programming fees and substantial private philanthropy, SJCC is the only private organization on Mercer Island that makes it possible for

[1] Rock Steady Boxing is supported by the King County Get Active/Stay Active program and serves people living with Parkinson's disease.

anyone to participate in their activities and programs, regardless of income, race/ethnicity, orientation, religion, or residence. With the increasing pressure of the cost of living on MI, the J remains accessible, welcoming, and community-oriented for everyone and anyone.

A departure from Mercer Island, driven by an inability to rebuild facilities, would leave a vacuum. People of all ages would have fewer programs to choose from and fewer affordable options for fitness, enrichment, education, entertainment, gardening, and more. With the adoption of HB110 in the State legislature in 2023, the land on which The J is built—nearly eight and a half acres of residential property—could be converted into a housing development of approximately three dozen homes, 50 or more duplexes, and potentially, over 125 quadplexes with one (1) in four (4) being developed as affordable housing. An updated SJCC, on the other hand, would provide more certainty for neighbors and MI, while also mitigating lighting, traffic, and noise issues. Improved ADA accessibility would ensure people of all capabilities could safely and comfortably navigate the property and facility, and modern technology would assure the J is more environmentally sustainable. With sophisticated landscaping, the J would offer more attractive and low impact vegetation, better integrating the SJCC in its surroundings.

In summary, the SJCC has been a Mercer Island mainstay for over 50 years. Hundreds of families rely on the SJCC for child development and childcare, character development, jobs, personal and professional enrichment, friendship in times of strength and strife, and the confidence knowing that they belong at the J, a place where everyone is welcome. A City Council decision to rezone the SJCC's residentially zoned properties to Commercial Office zoning would bring comfort to everyone directly and indirectly touched by the J and the surrounding neighborhood, providing the certainty of knowing the J would continue to serve as a place that offers convenient opportunity for profound Islander connections for every generation.

Exhibit C

Environmental Benefits of the Zoning Map Change

There are several benefits to the Zoning Map change:

- The Zoning Map change will align long-standing and ongoing operations with the City's Zoning Map and facilitate the rebuild/renovation of the SJCC. This will result in the following environmental benefits from the current SJCC:
    - A building that is compliant with current energy and environmental codes. The buildings were constructed in 1969 and 1980. A new and renovated building would use far less energy and would use sustainable building materials and techniques, including high efficiency mechanical and electrical systems.
    - A site that is compliant with current stormwater codes. Currently the parking lot sheet flows into the stormwater system. Low impact design and compliance with the current stormwater manual would be required of a new SJCC.
    - A building with sufficient parking capacity and traffic flow. Currently the parking for the SJCC and traffic flow can be congested. The new SJCC would include a one-story tall parking garage that is mostly buried underground to mitigate visual impacts, which would add parking stalls the building needs for adequate parking capacity. The rearrangement of the site would also allow for sufficient room for traffic queuing during busy pick-up and drop-off times, reducing current traffic issues in the area.
    - A large setback buffer from the single-family properties to the south. The proposed setbacks will reduce noise and light impacts from the current SJCC.
    - No parking lights on the south side of the property near single family residents. Currently light from parking lights may spill into neighboring houses and properties. All new lights would be placed to eliminate light spillage, and any required light fixtures would be cut-off to shield light.

Attachment 4: Docketing Criteria Analysis

Proposed Amend. No.	Criterion 1: appropriately addressed by Comp Plan or code	Criterion 2: necessary staff and budget resources can be provided by city or applicant	Criterion 3: doesn't raise issues related to ongoing work program	Criterion 4: serves public interest by implementing Comp Plan goals or supports City's vision	Criterion 5: has not been considered by City Council in the last 3 years
1	✓	–	✓	✓	✓
2	✓	–	✓	✓	✓
3	✓	–	✓	✓	✓
4	✓	–	✓	✓	✓
5	✓	–	✓	✓	✓
6	✓	–	✓	✓	✓
7	✓	–	✓	✓	✓
8	✓	↑	✓	✓	✓
9	✓	↑	✓	✓	✓
10	✓	–	✓	✓	✓
11	PROPOSAL WITHDRAWN				
12	?	↓	✓	✓	✓
13	?	↓	✓	✓	✓
14	✓	↓	✓	✓	✓
15	✓	↓	✓	✓	✓
16	✓	↓	✓	✓	✓
17	✓	↓	✓	✓	✓

✓	The proposal could meet this criterion	?	It is unclear or debatable whether the proposal could meet this criterion	✗	The proposal cannot meet this criterion
↑	The proposal is a high priority for staff/budget resources	–	The proposal is a moderate priority for staff/budget resources	↓	The proposal is a low priority for staff/budget resources

COMPREHENSIVE PLAN AND DEVELOPMENT CODE DOCKET - PROGRESS REPORT

			PC Recommendation	CC Decision	AB	Ord No.	Notes
2020 PROPOSALS (2021 Docket) - Adopted 12/01/2020							
20-1	**CPA21-001**	**Correct Comp Plan Land Use Map**	Y	**Y**	5971	21-26	Complete, review of 20-1 and 20-8 was consolidated under CPA21-001
20-2	**ZTR21-004**	**Town Center Commercial**	Y	**Y**	6102	22C-09	Complete
	CPA22-001				6172	22C-17	Complete
20-3	**ZTR21-007**	**Transportation Impact Fee Rate Update**	Y	**Y**	6092	22C-06	Complete
	ZTR21-008	**Park Impact Fee Rate Update**			6093	22C-07	Complete
20-4	**ZTR19-003**	**Sign Regulations**	Y	**Y**	5952	21C-21	Complete
20-5	**ZTR19-004**	**Wireless/Small Cell Regulations**	Y	**Y**	5929	21C-17	Complete
20-6	**ZTR21-001**	**Implementation of Comp Plan Amendments**	N	**Y**	5866	21C-05	Complete
20-7	**ZTR21-002**	**Conditional Use Permit Regulations**	N	**Y**	5867	21C-06	Complete
20-8	**CPA21-001**	**Correct Comp Plan Land Use Map**	N	**Y**	5971	21-26	Complete, review of 20-1 and 20-8 was consolidated under CPA21-001
20-9	**ZTR21-005**	**Noise and Lighting**	C	**Y**	6019	-	*CC first reading completed, elected not to take further action*
20-10		Prioritization of the use of public ROW	N	N	-	-	
20-11		RDS: GFA for Clerestory Space *	N	N	-	-	
20-12		RDS: GFA for covered porches and decks *	N	N	-	-	
20-13		RDS: Garages within 10 ft of front property line *	N	N	-	-	
20-14		RDS: GFA for ADUs on small lots *	N	N	-	-	
20-15	**ZTR21-006**	**Land Use Review Types and Noticing ***	N	**Y**	6074	22C-05	Complete
20-16		RDS: parking requirements for smaller homes *	N	N	-	-	
2021 PROPOSALS (2022 Docket) - Adopted 12/07/2021							
21-1		Increase Tree Retention to 50%	Y	N	-	-	
21-2		New Impact Fee for Ped/Bike	N	N	-	-	
21-3		Recategorize Intersections in Transportation Element	Y	N	-	-	
21-4	**ZTR22-001**	**Amend Business Zone to Allow Schools**	Y	**Y**	6270	23C-08	Complete
21-5		Allow additions to nonconforming homes in critical areas	C	N	-	-	
21-6		Require Electric Heating	C	N	-	-	
21-7		RDS: GFA for Clerestory Space *	N	N	-	-	

21-8		RDS: GFA for covered porches and decks *	N	N	-	-	
21-9		RDS: Garages within 10 ft of front property line *	N	N	-	-	
21-10		RDS: GFA for ADUs on small lots *	N	N	-	-	
21-11		Land Use Review Types and Noticing *	N	N	-	-	Docketed in 2020, see ZTR21-006
21-12		RDS: parking requirements for smaller homes *	N	N	-	-	
21-13		Bike/Ped Plan Update Schedule	Y	N	-	-	
21-14	**ZTR21-003**	**Remove Occupancy Limitations**	Y	**Y**	6146	22C-11	Complete
21-15	**ZTR21-003**	**Allow 8 people in Adult Family Homes**	Y	**Y**	6146	22C-12	Complete
21-16	**ZTR22-003**	**Transitional and Permanent Supportive Housing**	Y	**Y**	(tbd)	(tbd)	Interim regulations renewed by Ord. No. 23C-11
2022 PROPOSALS (2023 Docket) - Adopted (TBD)							
22-1	**ZTR23-001**	**Allow SCUPs for Marina and Swim Facilities**	Y	**Y**	6340	23C-15	City review is complete, awaiting Dept. of Ecology approval
22-2		RDS: GFA for Clerestory Space **	Y	N			
22-3		RDS: GFA for covered porches and decks **	Y	N			
22-4		RDS: Garages within 10 ft of front property line **	N	N			
22-5		RDS: GFA for ADUs on small lots **	Y	N			
22-6		RDS: parking requirements for smaller homes **	Y	N			
22-7		Repeal Piped Watersourse Regulations	Y	N			
22-8		Amend Docketing Criteria	Y	N			
~~22-9~~		~~Town Center Commercial Height Limit~~	-	-	-	-	*withdrawn prior to PC consideration*
~~22-10~~		~~Administrative Code Corrections~~	-	-	-	-	*withdrawn prior to PC consideration*
~~22-11~~		~~Update Legal Lot Provisons~~	-	-	-	-	*withdrawn prior to PC consideration*
~~22-12~~		~~Temporary Use Regulations~~	-	-	-	-	*withdrawn prior to PC consideration*

*	Docket proposal in 2020 & 2021
**	Docket proposal in 2020, 2021, & 2022
Y	Yes
N	No
C	Consider