

CITY OF MERCER ISLAND
ZONING ORDINANCE
CHAPTER 19.04, MERCER ISLAND CITY CODE

ADMINISTERED BY
DEPARTMENT OF COMMUNITY DEVELOPMENT

Adopting Ordinance

No. A-37, effective March 27, 1985
Section 19.04.130 (SMMP), effective

\$10.00



THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Mercer Island City Code, Title 19 "Land Use Code" is hereby amended by the addition of a new chapter 19.04 thereto entitled "Zoning Code" and the provisions of said Zoning Code are hereby adopted as set forth below:

"Chapter 19.04

ZONING CODE

| | | |
|-----------|-----------|-------------------------------------|
| Sections: | 19.04.010 | Purpose |
| | 19.04.020 | Definitions |
| | 19.04.030 | Zone establishment |
| | 19.04.040 | Non-conforming uses |
| | 19.04.050 | Land use classifications |
| | 19.04.060 | General provisions |
| | 19.04.070 | Parking requirements |
| | 19.04.080 | Fences |
| | 19.04.090 | Signs |
| | 19.04.100 | Swimming Pools |
| | 19.04.110 | Watercourse Setbacks |
| | 19.04.120 | Design Commission requirements |
| | 19.04.130 | Shoreline Management Master Program |
| | 19.04.140 | Administration |
| | 19.04.150 | Validity |

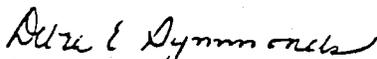
(insert Zoning Code)

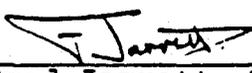
Section 2. Repealer. City of Mercer Island Ordinance No. 15 (the City Zoning Code) and any and all amendments thereto; Town of Mercer Island Ordinances No. 124 and 199 (Town Zoning Code) and any and all amendments thereto; and all ordinances of the City of Mercer Island and former Town of Mercer Island inconsistent herewith to the extent of such inconsistency and no further, are hereby repealed. Such repeal shall not be construed so as to affect any action taken or proceeding had pursuant to the ordinances hereby repealed. All actions taken by the City pursuant to the ordinances hereby repealed and prior to the effective date of this ordinance are hereby ratified, approved and confirmed.

Section 3. Effective Date. This ordinance shall take effect and be in force thirty (30) days after its passage with the exception of Section 19.04.130, The Shoreline Management Master Program, which shall take effect thirty (30) days after the Department of Ecology's Order of Adoption is filed with the Code Reviser.

PASSED by the City Council of the City of Mercer Island, Washington at its public meeting on the 25th day of February, 1985.

ATTEST:


Debra E. Symmonds,
City Clerk


Fred Jarrett, Mayor

APPROVED AS TO FORM:

Ronald C. Dickinson, City Attorney

DATE OF PUBLICATION 3/26/85

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APPENDICES

1. Exhibit A, Zoning Map
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3. Exhibit C, Shoreline Master Plan Map
4. Chapter 17.08, MICC - Land Clearing Code
5. Chapter 17.10, MICC - Steep Slope Code
6. Chapter 17.80, MICC - Environmental Procedure Code
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SECTION 19.04.010 PURPOSE

The general purpose of this Code is to protect and promote health, safety, morals and general welfare through a well-considered Comprehensive Plan for the use of the land. It classifies land within the City into various zones, each with appropriate zone designations, and within each zone this Code limits the use of land and limits the nature of the buildings and structures on such land and requires space for off-street parking. The economic stability of land use areas and conservation of building values are promoted and protected thereby.

The provisions of this Code are designed to provide adequate light, air and access; to conserve and restore natural beauty and other natural resources; to provide a coordinated development of undeveloped areas, to secure safety from fire and other danger; to avoid excessive concentration of population in order to lessen traffic congestion and to prevent overcrowding of land; and to facilitate adequate provisions for transportation, water, sewage, schools, parks and other public requirements, and to encourage the use of solar energy practices. Further, this Code is designed to encourage the most appropriate use of land throughout the City of Mercer Island.

In interpretation and application, the provisions of this Code are minimum requirements, except that, if any provisions contained in this Code result in any ambiguities as to procedures or otherwise, such ambiguities shall be resolved in favor of such interpretation as will conform to the provisions of Chapter 35A.63 of the Revised Code of Washington.

SECTION 19.04.020 DEFINITIONS

for the purpose of this Code certain words, terms, and phrases are hereby defined in this Section. Words used in singular include the plural and the plural the singular.

ACCESSORY BUILDINGS: A subordinate building or portion of the main building, the use of which is incidental to that of the main building on the same lot.

Where an accessory building is attached to and made part of the main building for at least fifty (50) percent of the length of one of the abutting walls of such accessory building, or in the case of more than one abutting wall where the total length of the abutting walls of the accessory building is equal to or greater than fifty (50) percent of the longest wall of the accessory building, then the accessory building shall be considered "attached" and an integral part of the main building and such accessory building shall comply in all respects with the requirements of this Code applicable to the main building.

A "detached" accessory building is one which has less than fifty (50) percent of one of its abutting walls attached to the main building.

ACCESSORY USE: A use customarily incidental and accessory to the principal use of a site or a building or other structure located upon the same building lot.

ADULT BOOK STORE: A retail establishment in which:

1. Ten percent or more of the 'stock in trade' consists of books, magazines, posters, pictures, periodicals or other printed material distinguished or characterized by a predominant emphasis on pictorial matter depicting, describing or relating to 'specified sexual activities' or 'specified anatomical areas'; or
2. Any person is excluded by virtue of age from all or part of the premises generally held open to the public where books, magazines, posters, pictures, periodicals or other printed material distinguished or characterized by a predominant emphasis on pictorial matter depicting, describing or relating to 'specified sexual activities' or 'specified anatomical areas' are displayed or sold.

"Stock in trade" for the purposes of this section shall mean either:

- (a) The dollar value of all books, magazines, posters, pictures, periodicals or other printed material

readily available for purchase, rental, viewing or use by patrons of the establishment excluding material located in any storeroom or other portion of the premises not regularly open to patrons; or

(b) The total volume of shelf space and display area.

ADULT BUSINESSES AND/OR ADULT ENTERTAINMENT ACTIVITIES:

includes adult book stores, adult entertainment studios, adult dancing or exhibition, adult motion picture theaters, adult novelty shops, adult video stores and panorams or peep shows. Such businesses or entertainment activities shall only be allowed in the 'B' zone and are subject to all of the conditions and restrictions set forth under the permitted uses in the 'B' zone.

ADULT DANCING OR EXHIBITIONS: Any premises involving any exhibition or dance of any type conducted where such exhibition or dance involves nudity and/or removal of articles of clothing by an entertainer during the course of such exhibition or dance.

ADULT ENTERTAINMENT STUDIO: Any premises to which the public, patrons or members are invited or admitted and which are so physically arranged so as to provide a stage or booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, wherein an entertainer provides entertainment to a member of the public, patrons or members in the form of an exhibition or dance of any type where the exhibition or dance involves nudity and/or the removal of articles of clothing by an entertainer during the course of such exhibition or dance.

ADULT NOVELTY SHOP: A retail establishment in which:

1. Ten percent or more of the 'stock in trade' consists of items, products or equipment distinguished or characterized by a predominant emphasis or simulation of 'specified sexual activities' or 'specified anatomical areas'; or
2. Any person is excluded by virtue of age from all or part of the premises generally held open to the public where products or equipment distinguished or characterized by a predominant emphasis or simulation of 'specified sexual activities' or 'specified anatomical areas' are displayed or sold.

"Stock in trade" for the purposes of this section shall mean either:

- (a) The dollar value of all items, products or equipment readily available for purchase, rental, viewing or use by patrons of the establishments

excluding material located in any storeroom or other portion of the premises not regularly open to patrons; or

(b) The total volume of shelf space and display area.

ADULT THEATER: Any premises used for presenting, for commercial purposes, motion picture films, video cassettes, media, distinguished or characterized by a predominant emphasis on matter depicting, describing or relating to 'specified sexual activities' or 'specified anatomical areas' for observation by patrons therein.

ADULT VIDEO STORE: A retail establishment in which,

1. Ten percent or more of the 'stock in trade' consists of video cassettes, either VHS or Beta, or video discs, distinguished or characterized by a predominant emphasis on pictorial matter depicting, describing or relating to 'specified sexual activities' or 'specified anatomical areas', or
2. Any person is excluded by virtue of age from all or any portion of the premises generally held open to the public where the video cassettes, either VHS or Beta, or video discs distinguished or characterized by a predominant emphasis on pictorial matter depicting, describing or relating to 'specified sexual activities' or 'specified anatomical areas' are displayed or sold.

'Stock in trade' for the purposes of this section shall mean either:

- (a) The dollar value of all video cassettes or video discs readily available for purchase, rental, viewing or use by patrons of the establishment excluding material located in any storeroom or other portion of the premises not regularly open to patrons, or
- (b) The total volume of shelf space and display area.

ARCHITECTURAL FEATURE: The exterior architectural treatment and general arrangement of the portions of an improvement and site as shall be open to external view, including, but not by way of limitation, the kind, color and texture of building materials, landscaping, screens, parking lots, exterior lighting, walkways, and other fixtures appurtenant to such portions.

AVERAGE GRADE LEVEL - (See BASE ELEVATION herein):

BASE ELEVATION: The elevation established by averaging the elevation of the original grade at each corner of the exterior walls of the building; provided that,

1. If the building has rounded corners, the corners are to be projected by extending the adjacent exterior wall lines.
2. If the building has more than 4 corners, a maximum of 8 corners of wall intersections may be used, provided that the corners are approximately equally distributed around the perimeter of the structure.
3. Roof overhangs and eaves, chimneys and fireplaces, unenclosed projecting wall elements (columns and fin walls), unenclosed and unroofed stairs, and porches and terraces may project outside exterior walls and are not to be considered as corners.
4. If the building is circular in shape, four points, 90 degrees apart, at the exterior walls, shall be used to calculate the base elevation.

BOAT RAMP: An inclined structure upon which a watercraft is raised or pulled onto land or a dock.

BUILDING: A structure having a roof, but excluding all forms of vehicles even though immobilized. Where this Code requires, or where special authority granted pursuant to this Code requires that a use shall be entirely enclosed within a building, this definition shall be qualified by adding "and enclosed on all sides."

BUILDING AREA: That portion of a lot upon which a building or buildings may be erected and maintained without violating the yard requirements prescribed herein.

BUILDING HEIGHT: The vertical distance above the "Base Elevation" as defined herein to the highest projection of the building. The "highest projection" includes the highest point of antennas, lightning rods, plumbing stacks, flag poles, electric service heads, chimneys, fireplaces, railings, stairs, porches, and similar appendages to the building.

BUILDING SITE: See definition of Lot.

BULKHEAD: A solid or open pile of rock, concrete, steel, timber or other materials erected parallel to, and normally erected at, the ordinary high water line for the purpose of protecting adjacent wetlands from waves or currents.

CAPITAL IMPROVEMENT: Any improvement by the City upon property owned by or under the control of the City.

CENTRAL BUSINESS DISTRICT: The area covered by the Central Business District Plan.

CENTRAL BUSINESS DISTRICT PLAN: The official plan of the City governing development within the Central Business District including goals, policies, objectives and implementation measures and including any amendments or revisions thereto.

CITY: The City of Mercer Island, Washington.

CODE OFFICIAL: The Director of the Department of Community Development for the City of Mercer Island or his duly authorized designee.

CONDITIONAL USE: A use listed among those permitted in any given zone but authorized only after a Conditional Use Permit has been granted.

COVERED MOORAGE: A pier, dock, or series of piles over which a permanent roof is erected.

DEVELOPMENT: For purposes of the Shoreline Management provisions of this Code, "development" shall mean a use consisting of the construction or exterior alteration of structures, dredging, drilling, dumping, filling, removal of any sand, gravel or minerals including in the grading of land, bulkheading, driving of piling, placing of obstructions or any project of a permanent or temporary nature which interferes with the normal public use of the waters and lands subject to this Code.

DWELLING, SINGLE-FAMILY: A building containing only one kitchen, designed and/or used to house not more than one family, plus any live-in household employees of such family.

DWELLING, MULTIPLE FAMILY: A building designed and/or used to house two or more families living independently of each other, plus any live-in household employees of each such family.

FAMILY: Any number of related persons and not to exceed two unrelated persons, or not to exceed five non-related persons, living as a single, non-profit housekeeping unit. (Live-in household employees shall be excluded from these computations.)

FENCE: A barrier composed of posts or piers connected by boards, rails, panels or wire, or a masonry wall.

FINGER PIER: An extension from a dock used to create moorage slips.

FLOATING PLATFORM: A flat structure or device moored or anchored, not permanently secured by piles, which floats upon the water.

FLOOR AREA, GROSS: The number of square feet of total floor bounded by the exterior faces of the building.

GARAGE (including CARPORT): An accessory building or an accessory portion of the main building designed and/or used customarily for shelter or storage of vehicles and boats.

GROIN: A structure used to interrupt sediment movement along the shore.

HIGH WATER LINE: The mark which will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual so as to continue in all ordinary years as to mark upon the soil a character distinct from that of abutting uplands in respect to vegetation as that condition exists on the enactment date of this ordinance or subsequent amendments.

HOME OCCUPATION: A use conducted within a dwelling or accessory building provided that such use does not involve internal or external structural alterations nor involve construction features not customary to a residential dwelling.

IMPROVEMENT: For purposes of the watercourse setback requirements of this Code, "improvement" shall mean any building, structure or other physical addition and/or alteration to real property. It shall include initial land clearing, excavation and/or fill, diversion of watercourses, and underground wires, pipes, or other similar underground utility installations; Provided that the following shall not be considered an improvement under the watercourse setback provisions of this Code:

1. General property and utility maintenance, landscaping gardening.
2. Single family utility connections.
3. Fences except where they divert or block watercourses.
4. Accessory buildings of less than 100 square feet of floor area.
5. Projects which require approval of the City Design Commission or City Council. However, such projects shall comply with the intent and purpose of watercourse setback provisions of this Code.

For purposes of the Design Commission provisions of this Code, "improvement" shall mean any building, structure, or other improvement to real property. It shall include, but not by way of limitation, street improvements, street furniture, park developments, private and public schools, commercial and business developments, public utility and governmental buildings and structures, religious institutions, hotels, motels, apartment houses, and other multiple family dwellings, hospitals, rest homes and other similar developments, and commercial and non-commercial recreational areas. It shall not include underground wires, pipes or other similar underground utility installations.

JETTY: An artificial barrier used to change the natural littoral drift to protect inlet entrances from clogging by excess sediment.

KITCHEN: Any room used for, intended or designed to be used for cooking and/or preparation of food.

LANDFILL: The placement of earth material by artificial means.

LIFT STATION (Boat Hoist): A structure or device normally attached to a dock or pier used to raise a watercraft above the

waterline for secure moorage purposes.

LOT: Land held as a unit, regardless of whether platted or unplatted, and regardless of whether described on plats or in documents of title as one of several tracts, blocks, lots, parcels or portions thereof. Land is held as a unit if contiguous and beneficially owned or controlled by one person or by a group of affiliated persons (such as a marital community, or joint venture, or partnership or a corporation and one or more of its subsidiaries, officers, directors or stockholders, etc.) acting together with respect to the land; provided that the existence of a public or private roadway, utility and/or similar easement shall not be deemed to divide or make land noncontiguous if land on both sides of such easement is so owned or controlled.

LOT-CORNER LOT: A lot located at the junction of and abutting two or more intersecting streets.

LOT-UPLAND LOT: A lot having no frontage of Lake Washington.

LOT-WATERFRONT LOT: A lot having frontage on Lake Washington.

MARINA: A dock or basin providing for the rental or sale of secure mooring slips.

MOTEL: A building or group of buildings on a lot consisting of individual sleeping quarters attached or connected, not more than fifty percent of which have kitchen facilities, normally used for rental to travellers.

NON-CONFORMING USE OR STRUCTURE: A lawful use of land or structure lawfully in existence on the effective date of this Code, or at the time of any amendment thereto, which does not conform to the regulations of the zone in which such use or structure is located.

ON-PREMISE SIGN: A sign identifying the premises upon which it is located or the occupants thereof.

PANORAMS OR PEEPSHOWS: Any device which upon insertion of a coin or by any other means, exhibits or displays a picture or view of a film, video cassette or disc, or by any other means.

PERSON: An individual, partnership, corporation, association organization, cooperative, municipal corporation or agency of the State.

PILE: A timber or section of concrete driven into the ground to serve as a support or moorage.

PREMISES: A tract of land with or without improvements, including but not limited to a building, room, enclosure, vehicle, vessel or other place thereon.

RECREATIONAL AREA, COMMERCIAL: An area, including facilities and equipment, for recreational purposes, such as a swimming pool, tennis courts, a golf course, or a playground, intended to be operated for profit.

RECREATIONAL AREA, NON-COMMERCIAL: An area, including facilities and equipment purposes, such as a swimming pool, tennis courts, a golf course, or a playground maintained and operated by a non-profit club or organization with specified limitations upon the number of members or limited to residents of a block, subdivision, neighborhood, community or other specific area of residence for the exclusive use of members and their guests.

RECREATIONAL AREA, PRIVATE: An area, including facilities and equipment, for recreational purposes, such as a swimming pool, tennis courts, a golf course, or a playground maintained by an individual for the sole use of his/her household and guests, located or adjacent to his/her residence, not for profit or in connection with any business operated for profit.

REGULATED IMPROVEMENTS: Any improvement upon any property within the City, not owned by or under the control of the City, other than single family residences and buildings, structures and uses accessory thereto upon land zoned "R".

RESIDENTIAL USES: For purposes of the Shoreline Management provisions of this Code, "residential uses" shall mean those uses allowed in the R-8.4, R-9.6, R-12, R-15, R-2L, and R-2 classifications.

REST HOMES: A building and/or premises used for nursing, dietary care, and other personal services rendered to convalescents, invalids and aged persons, but excluding contagious, communicable or mental disease cases and surgery or primary treatments such as are customarily provided in sanitariums and hospitals.

RETAIL USE: A commercial enterprise which provides goods or services directly to the consumer, whose goods or services are available for immediate purchase, and whose services are not traditionally found within a business or commercial office. Uses may be considered retail even though an incidental portion of the business involves uses other than retail.

RETAINING WALLS/ROCKERIES: A wall of masonry, wood, rock, metal, or other similar materials or combination of similar materials that bears against earth or other fill surface for purposes of resisting lateral or other forces in contact with the wall, and/or the prevention of erosion.

RETIREMENT HOME: An establishment operated for the purpose of providing domiciliary care for a group of persons who by reason of age are unable to or do not desire to provide such care for themselves and who are not in need of medical or nursing aid, except in cases of temporary illness.

RIPRAP: Hard angular quarry rock or other similar materials used for eroision control and/or land or bank stabilization.

SEMI-PRIVATE WATERFRONT TRACT: A separate shoreline property interest created by easement or deed in favor of upland parcels which is used for water-related recreational uses.

SENIOR CITIZEN HOUSING: Dwelling units which are used exclusively for housing persons sixty (60) years of age and older.

SHARED PIER: A dock or pier which straddles a common property line between two contiguous waterfront parcels for the benefit of the two waterfront properties.

SIGN: Any series of letters, figures, design symbols, lights, structure, billboard, trademark or device intended or used to attract attention to any activity, service, place, subject, person, firm, corporation, or thing. Excluded are official traffic signs or signals, public notices, and governmental flags.

SIGN, DIRECTIONAL: A structure which contains only the name and location of a use located elsewhere and intended for guidance only.

SOLAR ENERGY SYSTEM: Any device, structure, mechanism, or series of mechanisms which use solar radiation as an energy source for heating, cooling, or electrical energy.

SPECIFIED ANATOMICAL AREAS:

1. Less than completely and/or opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola.
2. Human male genitals in a discernably turgid state, even if completely or opaquely covered.

SPECIFIED SEXUAL ACTIVITIES:

1. Human genitals in a state of sexual stimulation, and/or
2. Sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex or between humans and animals, and/or
3. Acts of human masturbation, sadism or torture in the context of sexual relationship, and/or sadomasochistic abuse in the context of sexual relationship, and/or
4. Fondling or other erotic touching of human genitals, pubic region, buttocks or the female breast.

STREET: An improved or unimproved public or private right-of-way or easement which affords or could be capable of affording vehicular access to property.

STREET FURNITURE: Improvements located in streets or rights-of-way and parking lots or other similar open spaces on a site, including, but not limited to, light standards, utility poles, newspaper stands, bus shelters, planters, traffic signs, traffic signals, benches, guard rails, rockeries, retaining walls, mail boxes, litter containers, and fire hydrants.

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

SUBSTANTIAL DEVELOPMENT: A development of which the total cost or fair market value exceeds \$2,500. or any development which materially interferes with the normal public use of the water within the wetlands of the City.

TRAILER: A vehicle without motor power designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons and property, including a mobile home or trailer coach and any self-propelled vehicle having a body designed for or converted to the same uses as an automobile trailer without motor power.

VARIANCE OR DEVIATION (Zoning): The means by which an adjustment is made in the case of a particular lot or tract to require only substantial compliance with provisions of the zoning regulations pertaining to building height limits, building lot area requirements, yard requirements, fence height requirements, parking requirements, or other similar requirements.

VARIANCE (Shoreline Master Program): An alteration of the use regulations of the City of Mercer Island Master Program. (19.04.130, MICC).

VEHICLE: An instrument capable of movement, by means of wheels, skids or runners of any kind, along roadways, paths, or other ways of any kind, specifically including, but not limited to, all forms of automotive vehicles, buses, trucks, cars and vans, and all forms of trailers or mobile homes of any size whether capable of supplying their own motor power or not, regardless whether the primary purpose of such instrument is or is not the conveyance of persons or objects. A "vehicle" includes all such instruments even if immobilized in any way and for any period of time.

WATERCOURSE: 1) 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; and 2) It shall not include any ponds or man-made drainage ditches, or the like.

WATERFRONT STRUCTURE: Docks, piers, wharves, floats, mooring piles, anchor buoys, bulkheads, submerged or overhead wires, pipes, cables, and any other object passing beneath, through or over the water beyond the line of ordinary high water, the line of ordinary high water being that point on the shore to which the water extends at the highest stage of the lake level during the year without regard to the shoreline as created by bulkheads or other artificial structures.

WETLANDS: Those areas extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water line, and all marshes, bogs, swamps, in close proximity to and influenced by Lake Washington.

YARD: An open, unoccupied space, unobstructed from the ground to the sky, except where specifically provided by this Code, on the lot on which a building is situated, required to be kept open by the yard requirements prescribed herein.

YARD, FRONT: The yard adjacent to the property line from which vehicular access is provided.

YARD, REAR: The yard opposite the front yard.

YARD, SIDE: The yard adjacent to the property line. All yards not otherwise designated shall be defined as a side yard.

SECTION 19.04.030 ZONE ESTABLISHMENT

- (A) In order to carry out the purpose of this Code in the interest of public health, safety, and general welfare, the following zone classifications are hereby established:

| <u>ZONE</u> | <u>SYMBOL</u> |
|--------------------|---------------|
| SINGLE FAMILY | R-8.4 |
| SINGLE FAMILY | R-9.6 |
| SINGLE FAMILY | R-12 |
| SINGLE FAMILY | R-15 |
| MULTIPLE FAMILY | R-2L |
| MULTIPLE FAMILY | R-2 |
| MULTIPLE FAMILY | R-3 |
| BUSINESS | B |
| PLANNED BUSINESS | PBZ |
| COMMERCIAL OFFICES | C-O |
| PUBLIC INSTITUTION | P |

- (B) The location and boundaries of the various zones of the City are shown and delineated on the zoning map attached hereto as Exhibit "A", and incorporated herein by reference.
- (C) The location and boundaries of the various zones as hereafter determined shall be shown and delineated on zone maps covering portions of the City, each of which maps shall be a part of this Code either by adoption as a part hereof or by amendment hereto.
- (D) Each zone map showing the classification and boundaries shall become part of this Code and said map and all notations and other information shown thereon shall thereafter be as much a part of this Code as if all the matters and information set forth on said map were fully described herein.
- (E) A zone map may be divided into parts and each part may, for purposes of identification, be subdivided into units. Such parts may be separately and successively adopted by means of an amendment of this Code and, as adopted, such zone map, or its parts, shall become a part of this Code.
- (F) Changes in the boundaries of a zone shall be made by Ordinance adopting an amended map, or part of said zone map.
- (G) When uncertainty exists as to the boundaries of any zones shown on said zone maps, the following rules shall apply:

- (1) Where such boundaries are indicated as approximately following street lines or lot lines, such lines shall be construed to be such boundaries.
 - (2) In unsubdivided property and where a zone boundary divides a lot, the location of such boundaries, unless the same are indicated by dimensions, shall be determined by use of the scale appearing on such zone map.
 - (3) Where property abuts Lake Washington, the land use classification of the upland property extends waterward across the abutting shorelands and beds to the midpoint of the surrounding waters.
 - (4) In case any uncertainty exists, the Planning Commission shall recommend and the City Council shall determine the location of boundaries.
 - (5) Where a public street is officially vacated or abandoned, the land use classification applicable to the abutting property shall apply to such vacated or abandoned street.
- (H) The boundaries of such zones as are shown upon any zone map adopted by this Code or amendments thereto, are hereby adopted and approved. The regulations of this Code governing the uses of land, buildings, and structures, the height of buildings and structures, and other matters as herein set forth are hereby established and declared to be in effect upon all land included within the boundaries of each and every zone shown upon each zone map.
- (I) EXCEPT AS HEREINAFTER PROVIDED:
- (1) No building or structure shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land, building, structure or premises be used for any purpose or in any manner other than a use listed in this Code, or amendments thereto, as permitted in the zone in which such land, building, structure or premises is located.
 - (2) No building or structure shall be erected nor shall any existing building or structure be moved, reconstructed or structurally altered to exceed in height the limit established by this Code or amendments thereto for the zone in which such building or structure is located.

- (3) No building or structure shall be erected nor shall any building or structure be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the building site requirements and the area and the yard regulations established by this Code or amendments thereto for the zone in which such building or structure is located.
- (4) No yard or other open spaces provided about any building or structure, or the purpose of complying with the regulations of this Code or amendments thereto, shall be considered as providing a yard or open space for any other building or structure.

SECTION 19.04.040 NONCONFORMING STRUCTURES AND USES.

(A) APPLICATION OF THIS SECTION:

This section shall apply to structures and uses which become nonconforming as a result of the passage of this Code, or any subsequent amendments thereto; provided that nonconforming waterfront structures shall be regulated pursuant to the provisions of Section 19.04.130 (W) of this code.

(B) EFFECT OF REMOVAL OR DESTRUCTION OF NONCONFORMING STRUCTURE:

If any nonconforming structure is destroyed or abated, it may only be reconstructed so as to be in compliance with provisions of this Code.

(C) RECONSTRUCTION OF PARTIALLY DESTROYED OR DAMAGED STRUCTURE:

A nonconforming structure which is damaged or partially destroyed to the extent of not more than fifty percent (50%) of its fair market value (construction cost at the time of reconstruction) at the time of the occurrence, may be restored and the use of such structure which existed at the time of the occurrence may be continued, but such restoration shall not extend the abatement date, if any, of the original structure and/or use.

(D) NONCONFORMING STRUCTURES; STRUCTURAL ALTERATIONS OR ENLARGEMENTS.

(1.) Unless otherwise specifically provided in this Code, nonconforming structures may not be enlarged or structurally altered unless the enlargement or structural alteration makes the structure more conforming to this Code, or is required by law; however, where a structure is nonconforming only by reason of yards or open spaces, structural alterations or enlargements are allowed if they do not increase the degree of nonconformity of yards or open spaces. Such alterations or enlargements shall observe the yards and open spaces required on the lot.

(2.) Normal upkeep, repair and maintenance of nonconforming structures is allowed, but shall not extend the abatement date, if any, of the original structure.

(E) CONTINUATION OF NONCONFORMING USES AND STRUCTURES:

- (1) Any change of a nonconforming use in a conforming or nonconforming structure shall be to a conforming use only.
- (2) Any nonconforming use which has been abandoned shall not be reoccupied except by a conforming use.
 - (a) A nonconforming structure or part thereof and/or a nonconforming use which has been unoccupied continuously for six (6) months or more shall be deemed to have been abandoned and shall be abated.
 - (b) If the owner of a nonconforming structure voluntarily destroys or demolishes such structure, the nonconforming use shall be deemed to have been abandoned.
- (3) While a nonconforming use exists on any lot, no additional use may be established thereon, even though such additional use would be a conforming one, unless an abatement date has been established for the nonconforming use.
- (4) A nonconforming use of a conforming or nonconforming building may be changed to another use of the same or more conforming classification, but if the change is made to a more conforming use the building cannot thereafter be used for a less restricted use.

(F) ESTABLISHMENT OF ABATEMENT DATE:

When any nonconforming structure or use exists in any zone, the City Council, on recommendation of the Planning Commission, is authorized to fix a date by which the nonconforming structure or use must be discontinued and abated.

The Planning Commission shall make its recommendation to the City Council only after conducting a public hearing with written notice of said hearing directed to the owner of record of the property affected by certified mail, return receipt requested. The Planning Commission's recommendation shall be based upon evidence including, but not limited to, the assessed value of the property, the appraised value of the property, the latest date before the effective date of this Code upon which substantial investment was made in any structure on the property consisting of major structural alterations or enlargements or the installation of major equipment, the duration of the nonconforming structure or use, the compatibility of the nonconforming structure or use with the character of the surrounding neighborhood, the magnitude of nonconformity,

the environmental impact(s) of the nonconforming structure or use, and whether the nonconforming structure or use constitutes a public nuisance or adversely impacts the public health, safety, morals, and welfare. The Planning Commission shall attempt to ensure that all major investment in any structure on the property is amortized prior to the date set for abatement of any structure.

The City Council, upon recommendation of the Planning Commission, shall have the authority to fix the abatement date and cause written notice of said abatement date to be sent to the owner of record. Notice shall be sent at least six (6) months in advance of the date set for abatement.

If discontinuance of use or abatement of non-conforming structure or use does not occur in accordance with the requirements of the City Council, such noncompliance with Council imposed requirements shall be considered a violation of the provisions of the Code and is subject to the enforcement provisions set forth herein.

SECTION 19.04.050 LAND USE CLASSIFICATIONS

.0501 SINGLE FAMILY R-8.4

(A) USES PERMITTED:

- (1.) Single family dwelling unit.
- (2.) Private conservatories and structures for plants and flowers.
- (3.) Electrically powered fixed mechanical equipment for private utilities of a building site.
- (4.) Off-street parking and private garages.
- (5.) Lodgers not to exceed two (2).
- (6.) Private Recreational Facilities.
- (7.) Public schools accredited or approved by the State for compulsory school attendance, but subject to the following conditions:
 - (a) Must be located thirty-five (35) feet or more from any other lot in an "R" zone with a minimum building line setback of forty-five (45) feet from any public right-of-way.
 - (b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space per elementary classroom and for high schools at a ratio of one (1) parking space per classroom plus one (1) parking space per ten (10) students.
 - (c) Not more than thirty-five (35) percent coverage of the site area with structures.
 - (d) A minimum area of one-fourth (1/4) of an acre must be provided as an area abutting or adjacent to and in one (1) usable unit devoted exclusively to playfield purposes.
- (8.) Accessory uses incidental to residency in and conducted within the main building, including the exercise of a home occupation, subject to the following conditions;

- (a) The occupation shall not involve the external alteration of any structure.
- (b) Only those persons who reside on the premises and are members of the immediate family, and one other person, who may or may not reside on the premises, shall be permitted to engage in the occupation.
- (c) There shall be no exterior storage or display of materials, and no sign advertising the occupation located on the premises.
- (d) No offensive noise, vibration, smoke, dust, odor, heat or glare or unusual or excessive traffic to and from the premises shall be produced or generated by the occupation.
- (e) The occupation shall not involve the use of more than 25 percent of the total square footage of the primary residential building.
- (f) Off-street parking, adequate to serve the clientele of the occupation, shall be provided.
- (g) The occupation shall not be a hospital, barber shop, beauty shop, automobile repair shop, restaurant, commercial stable, kennel or place of instruction of more than three (3) students at a time.
- (h) Day care services within a residential unit shall be limited to three (3) children (not including dependents) at a time. Up to six (6) children (not including dependents) shall be allowed subject to the approval of the Code Official. The applicant must demonstrate that the business will not result in excessive noise, traffic, parking problems, and that the single family residential character of the immediate neighborhood will not be altered.

(9.) Public Park subject to the following conditions:

- (a) Access to local and/or arterial thoroughfares shall be reasonably provided.

- (b) Outdoor lighting shall be located to minimize glare upon abutting property and streets.
 - (c) Buildings and active play areas shall be located twenty (20) feet or more from all boundaries above the line of ordinary high water.
 - (d) Boundaries of the area above the line of ordinary high water shall be reasonably screened or fenced, or both, from abutting property and streets and appropriately landscaped. The maintenance of privately owned landscape screens shall be guaranteed by posting a bond to the City in a reasonable amount if required by the Design Commission. The above requirements shall be accomplished consistent with a reasonable time schedule of park development.
 - (e) A plot, landscape and building plan showing compliance with these conditions shall be filed with and approved by the Design Commission, and the construction and maintenance of building and other improvements and the establishment and continuation of uses shall comply with the approved plot, landscape and building plan, with deviation permitted only upon approval by the Design an Commission of a new or amended plan.
- (10.) Semi-private waterfront recreation areas for use by ten or fewer families, as provided in Section 19.04.130 (BB).
- (11.) Accessory buildings and uses incidental to the main building and use.

(B) USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF
CONDITIONAL USE PERMIT

The following uses are permitted when authorized by the issuance of a Conditional Use Permit when the conditions set forth in this Section and in Section 19.04.1403 have been met:

- (1.) Public utility and governmental buildings or structures including, but not limited to, art galleries, libraries and museums, subject to the following conditions:
 - (a) Must be located twenty (20) feet or more from any other lot in an "R" zone.
 - (b) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each two hundred (200) square feet of gross floor area.
 - (c) Not more than thirty-five (35) percent of the lot area shall be covered with structures.
 - (d) Public utilities must be shielded from abutting properties and highways by a sight obscuring protective strip of trees or shrubs.
- (2.) Private schools accredited or approved by the State for compulsory school attendance, subject to conditions (a) through (d) contained in Section 19.04.0501 (A) (7) of this Code.
- (3.) Churches:
 - (a) Must be located thirty-five (35) feet or more from the nearest point of other lots in an "R" zone.
 - (b) Off-street parking shall be established and maintained at a ratio of one (1) parking space for each five (5) seats in the chapel or nave.
 - (c) Not more than thirty-five (35) percent of the lot area shall be covered with structures.
- (4.) Non-commercial recreational areas, subject to the following conditions:
 - (a) Access to local access and/or arterial streets shall be reasonably provided.
 - (b) Outdoor lighting shall be located to minimize glare upon abutting property and streets.
 - (c) Buildings and active play areas shall be located twenty (20) feet or more from all boundaries above the line of ordinary high water.

- (d) Boundaries of the area above the line of ordinary high water shall be reasonably screened or fenced, or both, from abutting property and streets and appropriately landscaped. The maintenance of privately owned landscape screens shall be guaranteed by posting a bond to the City in a reasonable amount if required by the Design Commission. The above requirements shall be accomplished consistent with a reasonable time schedule of development.
 - (e) A plot, landscape and building plan showing compliance with these conditions shall be filed with and approved by the Design Commission, and the construction and maintenance of buildings and other improvements and the establishment and continuation of uses, shall comply with the approved plot, landscape and building plan, with deviation permitted only upon approval by the Design Commission of a new or amended plan.
- (5.) Semi-private waterfront recreation areas for use by more than ten families, subject to conditions as provided in Section 19.04.130(BB).
- (6.) Senior citizen housing on property which is used primarily for a church and religious purposes subject to the following conditions:
- (a) Senior citizen housing structures shall not cover more than twenty (20) percent of the undeveloped portion of the church property;
 - (b) A plot, landscape and building plan shall be approved by the Design Commission, and the construction and maintenance of building and other improvements and the establishment and continuation of uses shall comply with the approved plot, landscape and building plan, with deviations permitted only upon approval by the Design Commission.
 - (c) The number of living units shall be determined by the Planning Commission upon examination of the following factors:
 - (1) Demonstrated need;
 - (2) Location, size, shape and extent of existing developments on the subject property;
 - (3) Nature of neighborhood development;

(4) Legal assurances that the entire church property remains contiguous, and that the senior citizen housing is owned and controlled by the applicant church organization.

(d) Senior citizen housing shall be located at least thirty-five (35) feet from all property lines.

(e) Off-street parking shall be established and maintained at a ratio of one-half (.5) parking space for each living unit.

(C) USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF SPECIAL EXCEPTION PERMIT FOR NONSCHOOL USES OF SCHOOL BUILDINGS

The Planning Commission, after conducting a public hearing, or the City Council on appeal, after conducting a public hearing, may permit a special exception not otherwise permitted within an existing vacated or former functioning school building owned by the Mercer Island School District.

In granting a special exception permit the Planning Commission may impose special conditions and requirements in addition to any other requirements set forth in the Zoning Code or the Municipal Code.

(1.) In granting or denying a special exception permit the Planning Commission shall use, and impose the following criteria and conditions:

(a) No use or proposed use shall be more intensive than the school activity it replaced. Consideration shall be given to quantifiable data, such as, but not limited to, traffic generation, parking demand, noise, hours of operation; and,

(b) All activities, with the exception of outdoor recreation shall be confined to the interior of the building(s); and

(c) Exterior modification of the building(s) shall not be permitted if such a modification would result in an increase in the usable area of the building(s); and

(d) Minor changes in the building exterior, landscaping, signs, and parking may be permitted subject to the review and approval of the Design Commission; and

(e) Off-street parking shall be required; and

(f) The proposed use is acceptable in terms of size and location of site, nature and intensity of the proposed use, character of surrounding development, traffic capacities on adjacent street, environmental factors, noise, hours of operation and aesthetics; and

(g) Such additional criteria and conditions as deemed necessary to accomplish the purpose of this section.

(2.) Requirements and conditions shall be attached to the permit to ensure that such use will be compatible with other existing or potential uses within the same general area and shall not constitute a nuisance.

(3.) SPECIAL EXCEPTION TERMINATES UPON SALE OR DEMOLITION OF SCHOOL BUILDING.

In the event that a building for which a special exception has been granted is demolished or sold by Mercer Island School District, the special exception shall terminate and use of the site shall be as otherwise provided by this Code.

(4.) REVOCATION BY CITY COUNCIL

All uses of school property which are authorized by special exception shall be subject to revocation by the City Council after considering a recommendation of the Planning Commission. Revocation shall be based on a finding that the authorized use constitutes a nuisance or is harmful to the public welfare, or the applicant has failed to meet the conditions imposed by the City.

(5.) REVISIONS TO APPROVED SPECIAL EXCEPTION PERMITS

The Planning Commission shall approve modifications to existing special exception permits, however, the Code Official may allow minor modifications to special exception permits, so long as the changes are consistent with the previously approved special exception permit with respect to the criteria listed in Section 19.04.0501 (C) (1).

(D) BUILDING HEIGHT LIMIT:

Except as otherwise provided in Section 19.04.0604, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

(E) BUILDING LOT AREA REQUIREMENTS:

The lot area shall not be less than eighty-four hundred (8,400) square feet. Lot width shall be not less than sixty (60) feet, and lot depth shall be not less than eighty (80) feet. A sixty (60) foot by eighty (80) foot building rectangle shall be provided on each lot, unless the rectangle requirement is waived during subdivision approval.

(F) YARD REQUIREMENTS:

Each lot shall have side and rear yards not less than the depths or widths following:

Front yard depth: Twenty (20) feet or more

Rear yard depth: Twenty-five (25) feet or more

Side yard depth: The sum of the side yards shall not be less than fifteen (15) feet, provided that no side yard abutting an interior lot line shall be less than five (5) feet, and that no side yard abutting a street shall be less than ten (10) feet.

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure that does not make provision for a garage or carport.

(G) LOT COVERAGE

For lots not under the jurisdiction of the Steep Slope Code, Municipal Code Chapter 17.10, (See appendix herein), no more than thirty-five percent (35%) of a lot may be covered by structures. Upon demonstration of good cause, the Code Official shall have the authority to waive this requirement and permit up to forty percent (40%) of a lot to be covered by structures. The Code Official's decision shall be based on the following criteria: 1) relationship of the proposed development to the site; 2) compatibility of the proposed development with adjoining residential structures; 3) minimization of the magnitude of the

request; 4) any other relevant physical or environmental factors.

(A) USES PERMITTED:

- (1.) Any R-8.4 zone use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building lot area requirements of this R-9.6 zone.
- (2.) One accessory building for the housing of domestic animals and fowl, having a floor area not to exceed thirty-six (36) square feet for each building site and located not less than sixty-five (65) feet from any place of habitation other than the owners and provided further that the roaming area shall be fenced and located not less than thirty-five (35) feet from any adjacent place of human habitation.

(B) USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT:

Any R-8.4 zone conditional use is permitted; provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building lot area requirements of this R-9.6 zone.

(C) USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF SPECIAL EXCEPTION PERMIT FOR NONSCHOOL USES OF SCHOOL BUILDINGS.

Nonschool uses of school buildings are permitted upon approval of a Special Exception Permit issued in accordance with the provisions of Section 19.04.0501 (C).

(D) BUILDING HEIGHT LIMIT:

Except as provided in Section 19.04.0604, General provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

(E) BUILDING LOT AREA REQUIREMENTS:

The lot area shall be not less than ninety-six hundred (9,600) square feet. Lot width shall be not less than seventy-five (75) feet, and lot depth shall be not less than eighty (80) feet. A seventy-five (75) foot by eighty (80) foot building rectangle shall be provided on each lot, unless the rectangle requirement is waived during subdivision approval.

(F) YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depth or widths following:

Front yard depth: Twenty (20) feet or more

Rear yard depth: Twenty-five (25) feet
or more

Side yard depth: The sum of the side yards shall not be less than fifteen (15) feet, provided that no side yard abutting an interior lot line shall be less than five (5) feet and that no side yard abutting a street shall be less than ten (10) feet.

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure which does not make provision for a garage.

(G) LOT COVERAGE

For lots not under the jurisdiction of the Steep Slope Code, Municipal Code Chapter 17.10, (See appendix herein), no more than thirty-five percent (35%) of a lot may be covered by structures. Upon demonstration of good cause, the Code Official shall have the authority to waive this requirement and permit up to forty percent (40%) of a lot to be covered by structures. The Code Official's decision shall be based on the following criteria: 1) relationship of the proposed development to the site; 2) compatibility of the proposed development with adjoining residential structures; 3) minimization of the magnitude of the request; 4) any other relevant physical or environmental factors.

(A) USES PERMITTED:

Any R-8.4 or R-9.6 zone use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building lot area requirements of this R-12 zone.

(B) USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT:

Any R-8.4 or R-9.6 zone conditional use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building lot area requirements of this R-12 zone.

(C) USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF SPECIAL EXCEPTION PERMIT FOR NONSCHOOL USES OF SCHOOL BUILDINGS.

Nonschool uses of school buildings are permitted upon approval of a special exception permit issued in accordance with the provisions of Section 19.04.0501(C)

(D) BUILDING HEIGHT LIMIT:

Except as provided in Section 19.04.0604, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

(E) BUILDING LOT AREA REQUIREMENTS:

The lot area shall be not less than twelve thousand (12,000) square feet. Lot width shall be not less than seventy-five (75) feet and lot depth shall be not less than eighty (80) feet. A seventy-five (75) by eighty (80) foot building rectangle shall be provided on each lot, unless the rectangle requirement is waived during subdivision approval.

(F) YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depths or widths following:

- Front yard depth: Twenty (20) feet or more
- Rear yard depth: Twenty-five (25) feet or more

Side yard depth: The sum of the side yards shall not be less than fifteen (15) feet, provided that no side yard abutting an interior lot line shall be less than five (5) feet, and that no side yard abutting a street shall be less than ten (10) feet.

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure which does not make provision for a garage.

(G) LOT COVERAGE

For lots not under the jurisdiction of the Steep Slope Code, Municipal Code Chapter 17.10, (See appendix herein), no no more than thirty-five percent (35%) of a lot may be covered by structures. Upon demonstration of good cause, the Code Official shall have the authority to waive this requirement and permit up to forty percent (40%) of a lot to be covered by structures. The Code Official's decision shall be based on the following criteria: 1) relationship of the proposed development to the site; 2) compatibility of the proposed development with adjoining residential structures; 3) minimization of the magnitude of the request; 4) any other relevant physical or environmental factors.

(A) USES PERMITTED:

1. Any R-8.4, R-9.6 or R-12 zone use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building lot area requirements of this R-15 zone.

(B) USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF A CONDITIONAL USE PERMIT:

Any R-8.4, R-9.6 or R-12 zone conditional use is permitted provided that the lot or parcel of land, any portion of which is devoted to such uses, shall comply with the building lot area requirements of this R-15 zone.

(C) USES PERMITTED WHEN AUTHORIZED BY THE ISSUANCE OF SPECIAL EXCEPTION PERMIT FOR NONSCHOOL USES OF SCHOOL BUILDINGS.

Nonschool uses of school buildings are permitted upon approval of a special exception permit issued in accordance with the provisions of Section 19.04.0501(C).

(D) BUILDING HEIGHT LIMIT:

Except as provided in Section 19.04.0604, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

(E) BUILDING LOT AREA REQUIREMENTS:

The lot area shall be not less than fifteen thousand (15,000) square feet. Lot width shall be not less than ninety (90) feet and lot depth shall be not less than eighty (80) feet. An eighty (80) foot by ninety (90) foot building rectangle shall be provided on each lot, unless the rectangle requirement is waived during subdivision approval.

(F) YARD REQUIREMENTS:

Each lot shall have front, side and rear yards not less than the depths or widths following:

- Front yard depth: Twenty (20) feet or more
- Rear yard depth: Twenty-five (25) feet or more

Side yard depth: The sum of the side yards shall not be less than fifteen (15) feet, provided that no side yard abutting an interior lot line shall be less than five (5) feet and that no side yard abutting a street shall be less than ten (10) feet.

One (1) side yard setback requirement shall be increased to twenty (20) feet for any residential structure which does not make provision for a garage.

(G) LOT COVERAGE

For lots not under the jurisdiction of the Steep Slope Code, Municipal Code, Chapter 17.10, (See appendix herein), no more than thirty-five percent (35%) of a lot may be covered by structures. Upon demonstration of good cause, the Code Official shall have the authority to waive this requirement and permit up to forty percent (40%) of a lot to be covered by structures. The Code Official's decision shall be based on the following criteria: 1) relationship of the proposed development to the site; 2) compatibility of the proposed development with adjoining residential structures; 3) minimization of the magnitude of the request; 4) any other relevant physical or environmental factors.

- (A) PRINCIPAL USES PERMITTED OUTRIGHT: (Any use not permitted by this Section is expressly prohibited.)
- (1.) Any use permitted in single-family residential zones.
 - (2.) Multiple family dwelling units, PROVIDED that, there shall not be more than eight (8) single-family apartment units in any one building, and PROVIDED FURTHER that, said multiple family residential buildings must comply with the following conditions:
 - (a) Off-street parking shall be established and maintained at a minimum ratio of two (2) parking spaces for each multiple family dwelling unit contained therein.
 - (b) Parking shall not be allowed in the front yard setback.
 - (c) Each multiple family dwelling unit must have one (1) or more bedrooms.
 - (d) Group parking areas shall be screened from view from streets and adjoining properties. If screening is solid planting, it shall be of evergreen variety and shall constitute a solid planting within two (2) years.
 - (e) The finished grade must conceal at least one-half of the total foundation area of a daylight basement.
- (B) BUILDING HEIGHT LIMIT: No building constructed pursuant to this section shall be erected to a height in excess of twenty-four (24) feet, nor shall any building comprise more than two (2) stories in addition to a daylight basement.
- (C) BUILDING LOT AREA REQUIREMENTS: The minimum building lot area shall be six thousand (6,000) square feet; lot width shall be not less than sixty (60) feet; lot depth shall be not less than eighty (80) feet; EXCEPT: There shall be at least an additional one thousand five hundred (1,500) square feet of lot area for each multiple family dwelling unit in excess of one (1).
- (D) YARD REQUIREMENTS:
- Front yard depth: Twenty (20) feet or more.

Side yard depth: Twenty (20) feet or more.

Rear yard depth: Twenty-five (25) feet or more.

- (E) LOT COVERAGE: Not more than thirty-five (35) percent of the lot area shall be covered with structures.
- (F) CATASTROPHIC LOSS: Structures which are non-conforming or become non-conforming because of the passage of this Ordinance in terms of number of residential units, parking spaces, yard requirements (setbacks), site coverage or height which are partially or totally destroyed by fire, storm, accident or other catastrophic incident may be reconstructed subject to the requirement that any new construction is subject to Design Commission review and approval. The structure may not be reconstructed so as to increase the degree of non-conformity of such structure. Notwithstanding the above, the Design Commission may not impose a condition in its design review of a catastrophically lost building which would have the effect of reducing the number of units otherwise permitted.
- (G) CENTRAL BUSINESS DISTRICT DEVELOPMENT: Any development within the Central Business District shall comply with the Central Business District Plan, and specifically the implementation measures contained therein.

(A) PRINCIPAL USES PERMITTED OUTRIGHT: (Any use not permitted by this section is expressly prohibited.)

- (1.) Any use permitted in single-family residential and R-2L zones.
- (2.) Clubs and fraternal societies whose chief activity is not a service customarily carried on as a business; PROVIDED, that the following conditions shall be fulfilled:
 - (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each seventy-five (75) square feet of gross floor area.
 - (b) Not more than thirty-five (35) percent of the lot area shall be covered with structures.
- (3.) Apartments, PROVIDED that the following conditions shall be fulfilled:
 - (a) Off-street parking shall be established and maintained at a minimum ratio of two (2) parking spaces for each dwelling unit contained therein.
- (4.) Hotels and motels with stores therein, PROVIDED that the following conditions shall be fulfilled.
 - (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each sleeping unit, plus the required parking spaces for the businesses contained therein, plus one (1) space for each full time employee that shall be working on any single shift.
 - (b) Business uses must be conducted and entered entirely from within the building.
 - (c) Not more than thirty-five (35) percent of the lot area shall be covered with structures.
- (5.) Retirement homes and nursing homes; PROVIDED, that the following conditions shall be fulfilled:
 - (a) Must meet all conditions prescribed by applicable Federal, State, County and local law.

- (b) Off-street parking shall be established and maintained at a minimum ratio of one-half (.5) parking space for each dwelling unit. Nursing and convalescent homes shall provide one (1) parking space for each four (4) beds.
 - (c) Not more than thirty-five (35) percent of the lot area shall be covered with structures.
 - (d) Shall meet drainage and health standards prescribed by all applicable Federal, State, County and local law.
- (6.) Day Nurseries, Pre-School and Private School Uses; PROVIDED, that the following conditions must be fulfilled.
- (a) Must be located twenty (20) feet or more from any other lot in a single-family residential, R-2 or R-2L zone.
 - (b) Off-street parking shall be established and maintained at the minimum ratio of one (1) parking space for each employee, with a minimum of two (2) parking spaces.
 - (c) Not more than thirty-five (35) percent of the lot area shall be covered with structures.
 - (d) Must meet conditions prescribed by applicable Federal, State, County and local law.
- (7.) General Office and/or Professional Office Buildings; PROVIDED, that the following conditions shall be fulfilled.
- (a) Off-street parking shall be established and maintained at a minimum ratio of one (1) parking space for each three hundred (300) square feet of gross floor area.
 - (b) Business uses must be conducted and entered entirely from within the building.
 - (c) Not more than forty-five percent (45%) of the lot area shall be covered with structures.
 - (d) Front yard depth: Twenty (20) feet or more
Side yard abutting a street: Twenty (20) feet or more.
Side yard abutting interior lot lines: Five (5) feet or more.

Rear yard depth: Twenty-five (25) feet or more.

(B) ACCESSORY USES PERMITTED OUTRIGHT:

- (1.) Single-family residential and R-2L accessory uses are permitted outright.
- (2.) Barber shops, beauty shops, coin-operated laundries, dry cleaning pickup stations, magazine stands, business or professional offices, and other accessory services, when conducted and entered entirely from within the building, with no visible evidence from the outside, and no exterior display or advertising except for one sign, not exceeding four (4) square feet, installed flat against the principal building.
- (3.) Accessory uses customarily incidental to a principal use permitted outright in this section.

(C) BUILDING LOT AREA REQUIREMENTS:

The minimum area of the building lot shall be six thousand (6,000) square feet; building lot width shall be not less than sixty (60) feet fronting on a public street or highway; and building lot depth shall be not less than eighty (80) feet; EXCEPT that apartments, dwelling groups or multiple family dwellings shall have an additional one thousand (1,000) square feet of lot area for each family or housekeeping unit in excess of one (1).

(D) YARD REQUIREMENTS:

Each building lot shall have front, side and rear yards not less than the depths or widths following:

- Front yard depth: Twenty (20) feet or more.
- Side yard abutting a street: Twenty (20) feet or more.
- Side yard abutting interior lot lines; Five (5) feet or more.
- Rear yard depth: Twenty-five (25) feet or more.

(E) BUILDING HEIGHT LIMIT:

Maximum allowable building height shall be 3 stories or 35', whichever is less, as determined on a case-by-case basis by the Design Commission.

(F) CENTRAL BUSINESS DISTRICT DEVELOPMENT:

Any development within the Central Business District shall comply with the Central Business District Plan and specifically the implementation measures contained therein.

- (A) REQUIRED CONDITIONS: All uses permitted in this zone shall be subject to the following conditions:
- (1.) All goods produced on the premises shall be sold at retail on the premises, except as provided herein.
 - (2.) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter, or water carried waste.
 - (3.) No service station or other establishment where motor fuel or lubricating oils are stored or motor services are rendered, may be located within three hundred (300) feet of any property upon which a church, school, hospital, institution, theater, or public assembly seating over fifty (50) persons, is located, and said distances shall be measured on a straight line or air line from the outer boundary or property line in the one instance to the nearest property or or boundary line.
 - (4.) Outdoor Storage and Merchandise Display Requirements
 - (a) The total area allowed for outdoor storage and/or merchandise display shall be less than 5% of the total gross square footage of the subject store;

PROVIDED, however that such area may exceed 5% if it is fenced or screened in a manner acceptable to the Design Commission;
 - (b) Stored and/or displayed materials shall not obstruct fire lanes;
 - (c) The stored and/or displayed materials shall be attractively and safely displayed, and remain on the area specified for such display;
 - (d) Bulk (uncontained) materials shall be stored less than twenty-four (24) hours;
 - (e) Items stored on a site during construction and temporary uses approved by the Code Official (e.g., Christmas tree sales lots) shall be exempt from the requirements for this Section.

(B) USES PERMITTED OUTRIGHT: (Any use not permitted by this section is expressly prohibited.)

- (1.) Hotels, motels and apartments.
- (2.) Animal hospitals and clinics when structurally enclosed.
- (3.) Banks.
- (4.) Barber shops.
- (5.) Business or professional offices or studios.
- (6.) Decorating shops.
- (7.) Employment agencies.
- (8.) Coin operated laundries, clothes cleaning and pressing shops.
- (9.) Locksmith, shoe and other repair shops.
- (10.) Printing establishments and newspaper printing presses.
- (11.) Public garages and auto repair shops.
- (12.) Real estate sales offices.
- (13.) Restaurants, cafeterias, catering and bakeries.
- (14.) Retail uses.
- (15.) Retail trade shops or shops for custom work.
- (16.) Sales rooms or storerooms for motor vehicles and other articles of merchandise.
- (17.) Service stations.
- (18.) Tailors.
- (19.) Telephone exchanges or telegraph offices.
- (20.) Commercial recreational facilities.
- (21.) Pre-schools, nursery schools and day care centers, subject to the following conditions:
 - (a) Such facilities shall meet all applicable safety and licensing laws and requirements;
 - (b) All outdoor play areas shall be adequately fenced.
- (22.) Adult businesses and/or adult entertainment activities, subject to the following conditions:
 - (a) The point of public entry into the structure housing the business shall be located at least 800 feet measured in a straight line from the property line of any R-zoned property; from the boundary of the area designated as 'proposed landscaping' on Figure 6 of the Final E.I.S. (Volume I) for I-90; or from the property line of any property containing one or more of the following uses: single or multiple family dwelling, rest or retirement home, pre-school, nursery school or daycare center, publicly-owned park or open space, recreational area (commercial, non-commercial or private), public or private primary or secondary school, religious institution, governmental building, or an establishment which caters primarily to minors.

- (b) No adult business shall be located closer than 400 feet to another adult business. Such distance shall be measured by following a straight line from the nearest point of public entry into the proposed adult business to the nearest point of entry into another adult business.
 - (c) Point of public entry into adult businesses shall not be located along 78th Avenue Southeast, or along primary pedestrian corridors (as defined in the Central Business District Plan).
 - (d) Signing shall be limited to words and letters only. Window or exterior displays of goods or services which depict, stimulate, or are intended for use in connection with specified sexual activities as defined by this title are prohibited.
- (C) ACCESSORY USES PERMITTED:
- (1.) Accessory uses customarily incidental to a principal use permitted outright in this section.
 - (2.) Any accessory uses permitted in Single-family residential, R-2, and R-2L zones.
- (D) STRUCTURE SETBACK REQUIREMENTS: All structures shall have a minimum setback from any public right-of-way of ten (10) feet, except service station pump islands which shall have a setback from the street line of at least fifteen (15) feet to provide for safe access or egress to or from such street. Setbacks from structures located in the Central Business District may be modified by the Design Commission in accordance with the Central Business District Plan and specifically the implementation measures contained therein.
- (E) BUILDING HEIGHT LIMIT: Maximum allowable building height shall be three (3) stories or thirty-six (36) feet, whichever is less; Provided however, that the maximum height limit for structures within the Central Business District shall be governed by the provisions of the Central Business District Plan and specifically the implementation measures contained therein.
- (F) CENTRAL BUSINESS DISTRICT DEVELOPMENT: Any development within the Central Business District shall comply with the Central Business District Plan, and specifically the implementation measures contained therein.

(A) USES PERMITTED:

- (1.) Public utility and governmental buildings or structures including art galleries, libraries and museums.
- (2.) Day nurseries and preschool uses.
- (3.) Structures for use of licensed practitioners (dentists, physicians, etc.)
- (4.) Barber shops and beauty shops.
- (5.) Business or professional studios and offices.
- (6.) Hand laundries, clothes cleaning agencies and pressing shops.
- (7.) Light automobile repairs, battery service and tire shops, service stations and self-contained public garages. Open spaces in this zone may not be used for storage, display, or sale of used vehicles or equipment.
- (8.) Locksmiths, shoe repairing, tailoring and similar light repair shops.
- (9.) Printing establishments and newspaper printing.
- (10.) Real estate sales offices.
- (11.) Restaurants, cafeterias, catering.
- (12.) Retail stores and personal service shops.
- (13.) Banks and theaters.
- (14.) Recreational area commercial.

(B) LIMITATIONS ON USES PERMITTED - GENERAL:

- (1.) A planned business zone may be established and shown on the map portion of this Code only if authorized by the Comprehensive Plan, and only within the general area of authority shown on the map portion of the Comprehensive Plan. The zone must abut upon at least one major arterial street.

(2.) Uses and structures within a planned business zone shall conform to a plot plan, and a separate landscape plan, each showing compliance with this Code filed with and approved by the Design Commission. Deviation from such plans shall be permitted only on filing and approval of amended plans.

(3.) Each use established or to be established within a planned business zone shall be shown on the plot plans.

(C) BUILDING HEIGHT LIMIT:

Except as provided in Section 19.04.0604, General Provisions, no building shall be erected to a height in excess of thirty-five (35) feet.

(D) MINIMUM PARCEL AREA REQUIREMENTS:

A planned business zone shall be a parcel at least five (5) acres in area.

(E) YARD REQUIREMENTS:

Buildings and off-street parking area shall be set back at least seventy-five (75) feet from the zone boundary. Vehicular access shall be confined to driveways of minimum numbers and adequate width cutting through yards.

(F) OFF-STREET PARKING:

In a planned business zone, there shall be devoted to off-street parking, vehicular loading and unloading and internal vehicular circulation, three (3) square feet for each one (1) square foot of gross floor area in the zone. Driveways shall be as found by the City Engineer to minimize traffic hazards on the public streets, and drainage shall be approved by the City Engineer.

(G) LANDSCAPING:

Required yards shall be landscaped, the landscaping to include shrubs and trees making the planning business zone compatible with surrounding uses and controlling objectionable views, glares or noise as determined by the Design Commission. The installation and maintenance of such landscaping may be secured by a bond to the City in a reasonable amount if required by the Design Commission.

(H) SIGNS:

- (1.) In a planned business zone there may be signs identifying each particular use, or the person carrying on such use; but such a sign shall be attached to the structure wherein the use is carried on, or located within that part of the planned business zone exclusively devoted to the use, and shall not be higher than the building it identifies.
- (2.) In a planned business zone, there may be business directional signs; but no such signs shall be larger than two square feet in area for each use or occupant listed on the sign.
- (3.) In a planned business zone, there shall be no signs of any kind within required yards, except that signs identifying the planned business zone as such, not higher than six (6) feet, may be located in the required yards alongside each driveway.
- (4.) Directional and entrance signs shall not be directly lighted. No signs shall be lighted by intermittent or flashing lights. No lighting for signs shall be located so as to cause a hazard to traffic.

(I) OUTDOOR STORAGE AND MERCHANDISE DISPLAY REQUIREMENTS

- (1.) The total area allowed for outdoor storage and/or merchandise display shall be less than 5% of the total gross square footage of the subject store; PROVIDED, however, that such area may exceed 5% if it is fenced or screened in a manner acceptable to the Design Commission.
- (2.) Stored and/or displayed materials shall not obstruct fire lanes;
- (3.) The stored and/or displayed materials shall be attractively and safely displayed, and remain on the area specified for such display;
- (4.) Bulk (uncontained) materials shall be stored less than 24 hours;
- (5.) Items stored on a site during construction and temporary uses approved by the Code Official (e.g. Christmas trees sales lots) shall be exempt from the requirements of this Section.

(A) USES PERMITTED:

- (1.) Any professional, legal, medical, governmental, engineering, administrative or commercial office use and may also include clinics, hospitals, research facilities, mortuaries, churches, lodges and similar semi-public uses.
- (2.) Auxiliary uses directly related to the principal use, such as residences of watchmen or employees in training, special employee dormitories, employee cafeterias, auditoriums, service station in connection with authorized motor-pool facilities and similar uses.

(B) REQUIREMENTS:

- (1.) Uses shall be limited to those which are not objectionable beyond the boundaries of the zone by reason of offensive odors, dust, smoke or gas.
- (2.) Necessary public rights-of-way shall be dedicated to the public either as a portion of a plat or upon acceptance of street dedication by the City Council and each building site shall front on or have access to such public rights-of-way.
- (3.) To protect contiguous property, a protective strip of land bordering the external boundaries and along any frontage on public rights-of-way and devoted exclusively to the planting, cultivation, growing and maintenance of sight-obscuring trees, shrubs and plant life shall be established and maintained. The maintenance guarantees of such protective strips and the planned landscaping of the site may be bonded to the City in a reasonable amount if required by the Design Commission. In lieu of such protective strip, under appropriate circumstances, there may be substituted a use classification of the outer margin of this zone consistent with the use classification of the surrounding area.
- (4.) Not more than thirty-five (35) percent of any site area shall be covered by structures, including outdoor storage areas.
- (5.) Outdoor storage facilities, including storage areas for official vehicles, shall be obscured by an approved architectural screen specified on the plot plan and approved by the Design Commission.

(6.) A plot and building plan showing compliance with the provisions herein stated shall be filed with the Design Commission and the building permit application shall comply with this approved plot plan.

(C) BUILDING HEIGHT LIMIT:

(1.) Structures, excluding stacks, shall not exceed thirty-five (35) feet in height and/or three (3) stories except that when the site exceeds five (5) acres the height may be raised one (1) additional story for each additional two and one-half (2-1/2) acres within the site area boundaries when specifically approved by the City Council upon recommendation of the Design Commission in accordance with the following standards:

(a) Approval by the Civil Aeronautical Administration.

(b) Adequate provision for ultimate off-street parking needs.

(2.) Outdoor storage facilities shall not exceed twenty (20) feet in height.

(D) BUILDING SITE AREA REQUIREMENTS:

No requirement except conformance to plot and building plans on file with the Design Commission.

(E) YARD REQUIREMENTS:

(1.) The minimum setback from all rights-of-way shall be seventy-five (75) feet with a minimum side and rear yard setback of fifty (50) feet, the same to be clearly set out in the plot and building plans and upon the building permit application.

(F) PROHIBITED USES:

(1.) Lighted signs or commercial advertising signs are prohibited but such prohibition shall not extend to reasonable signs relating to the use of the site stating the name and type of business of the occupant. The sign must be designed as a part of the architecture of the building.

(2.) Any residential use is prohibited in this zone.

- (A) PRINCIPAL USES PERMITTED OUTRIGHT: (Any use not permitted by this section is expressly prohibited.)

All uses permitted in this Section shall be subject to the condition that off-street parking be provided and maintained as prescribed in Section 19.04.070.

- (1.) Public Fire Stations.
 - (2.) Public Police Stations.
 - (3.) Public Schools under the administration of Mercer Island School District No. 400.
 - (4.) Public Parks.
 - (5.) Municipal Buildings and Uses.
- (B) The entire area within the Mercer Island I-90 right-of-way, including but not limited to, the roadway, street overcrossings, lids, open space, recreation areas, linear greenbelts and the park and ride lot area as approved by the City on November 14, 1983 and incorporated in the right-of-way plan approved by WSDOT on May 1, 1987. All such uses shall be maintained as set forth in City approved I-90 related documents.
- (C) CENTRAL BUSINESS DISTRICT DEVELOPMENT: Any development within the Central Business District shall comply with the Central Business District Plan, and specifically the implementation measures contained therein.

- (A) PRINCIPAL USES PERMITTED OUTRIGHT: (Any use not permitted by this Section is expressly prohibited.)
- (1.) Any use permitted in single family residential zones.
 - (2.) Multiple Family Dwelling units; PROVIDED, that off-street parking shall be established and maintained at a ratio of not less than two (2) parking spaces for each multiple family dwelling unit contained therein.
 - (3.) Senior Citizen Housing, including ambulatory care dwelling units as defined by applicable local and state laws; PROVIDED, that off-street parking shall be established and maintained at a ratio of not less than one-half (.5) parking space for each dwelling unit.
 - (4.) Nursing Homes as defined by applicable state laws, on property used primarily for senior citizen housing subject to the following conditions:
 - (a.) Nursing home structures shall not occupy more than ten (10) percent of the total site area and the number of nursing beds shall not exceed thirty-five (35) percent of the number of senior housing units set forth in a City approved site master plan.
 - (b.) Nursing home structures shall be sited and designed in compliance with the relevant provisions of Design Commission Section 19.04.120, subsection (H) "CRITERIA" and the Design Guidelines for public, quasi-public, and multiple family dwellings.
 - (c.) The nursing home setback shall be at least fifty (50) feet from all property lines.
 - (d.) Off-street parking shall be established and maintained at the ratio of not less than one (1) parking space for every four beds;

- (e.) A site master plan showing compliance with the above conditions must be approved by the Design Commission showing; the location of nursing homes and senior citizen housing structures, general building architecture, number of nursing beds, number of senior housing dwelling units, ingress and egress, parking, building elevations, landscaping, lighting and other relevant site planning elements.
- (B) BUILDING HEIGHT LIMIT: Maximum allowable building height limit shall be three (3) stories or thirty-five (35) feet whichever is less, as determined on a case by case basis by the Design Commission.
- (C) BUILDING LOT AREA REQUIREMENTS: The minimum building lot area shall be six thousand (6,000) square feet; lot width shall not be less than sixty (60) feet; lot depth shall not be less than eighty (80) feet; EXCEPT, that there shall be at least an additional one thousand five hundred (1,500) square feet of lot area for each multiple family dwelling unit in excess of one (1).
- (D) LOT COVERAGE: Not more than thirty-five (35) percent of the lot area shall be covered with structures.
- (E) YARD REQUIREMENTS:
- Front yard depth: Twenty (20) feet or more.
Side yard depth: Twenty (20) feet or more.
Rear yard depth: Twenty-five (25) feet or more
- (F) CATASTROPHIC LOSS: Structures which are non-conforming or become non-conforming because of the passage of this ordinance in terms of number of residential units, parking spaces, yard requirements (setbacks), site coverage or height which are partially or totally destroyed by fire, storm, accident or other catastrophic incident may be reconstructed subject to the requirement that any new construction is subject to Design Commission review and approval. The structure may not be reconstructed so as to increase the degree of non-conformity of such structure. Notwithstanding the above, the Design Commission may not impose a condition in its design review of a catastrophically lost building which would have the effect of reducing the number of units otherwise permitted.

SECTION 19.04.060 GENERAL PROVISIONS

.0601 LOT AREA REQUIREMENTS:

- (A) Any lot may be used as a building lot, regardless of building lot area requirements, subject to the other restrictions governing the zone in which it is located, if it came into existence before September 28, 1960.
- (B) No building will be permitted on a lot without frontage on a street acceptable to the City as substantially complying with the standards established for streets.
- (C) In determining whether a lot complies with the lot area requirements, the following shall be excluded: the shorelands part of any such lot and/or any part of such lot which is part of a street.
- (C) In subdivisions officially approved by the Planning Commission after April 9, 1972, under the provisions of Section 5, (8), Optional Standards for Development, City of Mercer Island Ordinance No. 59, as amended, (Subdivision Ordinance), the area of each lot shall be as approved by the City. The lot area shall not be less than 75 percent of the minimum lot area requirements of the use zone in which the subdivision is located.

.0602 PROHIBITED USES

- (A) Outhouses for use as privies or lavatory conveniences are prohibited except for emergency and construction uses.
- (B) Electric fences or any device designed to give an electric shock to any person coming in contact therewith are prohibited.
- (C) Houseboats and watercraft used for habitation or commercial purposes shall be prohibited.
- (D) Excavation and removal from the lot, as distinguished from grading on the lot, of black soil, peat, sand, gravel or other natural deposits.
- (E) The use of any vehicle or trailer as a dwelling unit is prohibited.

- (F) Any signs, except as permitted by this Code, or other City or State regulation, are prohibited.

.0603 YARD REQUIREMENTS

- (A) Porches, chimney and fireplace extensions, and unroofed, unenclosed outside stairways and decks shall not project more than three (3) feet into any yard. Eaves shall not protrude more than eighteen (18) inches into any minimum required yard. Platforms, walks, and driveways not more than thirty (30) inches above finished grade may be located within any required yard.
- (B) The front yard shall extend across the full width of the front of the lot. On corner lots the front yard shall be measured from the narrowest dimension of the lot abutting a street. The yard adjacent to the widest dimension of the lot abutting a street shall be a side yard. If a setback equivalent to or greater than required for a front yard is provided along the property lines abutting both streets, then only one of the remaining setbacks must be a rear yard.
- (C) The rear yard shall extend across the full width of the rear of the lot, and shall be measured between the rear line of the lot and the nearest point of the main building including an enclosed or covered porch.
- (D) Where official highway maps show the future width greater than the dedicated width, then the yard shall be measured from the margin of the future highway width.
- (E) On a waterfront lot, regardless of the location of access to the lot, the front yard may be measured from the property line opposite and generally parallel to the high water line.

.0604 BUILDING HEIGHT (See Definitions - Section 19.04.020)

- (A) Natural vegetation and trees may be allowed to grow to a greater height than limits for structures established by this Code.
- (B) For fence height in required yards see Section 19.04.080.
- (C) For building height limit in each Land Use Classification, see that particular Code Section.

ACCESSORY BUILDINGS

- (A) Accessory building shall comply with the requirements of this Code applicable to the main building.
- (B) Accessory buildings, including garages, are not allowed in required yards except as herein provided.
- (C) A detached accessory building shall not be closer than five (5) feet to the main building.
- (D) Garages may be built to a side property line abutting a required yard, provided that a joint agreement be executed and filed with the King County Auditor by the two property owners concerned.
- (E) Garages may be built to within ten (10) feet of the front property line when the front half of the lot is more than four (4) feet above or below the original grade at the front property line.
- (F) Garages may be built to within five (5) feet of the front property line when the front half of the lot is more than eight (8) feet above or below the original grade at the front property line.
- (G) A detached accessory building may be erected within the rear yard setback; Provided that if the building will be located closer than five (5) feet to the rear property line, a joint agreement must be executed and filed with the King County Auditor and City by the property owners concerned.

SECTION 19.04.070 PARKING REQUIREMENTS

(A) RESIDENTIAL ZONES--MINIMUM PARKING REQUIREMENTS

(1.) Single Family - "

Off street parking shall be provided at the ratio of one (1) parking space for each dwelling.

(2.) Multiple Family (R-2L, R-2)

Refer to the particular Land Use Classification Section in this Code for minimum requirements.

(3.) Notwithstanding any of the foregoing Residential Zones Minimum Parking Requirements, for projects reviewable by the Design Commission, deviations from the minimum parking requirements may be granted by the Code Official with the approval of the Design Commission and City Engineer.

(B) BUSINESS AND COMMERCIAL ZONES--MINIMUM PARKING REQUIREMENTS

(1.) Food stores and markets - one (1) parking space per two hundred (200) square feet of gross floor area, exclusive of storage areas.

(2.) Restaurants, taverns and any establishment for the sale and consumption on the premises of food, alcoholic beverages or refreshments - one (1) parking space for each one-hundred (100) square feet of gross floor area of the building, exclusive of kitchen and storage areas.

(3.) Retail establishments, such as furniture, appliance, hardware, clothing stores, shoe repair or service shops shall provide one (1) parking space for each four-hundred (400) square feet of gross floor area of the building exclusive of storage areas, with a minimum of two (2) spaces.

(4.) Real estate offices shall provide one (1) parking space for each three hundred (300) square feet of gross floor area.

(5.) Theaters shall provide one (1) parking space for each four (4) fixed theater seats.

- (6.) Banks, business and professional offices including animal hospitals or clinics shall provide one (1) parking space for each three hundred (300) square feet of gross floor area of the building.
- (7.) Bowling alleys shall provide five (5) parking spaces for each alley.
- (8.) Stadiums, sports arenas, auditoriums and other places of assembly with fixed seats shall provide one (1) parking space for each four (4) seats.
- (9.) Dance halls, exhibition halls and places of assembly without fixed seats shall provide one (1) parking space for each seventy-five (75) square feet of gross floor area of the building.
- (10.) Commercial recreation places such as skating rinks shall provide one (1) parking space for each one-hundred (100) square feet of gross floor area of the building.
- (11.) Establishments for sales of motor vehicles or machinery, shall provide one (1) parking space for each two (2) employees with a minimum of six (6) parking spaces.
- (12.) Printing and engraving shops shall provide one (1) parking space for three (3) employees with a minimum of six (6) spaces.
- (13.) Hotels and motels shall provide one (1) parking space per each sleeping unit, plus one (1) space for each full time employee on duty on any given shift.
- (14.) Pre-schools, nursery schools and day care centers shall provide two (2) parking spaces, plus one (1) parking space for each employee and shall provide adequate off-street loading and unloading facilities taking into consideration the expected number of children, location and traffic on adjacent streets.
- (15.) Single and multiple family dwelling units shall provide one (1) parking space per dwelling unit. Senior citizen housing shall provide one-half (.5) parking space for each dwelling unit.
- (16.) Public building shall provide one (1) parking

space per two hundred (200) square feet of gross floor area.

(17.) Notwithstanding any of the foregoing Commercial Zones Minimum Parking Requirements, for projects reviewable by the Design Commission, deviations from the minimum parking requirements may be granted by the Code Official with the approval of the Design Commission and City Engineer.

(18.) A commercial use which is similar to any of the above-referenced uses shall adhere to the minimum parking requirements for the referenced use or uses. The Design Commission shall determine the minimum parking requirements for a commercial use which is not referenced in this section.

(C) MIXED USES -

In the case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as hereinafter specified for cooperative use.

(D) COOPERATIVE PARKING

Cooperative parking between two or more adjoining property owners shall be allowed. The Code Official, with approval from the Design Commission and City Engineer, may reduce the total required spaces by twenty-five percent (25%) of the total combined required spaces when the applicant has demonstrated that no adverse impact will occur due to the reduced number of stalls.

(E) PARKING AREA

(1.) GENERAL -

Except in Single Family Residential Zones, all off-street parking areas shall be graded and surfaced to a standard comparable to the street which serves the parking area. The parking area shall be developed and completed to the required standards before an occupancy permit for the building to be served is issued. All traffic control devices such as parking strips designating car stall, directional arrows or signs, bull rails, curbs and other developments shall be installed and completed as shown on the approved plans. Hard surfaced parking areas

shall use paint or similar devices to delineate parking stalls and directional arrows.

- (2.) Parking lot design standards should be as set forth in the diagrams appended to this Code, unless alternative design standards are approved by the Design Commission and City Engineer.

- (3.) LOCATION -

Off-street parking shall be located on the same lot or on an adjoining lot or lots to the building to be served, EXCEPTING that off-street parking may be located in an area beginning within five hundred (500) feet of the front entrance of the building to be served, PROVIDED that there are not intersecting streets between the parking area and building to be served.

- (4.) INGRESS AND EGRESS -

The City Engineer shall have the authority to fix the location and width of vehicular ingress or egress to and from property, and to alter existing ingress and egress as may be required to control street traffic in the interest of public safety and general welfare.

- (5.) HANDICAPPED STANDARDS.

Off-street parking shall meet the relevant State design standards for the physically handicapped.

- (6.) COMPACT VEHICLES

Up to fifty percent (50%) of the required off-street parking spaces may be designed for accommodating compact vehicles. Such parking spaces must be clearly designated as compact stalls. The Design Commission may increase the percentage of compact stalls permitted if the applicant can demonstrate that no adverse impacts will occur.

- (7.) PARKING IN SETBACK - (B-ZONE)

Parking shall not be allowed in the required setback from public rights-of-way for property zoned B-Business.

(F) LOADING SPACE -

An off-street loading space, having access to a public throughfare, shall be required adjacent to each business building, hereafter erected or enlarged. Such loading space shall be of adequate size to accommodate the maximum number and size of vehicles simultaneously loaded or unloaded, in connection with the business conducted in such building. No part of the truck or van using the loading space may project into the public right-of-way.

SECTION 19.04.080 FENCES AND RETAINING WALLS/ROCKERIES

- (A) The height of a fence is measured from the uppermost part of said fence to the lowest adjacent ground level.
- (B) The height of a retaining wall or rockery is measured from the uppermost part of said retaining wall or rockery to the lowest adjacent natural ground level.
- (C) No fence shall be located in the right-of-way of any street.
- (D) Retaining walls and rockeries may be allowed in street rights-of-way subject to the approval of the City Engineer.
- (E) Where a retaining wall protects a cut below the natural grade, and is located on the line separating lots or parcels, such retaining wall may be topped by a fence or wall of the same height that would otherwise be permitted at the location if no retaining wall existed.
- (F) Where a retaining wall contains a fill, the height of the retaining wall shall be considered as subtracting from the normally permitted height of a fence constructed on the wall or on the fill within twenty (20) feet of the wall, provided that, in any event, a protective fence not more than forty-two (42) inches in height may be erected in that area, and any portion of such fence more than seventy-two (72) inches above the foot of the wall shall be an open work fence. An open work fence is one in which the component solid portions are evenly distributed, and constitute no more than fifty (50) percent of the total surface area of the face of the fence.
- (G) Fences are allowed to a maximum height of seventy-two (72) inches within the required yards; except, fences are limited to a maximum height of forty-two (42) inches within that portion of any required yard which lies within twenty (20) feet of the right-of-way margin of any street or other motor vehicle easement appurtenant to the lot upon which the fence is located.

- (H) Except in the case of regulated improvements, deviations from the forty-two (42) inch height limitation of Sub-Section (G) above, may be approved by the Code Official under the following procedure:
- (1) Two (2) copies of plot plans and elevations, drawn to scale, showing size and construction of the proposed fence, the location of all existing structures, street improvements and driveways, and landscaping, shall be submitted to the Code Official.
 - (2) The Code Official shall review the submitted plans with the City Engineer and shall base his decision to approve or disapprove the requested deviation on factors of traffic visibility, and other public and private safety considerations, lot shape, location and topography, and the nature, location and extent of adjoining public and private structures and other improvements.
- (I) Deviations from the forty-two (42) inch height limitation of Sub-Section (G) above in connection with regulated improvements, may be approved by the Design Commission under the procedures and criteria set forth in Section 19.04.120.
- (J) Fences in "B" zones shall not exceed forty-two inches (42") in height within a required yard.
- (K) Electric fences and barbed wire fences are not allowed.
- (L) These provisions do not apply to fences required by State law to enclose public utilities, or to chain link fences enclosing school grounds or public playgrounds.

SECTION 19.04.090 SIGNS

- (A) Portable signs, spinners, flashers, streamers, pennants and other similar attention getting devices, used for advertising or identification or any other purpose, are expressly prohibited; except, new commercial establishments, located in a commercial office, business, or planned business zone may use any of the above attention getting devices for a single period not exceeding seven (7) consecutive days.
- (B) The following signs or identifying devices are permitted, unless otherwise specified in this Code:
- (1) Directional or other official signs or notices that are required by law.
 - (2) Flags, pennants, or insignia of any nation, state, city or other political subdivision.
 - (3) Temporary signs advertising a political, educational, charitable, philanthropic, religious, or civic event subject to the following conditions:
 - (a) No political signs shall be located on public lands;
 - (b) Temporary signs shall not exceed six (6) square feet; provided that, temporary signs in excess of six (6) square feet but not exceeding sixteen (16) square feet shall be allowed subject to the issuance of a permit from the Code Official.
 - (c) Banners, pennants, and other similar attention getting devices shall be allowed for community wide civic activities subject to the issuance of a permit from the Code Official.
 - (4) Real estate signs advertising the sale, rent, or lease of property within a subdivision, and property zoned business, commercial office, or planned business shall be limited to sixteen (16) square feet and eight (8) feet in height, and one sign per street frontage.

(5) Real estate signs advertising the sale, rent, or lease of R-zoned property shall be unlighted, no larger in area than 6 square feet, and no higher than 60 inches above the ground. Said signs shall be located on the property which is for sale, rent, or lease. There shall be no more than one sign per street frontage.

(C) Signs shall be governed by the Design Guidelines adopted by the City.

SECTION 19.04.100 SWIMMING POOLS

- (A) A swimming pool is not allowed in a required front yard.
- (B) A swimming pool is not allowed closer than five (5) feet from any property line. This is measured from the extreme edge of the water surface of the pool edge.
- (C) A swimming pool located in a public park or non-commercial recreation area shall conform to the setback regulations governing such areas.
- (D) An outdoor swimming pool shall be fenced so that persons in street apparel and animals cannot enter the area used by bathers. The fencing shall be a solid structure or fence not less than five (5) feet in height with no openings larger than four (4) inches, therein, (other than doors or gates) and of a non-climable design. Said fence or other solid structure shall completely surround the pool in such manner as to minimize the danger of unsupervised children gaining access thereto. All gates or doors opening through such enclosures shall be equipped with a self-closing and self-latching device to keep such doors or gates securely closed at all times when not in actual use. All latches shall be placed at least five (5) feet above the ground or shall be made inaccessible to small children from the outside; provided, however, that the gate or door to any dwelling and forming any part of the enclosure hereinabove required need not be so equipped. Such fencing and latches shall be installed prior to the filling of the pool with water for use. When a pool is located within a yard enclosed by a fence which satisfies the requirements of this Code, no fence immediately surrounding said pool shall be required.

SECTION 19.04.110 WATERCOURSE SETBACK REQUIREMENTS

(A) INTENT AND PURPOSE

These regulations are intended to implement and further the Comprehensive Plans of the City and are adopted for the following purposes:

- (1.) To prevent undue hazards to public health, safety, and welfare;
- (2.) To conserve and protect the natural watercourses on Mercer Island by minimizing the disturbance to the watercourses;
- (3.) To enhance and preserve the water quality in Lake Washington;
- (4.) To minimize public expenditures for storm drainage improvements;
- (5.) To preserve and enhance the Island's natural amenities;
- (6.) To reassert and facilitate the preservation of the rights of the public and other property owners to utilize the natural receivers of surface waters for disposal thereof and to protect and defend their properties from damages from such surface waters;
- (7.) To provide for orderly development of undeveloped or partially developed parcels of land that contain or are adjacent to watercourses;
- (8.) To provide for alternate building line setback requirements where appropriate for individual land parcels that contain a watercourse;
- (9.) To further the Island's comprehensive storm drainage plans; and
- (10.) To implement the goals and objectives of the Washington State Environmental Policy Act and Shoreline Management Act.

- (B) MAP - The map which is attached to this Code as Exhibit "B" and incorporated herein by reference, generally describes the location of watercourses within the City. Notwithstanding the fact that a watercourse is shown on the map, it is intended that actual conditions existing on the property, as found by the Code Official, shall control the determination

as to whether a watercourse exists. If a watercourse is found to exist, the Code Official shall determine its actual location on the property.

(C) SETBACKS FROM WATERCOURSES

Except in the case of a deviation approved by the City Planning Commission under the provisions of SubSection (D) below or in the case of emergency situations involving immediate danger to life or property, no improvements shall be erected, installed, constructed or otherwise placed or located within, and no existing improvements shall be moved, altered, added to or enlarged so as to encroach upon, an area within twenty-five (25) feet from the centerline of a watercourse.

In the case of improvements made in emergency situations, a report of such improvements shall forthwith be made to the Code Official and an application for a deviation under SubSection (D) shall be made within thirty days of the execution, installation or construction of the emergency improvement.

The outer ten feet (10') of the twenty-five (25) feet setback from a watercourse may be utilized for access if necessary during construction, provided that plans for restoration within six months of the project completion are approved by the Code Official. These setback distances shall be measured without regard to contours by use of a planimetric map projection.

On any lot where these watercourse setback regulations apply and normal development practices cannot be observed, the Code Official shall have discretion to grant exceptions from the front and rear yard requirements of this Code to within ten feet of the front and rear yard lot lines, respectively.

In granting any such exception, the Code Official may require the submission of such of the information and documents described below in SubSection (D) (2) as he deems necessary and shall base his decision on the criteria set forth in SubSection (D) (4) below.

(D) DEVIATIONS -

- (1.) The City Planning Commission shall have the authority to grant deviations from the twenty-five (25) foot watercourse setback requirements of this Code.

(2.) An application for such deviation shall be made in writing on forms provided by the City and the applicant shall furnish the following documents and information as are determined to be necessary by the Code Official:

- (a) Four prints of a map or plot plan setting forth the following information:
 - (1) Name, address, and telephone number of applicant and owner of property.
 - (2) Legal description of the property.
 - (3) Date, north arrow, and adequate scale as determined by the Code Official.
 - (4) Contours at five foot intervals or at an interval deemed appropriate by the Code Official. A topographic survey at maximum five (5) feet intervals may be required.
 - (5) Location of proposed improvements, including but not limited to, structures, driveways, utilities, and storm drainage facilities.
 - (6) Location of building and watercourse set-back lines and approximate demarcation of land cuts, including but not limited to, foundations, retaining walls and driveways.
 - (7) Location of watercourse and approximate width and centerline thereof.
 - (8) Type of building foundation (e.g., spread footing, piling, (poured concrete or driven wood) precast blocks, single pier block, etc.).
 - (9) Location and type of watercourse crossing or culverts for roads, driveways, or other purposes.
 - (10) Treatment of excavation and fill.
- (b) Photographs as deemed necessary by the Code Official.
- (c) Other related information as deemed reasonably necessary by the Code Official.

- (3.) The Planning Commission shall take action on the requested deviation within thirty-five (35) days from the date a complete application is submitted. Lack of Planning Commission action within the prescribed period shall constitute approval of the request.
- (4.) The Planning Commission's decision shall be made from an analysis of the information submitted under Sub-section (2.) above, and shall be based on the following criteria:
- (a) Relationship of the proposed development to the site (for example, degree of land excavation or fill, type of foundation, construction, etc.);
 - (b) Access and parking; traffic visibility; turning radii;
 - (c) History and recent inventories of soil, geology and hydrology conditions;
 - (d) Consequence of proposed action or development on upstream and downstream properties;
 - (e) Relationship of the proposed development to the adjacent properties;
 - (f) The method of handling surface or storm drainage waters;
 - (g) Relationship of the proposed improvements to the current comprehensive storm drainage plans; and
 - (h) Any other relevant physical or environmental factors.
- (5.) Before any deviation shall be granted, it shall be shown that:
- (a) The proposed deviation will not constitute a hazard to the public health, welfare, and safety, or be injurious to affected property and watercourses in the vicinity; and
 - (b) The proposed deviation is necessary to the reasonable enjoyment of property rights of the applicant; and
 - (c) The proposed deviation is not in conflict with the general intent and purpose of this section

as set forth in Section 19.04.110(A) of this Code.

(E) PERFORMANCE BOND -

The City Planning Commission, as a condition to the granting of a deviation, may require a performance bond to the City in a reasonable amount to secure proper installation of alterations within the watercourse setback area as set forth on the approved plans. Implementation of a deviation approved by the Planning Commission shall be completed within one (1) year from the approval date. Upon showing of good cause, the Planning Commission may extend the completion period an additional twelve (12) month period.

(F) APPEALS

Appeals from any action of the City Planning Commission under this Section shall be in accordance with Section 19.04.1405 of this Code.

(G) ENFORCEMENT -

Enforcement of the provisions of this Section shall be in accordance with Section 19.04.1407 of this Code.

SECTION 19.04.120 DESIGN COMMISSION -

(A) INTENT AND PURPOSE -

These regulations are intended to implement and further the Comprehensive Plan of the City and are adopted for the following purposes:

- (1.) To promote the public health, safety and general welfare of the citizens of the City.
- (2.) To recognize that land use regulations aimed at the orderliness of community growth, the protection and enhancement of property values, the minimization of discordant and unsightly surroundings, the avoidance of inappropriateness and poor quality of design and other environmental and aesthetic objectives provide not only for the health, safety and general welfare of the citizens, but also for their comfort and prosperity and the beauty and balance of the community, and as such, are the proper and necessary concerns of local government.
- (3.) To protect, preserve and enhance the social, cultural, economic, environmental, aesthetic, and natural values that have established the desirable quality and unique character of Mercer Island.
- (4.) To promote and enhance construction and maintenance practices that will tend to promote visual quality throughout Mercer Island.
- (5.) To recognize environmental and aesthetic design as an integral part of the planning process.

(B) CREATION OF DESIGN COMMISSION.

There is hereby created a Design Commission for the City which shall have the powers, duties and functions as hereinafter provided.

(C) MEMBERS, QUALIFICATIONS AND TERMS.

The Design Commission shall consist of seven members, of which at least one shall be selected from each of the professions of architecture, landscape architecture, urban planning, civil engineering, and at least two lay members. All members shall be appointed by the Mayor, subject to the confirmation of the City Council. In making appointments to the Design Commission, the Mayor shall seek to appoint persons who are knowledgeable in matters of design and aesthetic judgement by virtue of

training, education, and/or experience and who possess qualities of impartiality and broad judgement. A majority of the Design Commission shall be residents of Mercer Island. Members shall serve without compensation. The initial appointment of members of the Design Commission shall be for the following respective terms: two for two years; three for three years; and remaining members for four years; thereafter, all appointments shall be for a term of four years. No member shall serve more than two consecutive terms. A person appointed to fill a vacancy shall serve for the remainder of the unexpired term. No member of the Design Commission shall participate in discussions or vote on any matter involving any client he is serving or from any business of which he is owner, or corporation officer or employee. The Mayor, with concurrence of a majority of the Council, shall have the authority to remove any member without cause.

(D) RULES AND RECORDS.

The Design Commission shall adopt rules and regulations for the conduct of its business, subject to the approval of the City Council. A majority of the membership shall constitute a quorum for the purpose of transacting business. Action by the Design Commission shall be by majority vote. A tie vote on a motion to approve shall constitute a failure of the motion and a denial of the application. The Code Official shall serve as Executive Secretary of the Design Commission and shall be responsible for all records. All meetings of the Design Commission shall be open to the public. The Design Commission shall keep minutes of its proceedings and such minutes and a copy of its rules shall be kept on file in the office of the City Clerk and open to inspection by the public.

(E) POWERS OF THE COMMISSION.

- (1.) No building or other required permit shall be issued by the City for any regulated improvement except upon prior approval of the Design Commission and no significant changes shall be made in or to an architectural feature of any regulated improvement without the prior approval of the Design Commission. Deviations from a plan approved by the Design Commission shall be permitted only upon the filing and approval of an amended plan.
- (2.) The Design Commission may require a bond to the City in a reasonable amount to secure the installation and maintenance of landscaping, screens, parking lots, exterior lighting, walkways and other similar

site improvements.

- (3.) When the City Council deems it necessary to retain consultants for a proposed capital improvement, the Council shall seek recommendations from the Design Commission as to the selection of consultants to provide design services.
- (4.) Consultants or City Officials charged with the design responsibility for a capital improvement shall hold preliminary discussions on the proposed project with the Design Commission to obtain preliminary recommendations from the Design Commission as to aesthetic, environmental and design principles and objectives which should be sought in the development of the improvement. In addition, the Design Commission shall review substantial capital improvements at the completion of the design development phase and construction document phase, or at any time they deem necessary. A capital improvement approved by the City Council after review and recommendations by the Design Commission may be implemented on a phasing basis without further review so long as the improvement is developed in substantial conformity with the reviewed plan. Significant deviations from an approved plan shall be submitted to the Design Commission for its further review and recommendations.
- (5.) The Design Commission shall complete its review and make its decision and/or recommendations within sixty days after a matter is submitted to it, unless an extension is authorized by the City Council. Decisions of the Design Commission shall be based upon the criteria set forth in Section (H) below, which criteria shall be supplemented by the Design Guidelines of the Mercer Island Design Commission, dated May 14, 1973, which are hereby adopted by reference and incorporated herein as though fully set forth, with such amendments as may be made to said Design Guidelines from time to time by the City Council.

(F) ADDITIONAL FUNCTIONS.

- (1.) The Design Commission may assist any person, group, or agency who requests design advice on matters not requiring formal Commission action.

(2.) The Design Commission shall consult and cooperate with the Planning Commission, Park and Community Activities Board, and other governmental bodies on matters affecting the appearance of the Island. The Design Commission may offer recommendations to the appropriate City agencies and officials on legislation to promote aesthetic and environmental values.

(G) PROCEDURE.

An applicant seeking Design Commission approval shall submit to the Code Official a site plan and exterior elevations and such other data as will assist the Design Commission in evaluating the proposed improvement. Preliminary drawings may be submitted for review and for a preliminary advisory opinion by the Design Commission. No formal Design Commission action shall be taken except upon final plans and elevations. Final plans and elevations shall be drawn to scale and shall indicate the nature and extent of the work proposed and shall show in detail they conform with the provisions of this Code and other applicable laws and regulations. The Code Official shall refer all applications to the Design Commission at its next regular meeting. The Design Commission may approve, approve with conditions, or disapprove an application. In no instance shall the Design Commission's action conflict with the Zoning, Subdivision, Building or other applicable City Ordinances or with State or Federal requirements. All formal decisions of the Design Commission shall be reduced to writing and shall include Findings of Fact and a statement of the reasons deemed controlling to the decision.

(H) CRITERIA.

(1.) RELATIONSHIP OF BUILDING TO SITE.

- (a) The site should be planned to accomplish a desirable transition with the streetscape, and to provide for adequate planting, and pedestrian movement.
- (b) Parking and service areas should be located, designed, and screened to be obscured from public view.
- (c) The height and scale of each building should be compatible with its site and adjoining buildings.

(2.) RELATIONSHIP OF BUILDING AND SITE TO ADJOINING AREA.

- (a) Buildings and structures should be made compatible with adjacent buildings of conflicting architectural styles by such means as screens, site breaks, and materials.
- (b) Harmony in texture, lines, and masses should be encouraged.
- (c) Attractive landscape transition to adjoining properties should be provided.
- (d) Public and quasi-public buildings and structures should be consistent with the established neighborhood character.

(3.) LANDSCAPE AND SITE TREATMENT.

- (a) Where existing topographic patterns contribute to beauty and utility of a development, they should be preserved and developed.
- (b) Grades of walks, parking spaces, terraces, and other paved areas should provide an inviting and stable appearance.
- (c) Landscape treatment should be provided to enhance architectural features, strengthen vistas and important axes, and provide shade.
- (d) In locations where plants will be susceptible to injury by pedestrian or motor traffic, they should be protected by appropriate curbs, tree guards, or other devices.
- (e) Where building sites limit planting, the placement of trees or shrubs in parkways or paved areas is encouraged.
- (f) Screening of service yards, and other places which tend to be unsightly, should be accomplished by use of walls, fencing, planting, or combinations of these. Screening shall be effective in winter and summer.
- (g) In areas where general planting will not prosper, other materials such as fences, walls, and pavings of wood, brick, stone, gravel, etc. should be used.

- (h) Exterior lighting, when used, should enhance the building design and the adjoining landscape. Lighting standards and fixtures should be of a design and size compatible with the building and adjacent areas. Lighting should be shielded, and restrained in design. Excessive brightness and brilliant colors should be avoided.

(4.) BUILDING DESIGN.

- (a) Architectural style is not restricted - evaluation of a project should be based on quality of its design and relationship to surroundings.
- (b) Buildings should be to appropriate scale and be in harmony with permanent neighboring development.
- (c) Building components - such as windows, doors, eaves, and parapets - should have good proportions and relationship to one another.
- (d) Colors should be harmonious, with bright or brilliant colors used only for accent.
- (e) Design attention should be given to mechanical equipment or other utility hardware on roof, ground or buildings so as to screen from view.
- (f) Exterior lighting should be part of the architectural concept. Fixtures, standards and all exposed accessories should be harmonious with building design.
- (g) Monotony of design in single or multiple building projects should be avoided. Variety of detail, form, and siting should be used to provide visual interest. In multiple building projects, variable siting or individual buildings may be used to prevent a monotonous appearance.

(5.) SIGNS.

- (a) Signs should be part of the architectural concept. Size, materials, color, lettering, location, number, and arrangement should be harmonious with the building design.
- (b) The number of signs should be minimized in order to avoid visual clutter.
- (c) Colors should be used harmoniously and with

restraint. Excessive brightness and brilliant colors should be avoided. Lighting should be harmonious with the design. If external spot or flood lighting is used, it should be arranged so that light source is shielded from view.

(6.) MISCELLANEOUS STRUCTURES AND STREET FURNITURE.

- (a) Miscellaneous structures and street furniture located on private property, public ways and other public property should be designed to be part of the architectural concept of design and landscape. Materials should be compatible with buildings, scale should be appropriate, colors should be in harmony with buildings and surroundings, and proportions should be to scale.
- (b) Lighting in connection with miscellaneous structures and street furniture should meet the criteria applicable to site, landscape, buildings, and signs.

(I) APPEALS.

Any person or persons feeling aggrieved by any action of the Design Commission may file a notice of appeal with the City Council setting forth the reasons for such appeal. Appeals must be filed with the City Clerk within ten days from the date of formal action by the Design Commission. The filing of an appeal shall suspend the issuance of any building or other required permit until the Council has taken final action on the appeal. The City Council shall take final action within fortyfive days of the filing of a notice of appeal. Review by the City Council shall be confined to the decision and record of proceedings before the Design Commission, except that the City Council may elect to take additional testimony bearing on the issue of alleged procedural irregularities in the proceedings before the Design Commission not shown in the record. The City Council shall, upon request, consider oral and written arguments. The City Council may affirm the decision of the Design Commission, remand to the Design Commission for further proceedings, or reverse the decision of the Design Commission if it finds that the substantial rights of the appellant have been prejudiced because the findings, conclusions or decision of the Design Commission were in violation of/or in excess of its authority or jurisdiction, made upon unlawful procedure, clearly erroneous in view of the entire record as submitted and the public policy contained in

this Code, or arbitrary or capricious.

(J) ENFORCEMENT.

Enforcement of the provisions of this Section shall be in accordance with Section 19.04.1407 of this Code.

SECTION 19.04.130 SHORELINE MANAGEMENT MASTER PROGRAM

(A) PURPOSE

It is the purpose of this section to implement the Shoreline Management Act of 1971 (Chapter 286, Laws of 1971, First Executive Session) and to regulate development of the shoreline of the City of Mercer Island in a manner consistent with the policy declared in Section 2 of that act, and the Mercer Island Local Shoreline Goals and Policies, in order to encourage water-dependent uses, and provide for maximum public use and enjoyment of the shorelines of the City.

(B) SHORELINE DISTRICT ESTABLISHED

There is hereby established the "Shoreline District" which shall include all shorelines and associated wetlands of the City, the boundaries of which are illustrated on a map, attached hereto as Appendix 3, and incorporated herein by reference. All property within said Shoreline District shall be developed and used only in accordance with the regulations of this Section.

(C) REGULATIONS SUPPLEMENTAL

The Shoreline District shall be superimposed upon and modify any existing zoning classifications in the Shoreline District. The regulations of this Section are supplemental to regulations otherwise applicable to property in the existing zones, which shall continue to apply; provided that in case of irreconcilable conflict, the provisions of this Section shall prevail.

(D) PERMIT REQUIRED FOR SUBSTANTIAL DEVELOPMENT

No substantial development shall be undertaken in the Shoreline District without first obtaining a substantial development permit from the Code Official in accordance with the procedures established herein. Such permit shall be in addition to any other permits now or hereafter required by law. No such permit shall be required where the Code Official determines that a development proposed on the shorelines is not a "substantial development" as defined in this Code.

(E) INCONSISTENT DEVELOPMENT PROHIBITED

No development shall be undertaken in the Shoreline District unless the same is consistent with the policy of the Shoreline Management Act of 1971 and the regulations of this Section. This restriction applies even though no substantial development permit is required.

(F) APPLICABILITY

These regulations and procedures shall apply to every person, firm, corporation, governmental agency or department who:

- (1.) Proposes any new use, activity, development, substantial development or structure within the incorporated area within the City of Mercer Island subject to the Shoreline Management Act of 1971, as amended, and the City's Master Program;
- (2.) Proposes a change, modification, addition or alteration to a use, activity development, substantial development, or structure existing on the effective date of this Code, subject to the Shoreline Management Act of 1971 and the City's Master Program;
- (3.) Files an application for a shoreline-related substantial development permit or variance;
- (4.) Files a written appeal to the City of Mercer Island City Council and/or the State Shorelines Hearing Board from a Hearing Examiner or Planning Commission decision relating to the City's Master Program.

(G) EXEMPTION FROM SUBSTANTIAL DEVELOPMENT PERMIT REQUIREMENT

Those activities set forth in WAC 173-14-040 currently, and as amended, shall not require a Substantial Development Permit. WAC 173-14-040 "EXEMPTION FROM PERMIT SYSTEM" is hereby adopted by reference as if set forth herein in its entirety.

For the purpose of determining an appurtenance to a single family residence, the following shall be considered normal appurtenances, located landward of the high water line: uses including, but not limited to, garages, carports, driveways, decks, patios, utilities, fences, swimming pools, hot tubs, sport courts, stairs, landscaping, grading outside the building footprint of the single-family residence which does not exceed 250 cubic yards, barbecue pits and similar minor recreational facilities, and gazebos. The Code Official may consider other structures as normal appurtenances if that structure:

1. Is consistent with the intent and purpose of this Shoreline Master Program and the state Shoreline Management Act, and
2. Is to be used by the residents and/or guests of the single-family residence to which it is

appurtenant for private recreational purposes, or

3. Is necessarily connected to the use and enjoyment of a single-family residence.

For any development waterward of the high water line (such as, but not limited to single-family docks and bulkheads) an application for exemption shall be filed with the City on forms provided by the Department of Community Development and in the manner prescribed by the Code Official. A letter of exemption shall then be issued by the Code Official and sent to the applicant and City Building Official. The Department of Ecology shall be notified pursuant to WAC 173-14-115.

If the basis for exemption is based in part or whole upon total cost or fair market value, the applicant must additionally file with the Code Official a statement of valuation. The statement of valuation shall truthfully acknowledge the true market value of all improvements of new construction contemplated, shall be signed by the applicant and authorized agent, if not the same.

If a project is deemed exempt from the requirements of a Shoreline Substantial Development permit by the Code Official, but will require a variance from the provisions of the Master Program, the applicant must request said variance through the procedures established in Section 19.04.1404 of this Code.

(H) APPLICATION WHEN DEVELOPMENT PARTLY OUT OF SHORELINE DISTRICT.

Where a single development is partly within and partly without the Shoreline District, the regulations of this Section shall apply where any part of the development occurs within the Shoreline District.

(I) ENVIRONMENTS ESTABLISHED

For the purposes of this Section, the Shoreline District is hereby divided into three environmental classifications designated as follows:

| <u>Environment</u> | <u>Abbreviated Designation</u> |
|--------------------|--------------------------------|
| Conservancy | CN |
| Urban Park | UP |
| Urban Residential | UR |

Conservancy (CN):

The purpose of the CN shoreline environment is to protect areas for environmentally related, usually public, purposes such as public and private parks and fish spawning grounds and migratory waterfowl habitats. While the natural environment is not necessarily to be maintained in a pure state, the activities to be carried on provide for minimal adverse impact upon the shoreline environment.

Urban Park (UP):

The purpose of the UP environment is to provide areas for active and passive public recreation. Such recreational facilities shall be water-dependent and designed to maintain the quality of the natural elements of the site.

Urban Residential (UR):

The UR environment is intended to protect areas which are appropriate primarily for residential uses. The purpose of the UR environment designation is to maintain the existing residential character of the designated area in terms of bulk, scale and general types of activities and developments. Semi-private waterfront recreational tracts as regulated herein are allowed in the UR environment.

The foregoing environment classifications and the boundaries of such environments are hereby established as shown on a map, marked Appendix 3, attached hereto and incorporated herein by reference, which shall be superimposed upon and modify the official zoning map of the City of Mercer Island.

(J) PROCEDURES FOR OBTAINING SUBSTANTIAL DEVELOPMENT PERMITS

Applications for permits shall be made on forms prescribed by the Code Official and shall be made by or on behalf of the property owner, lessee, contract purchaser, or other person entitled to possession of the property.

Upon receipt of an application, the Code Official shall publish notice of the application at least once a week on the same day of the week for two (2) consecutive weeks in a newspaper of general circulation within the City of Mercer Island. The applicant shall pay for the publication of the notice.

In addition, the Code Official shall ensure that notice of application has been supplied by at least one of the following methods:

- (1.) The Department of Community Development shall mail notice to residents located within at least three hundred (300) feet of the boundary of the property upon which the substantial development is proposed.
- (2.) The Department of Community Development may post notice in a conspicuous manner on the property upon which the project is to be constructed.

Such notice shall be given or mailed at least thirty (30) days before the date of final local action. Within thirty (30) days of final publication, posting or mailing of the notice, whichever comes last, any interested person may submit his written views upon the application to the Code Official or notify the Code Official of his desire to obtain a copy of the action taken upon the application. All persons who so submit their views, and all others who so notify the Code Official, shall be notified in a timely manner of the action taken upon the application.

(K) CODE OFFICIAL'S ACTION

A Substantial Development permit shall be granted only when the proposed development is consistent with: (a) the specific regulations of this chapter, (b) the policy of Section 2 of the Shoreline Management Act of 1971, and (c) the State Environmental Policy Act, and (d) the Mercer Island Local Shoreline Goals and Policies.

The burden shall be on the applicant to prove that the proposed development is consistent with criteria set forth above.

After the minimum thirty (30) day review period from the final publication, posting or mailing of the notice as prescribed in SubSection (J) but not later than forty-five (45) days from the final publication, posting or mailing of notice, the Code Official shall complete his review and make his decision to approve, approve with conditions, or deny an application for a Substantial Development Permit. If the application for a Substantial Development Permit shall require the granting of a variance from the requirement of the Master Program, or other public hearing, the Code Official shall complete his review and decision within fifteen (15) days of final disposition.

Said findings and conclusions shall set forth the manner in which the decision is consistent with the criteria set forth in this ordinance. The action of the Code Official in approving, approving with conditions, or denying an application for a Substantial Development Permit is conclusive unless an appeal is filed in accordance with the provisions of Subsection (U) herein.

(L) ADDITIONAL DATA

The Code Official may require the applicant to supply additional information or data relating to the proposed development to enable him to evaluate the application or to prepare any necessary environmental assessment or impact statement and to make a determination on the application. An application shall be cancelled by the Code Official when the applicant has failed without justification to supply required information or data within 90 days of a written request, provided the Code Official may extend the period for such submission for not more than 100 days if he finds that the delay was not the fault of the applicant.

The applicant may modify the application at any time prior to the decision so long as the modification does not substantially change the uses or increase the bulk proposed, change the essential features of the development, or otherwise increase the impact of the development upon the Shoreline District.

(M) PUBLIC HEARING

As part of the process of reviewing an application for a Substantial Development Permit, the Code Official, at his discretion, may provide for a public hearing on the application, particularly where:

- (1.) The proposed development has broad public significance, or
- (2.) Ten or more interested citizens file a written request for such hearings not later than the thirtieth day following the date of final public notice of the application, or
- (3.) The cost of the proposed development, exclusive of land, will exceed \$100,000.

Public hearings shall be conducted by the Planning Commission after not less than ten days' notice by the publication of notice in a newspaper of general circulation within the City of Mercer Island. The action of the Planning Commission to approve or deny an application shall be conclusive unless appealed to the City Council as provided in Subsection (U) herein.

(N) COMMENCEMENT OF CONSTRUCTION.

No construction pursuant to a substantial development permit authorized by this Section shall begin or be authorized and no building, grading or other construction permits shall be issued by the Code Official until all review proceedings are terminated.

(O) TIME LIMITS FOR PERMIT VALIDITY.

The following time limits shall apply to all substantial development permits:

- (1.) Construction or substantial progress toward construction of a project for which a permit has been granted pursuant to this Section must be undertaken within one year after final approval of the permit or the permit shall terminate. If such progress has not been made, a new permit shall be necessary.
- (2.) If a project for which a permit has been granted pursuant to this Section has not been completed within two years after approval of the permit, the Code Official shall review the permit, and, upon a showing of good cause do either of the following:

- (a) Extend the permit for one year, or
- (b) Terminate the permit.

(P) REVISIONS TO SUBSTANTIAL DEVELOPMENT PERMITS

When an applicant seeks to revise a Substantial Development Permit, the requirements of WAC 173-14-064, as amended, shall be met.

(Q) RECISSION

The Code Official may rescind a Substantial Development Permit at any time if he finds that the permittee has not substantially complied with conditions of the permit. Such non-compliance may be considered a public nuisance.

(R) FEES

A fee, as established by the City Council shall accompany each application for a Substantial Development Permit, Variance, and Exemption.

(S) SHORELINE VARIANCES

In specific cases the City of Mercer Island, with approval of the Department of Ecology, may authorize variances from specific requirements of this Section when there are practical difficulties or unnecessary hardships involved with carrying out the strict letter of the Shoreline Master Program. A shoreline variance will be granted only after the applicant can demonstrate that the criteria in WAC 173-14-150, as amended, are met.

(T) PLANNING DEPARTMENT DEVIATIONS FROM WATERFRONT STRUCTURE SETBACK REQUIREMENTS.

The Code Official may grant a deviation from the required setback between adjoining waterfront structures and the required 10 feet setback between waterfront structures and property line extensions waterward of the line of ordinary high water upon a finding that the circumstances of Subsection (S) apply. Any such deviation shall not exceed 10% of the waterfront setback otherwise required by this Section. The deviation shall not apply to semi-private waterfront recreation tracts. Any such deviation shall not exceed 10% of the waterfront structure setback and in no case be less than 35 feet from the adjacent waterfront structure.

(U) APPEALS.

Any person or persons aggrieved by any action of the Planning Commission or Hearing Examiner may, within ten (10) days of such action, file with the City Clerk a written notice of appeal of such action setting forth the reasons for such appeal.

The City Council shall hear the matter in a public hearing and may affirm, modify or disaffirm the decision.

Public notice of the hearing shall be provided by both publication in a newspaper of general circulation and by mailing to residents within at least three hundred (300) feet of the boundary of the subject property. Said notice shall be provided not less than ten (10) days prior to the public hearing.

(V) APPEAL TO SHORELINES HEARING BOARD.

Any final ruling under authority of this Section, whether the application be approved or denied, shall, concurrently with the transmittal of the ruling to the applicant, be filed by the Code Official with the Department of Ecology and the Attorney General.

Any person aggrieved by the granting or denying of a Substantial Development Permit on shorelines of the City, or by the rescission of a permit pursuant to this Section may seek review by the Shorelines Hearing Board by filing a request for the same within 30 days of receipt of the final order, and by concurrently filing copies of the request with the Department of Ecology and the Attorney General as provided in the Shoreline Management Act RCW 90.58.180 (1), as amended.

(W) NON-CONFORMING WATERFRONT STRUCTURES AND BUILDINGS

Where a waterfront structure exists within the Shoreline District which was lawfully established prior to the effective date of this Code or amendment thereto which could not be built under the terms of this Section by reason of restrictions on area, height, setbacks, or other characteristics of the structure or building, it is a non-conforming structure or building and it may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1.) No such waterfront structure or building may be enlarged or altered in a way which would increase its degree of non-conformity. Alterations, additions, or enlargements may be allowed as long as the work done does not extend further into any required setback or further violate any other portion of this Section.
- (2.) Existing nonconforming waterfront structures which have been partially or totally destroyed by fire, storm, or accident may be reconstructed in their previous configuration. This provision shall not apply to the side walls of covered structures.
- (3.) Should such waterfront structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the environment classification in which it is located.

(X) GENERAL

- (1.) All proposed developments shall be consistent with the requirements of the Shoreline Master Program and the policy of the Shoreline Management Act of 1971, as amended, in 90.58 RCW.
- (2.) All proposed developments must conform to permit requirements of all other agencies having a shoreline jurisdiction or responsibility, and authority to proceed under a Substantial Development Permit may be conditioned upon the applicant obtaining such other permits.
- (3.) All proposed developments must conform to applicable federal, state, and local regulations relating to air and water quality and noise pollution.
- (4.) The proposed development must satisfy all requirements of the State Environmental Policy Act.
- (5.) Applications for Substantial Development Permits shall be evaluated in accordance with the principles outlined below in order of preference, and in accordance with the development guidelines for shorelines of statewide significance as set forth in WAC 173-16-040 (5):
 - (a) Recognize and protect the state-wide interest over local interest.
 - (b) Preserve the natural character of the shoreline.

- (c) Result in long-term over short-term benefit.
- (d) Protect the resources and ecology of shorelines.
- (e) Increase public access to publicly owned areas of the shorelines.
- (f) Increase recreational opportunities for the public on the shoreline.

(Y) USES PROHIBITED OUTRIGHT

The following uses are not permitted in any shoreline environment in the Shoreline District:

- (1.) Commercial agricultural activities.
- (2.) Commercial aquacultural activities.
- (3.) Commercial seaplane facilities.
- (4.) Commercial marina facilities.
- (5.) Moorage, storage, servicing, and operation facilities for commercial vessels, ships and barges.
- (6.) Mining and petrochemical drilling activities.
- (7.) Solid waste disposal.
- (8.) Floating homes or boats used for residential, commercial, or office purposes.
- (9.) Parking facilities for automobiles within 25 feet of the shoreline.
- (10.) Signs for commercial purposes. However, signs advertising property for sale, lease, or rental which are less than six square feet in size may be permitted.
- (11.) Land fill, except as allowed in Section 19.04.130 (DD) Shoreline Protective Structures.

(Z) DREDGING REGULATIONS

- (1.) Dredging waterward or landward of the high water line is permitted when the applicant demonstrates to the satisfaction of the Code Official that extraordinary conditions warrant the dredging and that the method of dredging will result in minimal environmental and aesthetic impacts. However, dredging shall be prohibited in waters adjacent to unique and fragile areas and in fish spawning areas.
- (2.) Dredging will not be allowed if natural sedimentation would require frequent re-dredging to maintain an artificial lake bed level.
- (3.) Dredging beyond the mean high water line is only permitted upon the issuance of a Substantial Development Permit.
- (4.) All dredging spoils shall be disposed of on land in a location and manner approved by the Code Official.

(AA) MOORAGE FACILITY REGULATIONS.

- (1.) Setbacks - piers, docks, mooring buoys, piles, and other waterfront structures except bulkheads shall observe the following setbacks from side property lines or property line extensions:
 - (a) Single family waterfront structures - minimum ten (10) foot setback from side property lines and minimum thirty-five (35) foot setback from adjoining waterfront structures. Parcels which exceed ninety (90) feet of frontage shall maintain the required thirty-five foot setback from adjoining waterfront structures plus ten percent of the total frontage of said waterfront tract. (e.g. 91' frontage = 35' plus 9.1' = 44.1' setback). The above standards may be waived by the owners of adjoining waterfront parcels through an agreement filed with the City of Mercer Island and the King County Department of Records and Elections.
 - (b) Shared pier (two families on adjoining waterfront parcels) - minimum ten (10) foot setback from side property lines and minimum thirty-five (35) foot setback from adjoining waterfront structures unless waived by the owners of adjacent waterfront parcels through an agreement filed with the City and the King County Department of Records and Elections.

- (c) Semi-private waterfront recreation tract - minimum ten (10) foot setback from side property lines and thirty-five (35) feet from adjoining waterfront structures.
 - (d) Public beaches, and parks and public street ends - all private waterfront structures except bulkheads shall maintain a 50 foot setback from waterward property line extensions of public beach and public park boundaries.
- (2.) Minimum frontage - waterfront structures except bulkheads shall be permitted only when the waterfront frontage (measured in a straight line between the points where the lateral boundaries intersect the high water line) is equal to or greater than the following established minimums:
- (a) Single family - forty (40) feet.
 - (b) Shared (two-family on adjoining waterfront parcels) - forty (40) feet combined.
- (3.) Width - no pier or dock including finger piers shall be more than eight (8) feet in width. This width requirement shall not apply to boat ramps, lift stations, or floating platforms.
- (4.) Length - piers, docks, and other waterfront structures shall not extend from the line of ordinary high water farther than one hundred (100) feet; provided, that where said one hundred (100) foot length is insufficient to attain a minimum water depth of ten (10) feet at mean low water, piers, docks, and other waterfront structures may extend up to one hundred fifty (150) feet from the line of ordinary high water or to the point where the water depth is ten (10) feet at mean low water, whichever is reached first.
- (5.) Height - the deck of piers and docks shall not exceed five (5) feet in height above the water elevation at the ordinary high water line.
- (6.) Covered moorage - single-family covered waterfront structures may be allowed subject to variance approval. Covered waterfront structures are expressly prohibited in semi-private waterfront recreation tracts.

(7.) Walls, handrails, diving boards, diving platforms, mooring piles, and storage containers - Handrails that are open in nature, and storage containers, which are not higher than three (3) feet above the deck of a dock or pier, may be built. Diving boards, diving platforms, and mooring piles shall not exceed a height of ten (10) feet above the water elevation at the ordinary high water line.

(BB) RECREATIONAL ACTIVITY REGULATIONS.

(1.) Recreational activities are permitted in all shoreline environments subject to the following provisions:

(a) The activity shall be designed to avoid conflict with private property rights and to create a minimum objectionable impact on adjoining property.

(b) Adequate provisions for the control of motorized vehicles, and parking shall be provided if necessary; parking shall be located at least 25 feet upland from the high water line.

(c) All buildings shall maintain a minimum 25-foot setback from the ordinary high water line.

(2.) Boat ramps and launches are permitted except in the following locations:

(a) In fish-spawning areas, as determined by the State Departments of Fisheries and Game.

(b) Unstable locations where considerable quantities of beach material are likely to erode into the lake.

(c) No closer than 25 feet to any adjacent privately-owned property.

(3.) Semi-private waterfront recreational tracts are allowed, but shall conform to the following requirements as demonstrated before the City of Mercer Island Planning Commission in a public meeting:

(a) Area - a minimum upland area of 200 square feet per family, but not less than 600 square feet, exclusive of any driveways or parking lots.

- (b) Frontage - two families - 40 feet; 3 - 5 families - 40 feet plus 10 feet for each family more than two; 6 - 10 families - 70 feet plus 5 feet for each family more than five; 11 - 100 families - 95 feet plus 2 feet for each family more than ten; 101+ families - 275 feet plus 1 foot for each family over one-hundred.
- (c) Waterfront structures - waterfront structures shall conform to Section 19.04.130(AA) of this Code. Covered moorage structures are prohibited. In no case shall a number of moorage slips exceed the number of member families.
- (d) Building setbacks - all buildings shall observe the following minimum setbacks in semi-private waterfront recreational tracts: waterfront - 25 feet from the high water line; all other sides - 10 feet.
- (e) Screening - the boundaries of the upland portion of the parcel shall be reasonably screened or fenced, or both, from abutting property and streets, and appropriately landscaped.
- (f) Parking - adequate parking shall be required where pedestrian access is not practical. All parking and driveways shall be at least 25 feet from the high water line.
- (g) Control of nuisance - adequate provisions shall be made to prevent water pollution, obnoxious odors, excessive noise, or glare from outdoor lighting from adversely affecting surrounding properties.
- (h) Prohibited uses - Sale of supplies, equipment, petroleum products, or the like, boat charters or rentals, and rental or leasing of moorage to non-tract owners are prohibited. Storage of boats or vehicles is prohibited on the upland portion of the tract except as allowed by the Planning Commission.
- (i) Approval procedures - a plot, landscape, and building plan, showing compliance with these conditions shall be filed with and approved by the Planning Commission; the construction and maintenance of docks and other structures, and the establishment and continuation

of uses, shall comply with the approved plot, landscape, and building plan with deviation permitted only on filing and approval of an amended plan. The plan shall list or otherwise describe the families entitled to use the area, and shall contain a statement as to the total number of such families. With the right of use as appurtenant to or a part of the ownership or occupancy of other land, the individual legal description of each such tract of land shall be set forth on the plan, provided no additional filing or Planning Commission approval shall be required if the plot, landscape, and building plan is part of a plat which contains the above information and is approved by the Planning Commission.

(CC) RESIDENTIAL USES REGULATIONS

- (1.) For the purposes of this Section, residential development includes any residential use authorized by this Code, including single and multi-family developments.
- (2.) Residential development is permitted in the urban residential environment, subject to the following provisions:
 - (a.) A minimum 25-foot setback for all upland structures shall be maintained from the ordinary high water line.
 - (b.) A maximum 35-foot height requirement measured from the average original grade level shall be applied to all structures. This measurement shall be calculated as described in the City Building Code as amended, or as described in WAC 173-14, whichever is less.
 - (c.) Development of multi-family zoned properties shall provide waterfront access to all tenants for recreational purposes.
 - (d.) All residential developments shall be accompanied by a plan indicating methods of preserving shoreline vegetation and control of erosion during construction and following construction.

- (3.) Residential development is prohibited in the urban park and conservancy environments.

(DD) SHORELINE PROTECTIVE STRUCTURES REGULATIONS

Bulkheads:

- (1.) The Shoreline Management Act specifically exempts the construction of normal protective bulkheads common to single family residences from the permit procedures. These bulkheads shall, however, conform to all regulations set forth in this section.
- (2.) Bulkheads are permitted in all shoreline environments.
- (3.) Bulkheading and/or filling waterward of the high water line is prohibited except where a variance is granted.
- (4.) Bulkheads and landfill may be permitted to restore land lost to erosion within one year of the date that erosion occurred with the issuance of a Substantial Development Permit. A one-year extension may be granted by the Code Official for a reasonable cause, the applicant being responsible for demonstrating the severity and extent of such erosion.
- (5.) All bulkheads shall comply with the provisions of the state shorelines guidelines (WAC 173-16-060 (11)).
- (6.) Landfill behind bulkheads shall be clean mineral material less than 8-inches in diameter and devoid of any organic matter or other pollutants.
- (7.) Rock riprap will be preferred over concrete or wood bulkheads. When used, riprap must be constructed to a stable slope and be of sufficient size to remain stable.

Shoreline Protective Structures:

- (8.) Breakwaters, jetties, and groins are allowed only when the applicant demonstrates to the satisfaction of the Code Official that extraordinary conditions of erosion, sedimentation, or wave and current action prevail which warrant remedy and which require structural solutions for mitigation of such conditions. The applicant must also demonstrate that no damage will occur to adjacent or nearby properties.

- (9.) Floating breakwaters are preferred over permanent or fixed breakwaters.
- (10.) Permanent breakwaters shall be constructed of non-polluting materials. Dredge spoils, refuse, or organic debris shall not be used.

(EE) UTILITY REGULATIONS.

- (1.) Utility development is permitted in all shoreline environments.
- (2.) Public utility buildings or structures are permitted only when authorized by the issuance of a Conditional Use Permit.
- (3.) Restoration of the site is required upon completion of utility installations.
- (4.) Utilities are to be placed underground and in common rights-of-way wherever economically and technically practical.
- (5.) Public access should be provided when feasible on large scale shoreline utility installations and rights-of-way.

SECTION 19.04.140 ADMINISTRATION

.1401 PLANNING COMMISSION PROCEDURES

- (A) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS CODE, the Planning Commission shall entertain in the first instance all petitions, applications or other representations by citizens or owners of property within the City or members of the general public, pertaining to conditional use permits, reclassification of property, amendment of this Code, or any other matter arising under this Code. The Planning Commission shall prescribe the form and scope of applications and data to be submitted to it, and its procedure for hearing and making recommendations on all such matters and for giving reasonable notice of such hearings, so as to assure the fullest practicable presentation of facts for proper consideration of each matter and for a permanent record.
- (B) The Planning Commission shall promptly refer to the City Council its recommendation on each proposal to grant a conditional use permit, or reclassify property, or otherwise amend this Code.
- (C) On receiving such recommendation, the City Council shall hear and determine the matter and may affirm, modify or disaffirm the action of the Planning Commission.

.1402 RECLASSIFICATION OF PROPERTY (REZONES)

Before any reclassification of property may be granted, all of the following circumstances shall be found to apply:

- (A) The proposed reclassification is consistent with the policies and provisions of the Mercer Island Comprehensive Plan; and
- (B) The proposed reclassification is consistent with the purpose of the Mercer Island Zoning Code as set forth in Section 19.04.010; and
- (C) The proposed reclassification is an extension of an existing zone, or a logical transition between zones; and
- (D) The proposed reclassification does not constitute a "spot" zone; and

- (E) The proposed reclassification is compatible with surrounding zones and land uses; and
- (F) The proposed reclassification does not adversely affect public health, safety and welfare.

.1403 CONDITIONAL USE PERMITS

(A) AUTHORITY TO GRANT CONDITIONAL USE PERMIT

The City Council, on the recommendation of the Planning Commission, for approval (or upon appeal of the Planning Commission's denial of a conditional use permit application), shall have the authority to grant a conditional use permit for any use for which this Code requires such a permit.

(B) REQUIRED SHOWING FOR CONDITIONAL USE PERMIT

Before any conditional use permit may be granted, it shall be shown:

- (1.) That such permit is consistent with the restrictions applicable to the zone in which the lot or tract is located for which the permit is sought;
- (2.) That the proposed use is determined to be acceptable in terms of size and location of site, nature of the proposed use, character of surrounding development, traffic capacities of adjacent streets, environmental factors, size of proposed buildings, and density, and satisfies the purposes of the City's Comprehensive Plan;
- (3.) That conditions shall be attached to such permit which will assure that such particular use on such particular site will be compatible with other existing and potential uses within the same general area, and shall not constitute a nuisance in fact, recognizing and compensating for variation, odors, hazards or public need, together with available technological processes and equipment for control of such factors; and

(C) REVOCATION OR AMENDMENT OF CONDITIONAL USE PERMIT

A conditional use permit shall be subject to revocation or amendment by the City Council, on recommendation of the Planning Commission. Revocation or amendment shall be based on a finding that the authorized use constitutes a nuisance or is harmful to the public health, safety, or welfare, or the applicant has failed to meet the conditions imposed by the City.

.1404 VARIANCES & DEVIATIONS

(A) AUTHORITY TO GRANT VARIANCES:

- (1.) There is hereby created for the City of Mercer Island

the Office of Zoning Variance Hearing Examiner. The Zoning Variance Hearing Examiner, hereinafter "Examiner", may grant variances from the provisions of the City Zoning Code, as now or hereafter amended, upon finding that the conditions as set forth herein at Section 19.04.1404(B) for the granting of variances exist.

- (2.) The examiner may grant variances from the provisions of the City Shoreline Management Master Program, (Section 19.04.130) as now or hereafter amended, upon finding that the conditions set forth therein for the granting of variances exist.
- (3.) The examiner shall be appointed by and shall serve at the pleasure of the City Manager. The Examiner shall be appointed solely with regard to his/her qualifications for the duties of the office and shall have such training or experience as will qualify the Examiner to conduct quasi-judicial hearings and render decisions on variances from land use and shoreline regulatory enactments. The Examiner must have expertise and experience in at least one of the following areas: urban planning, environmental sciences, law, architecture, or economics. The Examiner shall hold no other appointive or elective public office in Mercer Island city government.
- (4.) The duties of the Examiner shall be to receive and examine available information, conduct public hearings, prepare the records thereof, prepare findings and conclusions, and render decisions thereon.
- (5.) Before rendering a decision on any application for a variance, the Examiner shall hold at least one public hearing thereon. The hearing shall be within thirty-five (35) days from the date a complete variance application is submitted, unless the applicant consents to an extension of such time. Notice of a public hearing shall be mailed or delivered to the applicant and to all residents within 300 feet of the area to be considered no later than ten (10) days prior to the date of the hearing, and notice of the public hearing shall be published in a newspaper of general circulation within the City at least ten (10) days prior to the date of hearing. All notices shall state the nature of the pending application, the date, time and place of the hearing and shall describe the property involved by street address or other common description. Substantial compliance with these requirements for notice of public hearing

shall relieve the City of any liability for failure to comply with these notice requirements. The Examiner shall have the power to prescribe rules and regulations for the conduct of hearings, subject to approval by the City Attorney, to administer oaths to subpoena witnesses and documents and to preserve order.

- (5.) The public hearing will be structured in such a way that the evidence and facts relevant to a particular proceeding will become readily and efficiently available to the Examiner. A public hearing shall include, but need not be limited to, the following elements: a brief introductory statement by the Examiner; a report by Department of Community Development Staff which shall include introduction of the official file, reference to graphic materials, and a summary of the recommendation of the Department; testimony by the applicant; testimony in support; testimony of opposing parties, opportunity for cross-examination and rebuttal; and opportunity for questions by the Examiner.
- (6.) The Examiner shall not conduct or participate in any hearing or decision in which the Examiner has a direct or indirect personal interest. No person, or his/her agent or representative, who is interested in a particular application shall communicate ex-parte, directly or indirectly, with the Examiner with respect to the merits of such application. Ex-parte communications concerning procedural matters are not prohibited. Ex-parte communication is defined as written or oral communication not included in the public record and made outside of a public hearing.
- (7.) Within fourteen (14) calendar days of the conclusion of the hearing, the Examiner shall render a written decision, including findings of fact and conclusions which support such decision. The Examiner may attach such reasonable conditions as he/she finds necessary to make the project compatible with its environment and to carry out the goals and policies of the City's Comprehensive Plan, Shoreline Management Master Program, or other applicable plan or program adopted by the City Council. Such conditions may include, but are not limited to, the following:
 - (a) Specifications of the exact location and/or nature of development, including additional building and/or parking area setbacks, screenings in the form of landscaped berms, landscaping or

fencing;

- (b) Provisions to mitigate the impact of the development upon other property;
- (c) Provisions for maintenance of the development;
- (d) Provisions to mitigate any adverse environmental impact; and
- (e) Provisions to bring the proposal into compliance with the purposes and intent of the Comprehensive Plan and/or the Shoreline Management Master Program.

The Examiner shall transmit a copy of the decision by regular mail, postage prepaid, to the applicant, to other parties of record, and to such other persons who have requested same. The decision of the Examiner shall represent the final action on the application unless an appeal is made to the City Council as herein provided.

- (8.) A variance authorized by the Examiner shall become void after the expiration of one year from the date of the decision unless:
 - (a) A building permit application conforming to the approved variance is filed with the City; or
 - (b) A subdivision application conforming to the approved variance is filed with the City; or
 - (c) The approved variance specifically provides for a greater authorization period.
- (9.) Any party to the proceeding who is aggrieved by the Examiner's decision may make a written request for reconsideration by the Examiner. This request must be filed with the City Clerk within ten (10) days after the written decision of the Examiner has been received by the City, if he/she feels the decision is based upon an erroneous procedure, error of law or fact, or the discovery of new evidence which could not have been reasonably available at the hearing. This request shall set forth the specific errors or new evidence relied upon by such party. The Examiner may, after review of the request and record, deny the request or grant the request and take such further action as deemed proper, which may include a rehearing, and may render a revised decision. All costs of review and any rehearing based upon the

request for reconsideration shall be borne by the party seeking reconsideration.

- (10.) Any party to the proceeding who is aggrieved by the Examiner's final decision may secure a review of the decision of the Examiner by appeal to the City Council. A written appeal to the City Council shall be filed with the City Clerk within ten (10) days after the date the Examiner's written decision, or denial of a request for reconsideration has been received by the City, and such appeal shall specify the error of law or fact, procedural error, or new evidence which could not have been reasonably available at the time of the hearing conducted by the Examiner. Upon filing of the appeal, the Department of Community Development Staff shall cause to be forwarded to the members of the City Council all of the pertinent documents, including the written decision, findings, conclusions and notice of appeal. If the appellant shall request a transcription of the hearing record, costs thereof shall be borne by the appellant. Notice of the filing of an appeal shall be made to all parties of record, and said notice shall specify the date and time when the Council shall consider such appeal.
- (11.) Upon appeal, the City Council shall hold a public hearing. Council consideration shall be based solely upon the decision and the record of the proceedings before the Examiner, provided that the appellant may introduce additional information which was not reasonably available to the Examiner at the time of the hearing. The Council may affirm, modify or disaffirm the decision of the Examiner, or may remand the proceedings to the Examiner for such further action as the Council shall specify. The City Council shall take final action within forty-five (45) days of the date on which the appeal is filed.
- (12.) The filing of a request for reconsideration or of an appeal shall suspend the issuance of any building or other required permit, or shall suspend approval of a related subdivision application until the Examiner and/or City Council has acted on the request or appeal.
- (13.) The decision of the City Council may be appealed to the Superior Court within twenty (20) days of the date of the decision of the City Council on appeal. At the expiration of such period, if no appeal has been filed, the decision of the City Council shall become final and any appeal is thereafter barred.

(B) REQUIRED SHOWING FOR VARIANCE

Before any variance may be granted, all the following circumstances shall be found to apply:

- (1.) That there are special circumstances applicable to the particular lot or tract, such as size, shape, topography, location or surroundings, trees or ground cover or other physical conditions, installation of a solar energy system or the orientation of a building for the purposes of providing solar access;
- (2.) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated;
- (3.) The granting of the variance will not alter the character of the neighborhood, nor impair the appropriate use or development of adjacent property; and
- (4.) The granting of the variance will not conflict with the general purposes and objectives of the Comprehensive Plan.

(C) DEVIATIONS

- (1.) The Code Official may grant a deviation from the required front or rear yard requirements of this Code upon a finding that the circumstances of Section 19.04.1404(B) ("Required Showing for Variance") apply. Any such deviation shall not exceed 30% of the front or rear yard setback otherwise required by this Code.
- (2.) The Code Official may grant a one-time deviation from the required total side yard requirements of this Code for an addition to a single family dwelling which was constructed in compliance with the applicable side yard setbacks prior to the setback amendment which took effect on March 27, 1985. Such addition shall not exceed 25% of the total floor area of the existing dwelling, and shall not extend closer to the side property line than the existing building.

.1405 APPEALS

- (A) Any person or persons aggrieved by any action of the Planning Commission may, within ten (10) days of such action, file with the City Clerk a written notice of appeal of such action, setting forth the reasons for such appeal.

The City Council shall hear the matter in a public hearing and may affirm, modify or disaffirm the decision.

Public notice of the hearing shall be provided by both publication in a newspaper of general circulation and by mailing to residents within at least three hundred (300) feet of the boundary of the subject property. Said notice shall be provided not less than ten (10) days prior to the public hearing.

- (B) Any person or persons aggrieved by any action of the Design Commission may file a notice of appeal in accordance with Section 19.04.120(I) of this Code.
- (C) Any person or persons aggrieved by any action of the Hearing Examiner may file a notice of appeal in accordance with Section 19.04.1404(A)(10) of this Code.
- (D) Any person or persons aggrieved by the granting or denying of a shoreline management substantial development and/or variance permit pursuant to Section 19.04.130 of this Code, may seek review by the Shorelines Hearing Board in accordance with Section 19.04.130(V) of this Code.
- (E) Except for permits approved or denied under the shoreline management provisions of this Code (Section 19.04.130), the action of the City in granting or denying an application under this Code may be reviewed in the King County Superior Court. The petition for review must be filed within twenty (20) days of the final decision of the City. If no petition is timely filed, the decision of the City shall be final, and any appeal is thereafter barred. Provided, that all administrative review or appeal procedures under this Code must be utilized and exhausted prior to bringing judicial action.
- (F) Any person or persons aggrieved by the granting or denying of a deviation, exception, or waiver by the Code Official may within ten (10) days of such action, file with the City Clerk a written notice of appeal of such action setting forth the reasons for such appeal. The Council shall review the matter in a public meeting and may affirm, modify or disaffirm the decision.

In their interpretation and application, the provisions of this Code shall be held to be the minimum requirements adopted for the promotion of the public safety, health, morals and general welfare. It is not intended by the Code to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Code imposes a greater restriction upon the use of buildings or land, or upon height of buildings, or requires larger space than is imposed or required by other resolutions, rules, or regulations or by easements, covenants or agreements, the provisions of this Code shall govern.

Where private restrictions are greater than those imposed by this Code, they are not superseded by the provisions of this Code.

.1407 ENFORCEMENT

- (1.) Violation of any of the provisions of this Code shall be a misdemeanor and any person found guilty thereof shall be punished by a fine in an amount not to exceed \$500.00 or by imprisonment for a period not to exceed 90 days, or both. It shall be a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued or permitted.
- (2.) Any building or structure hereafter set up, erected, built, moved or maintained or any use of property contrary to the provisions of this Code shall be a public nuisance; and the City shall immediately commence action to abate such nuisance in the Superior Court or in some other court of competent jurisdiction. If the City shall fail or refuse to bring such action on demand, then such action may be brought by any person who owns or resides on property within 300 feet of the structure or use complained of, or who owns or resides on property the use and enjoyment of which in its existing state is impaired by the structure or use complained of, or who owns or resides on property the value of which for any purpose is impaired by the structure or use complained of.
- (3.) Enforcement of the Shoreline Management provisions of this Code may also include the withholding of building and other permits, preliminary or final plats, and other city services.

SECTION 19.04.150 VALIDITY

If any section, paragraph, subsection, clause or phrase of this Code is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Code. The City Council hereby declares that they would have passed this Code and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses, or phrases be unconstitutional or invalid.

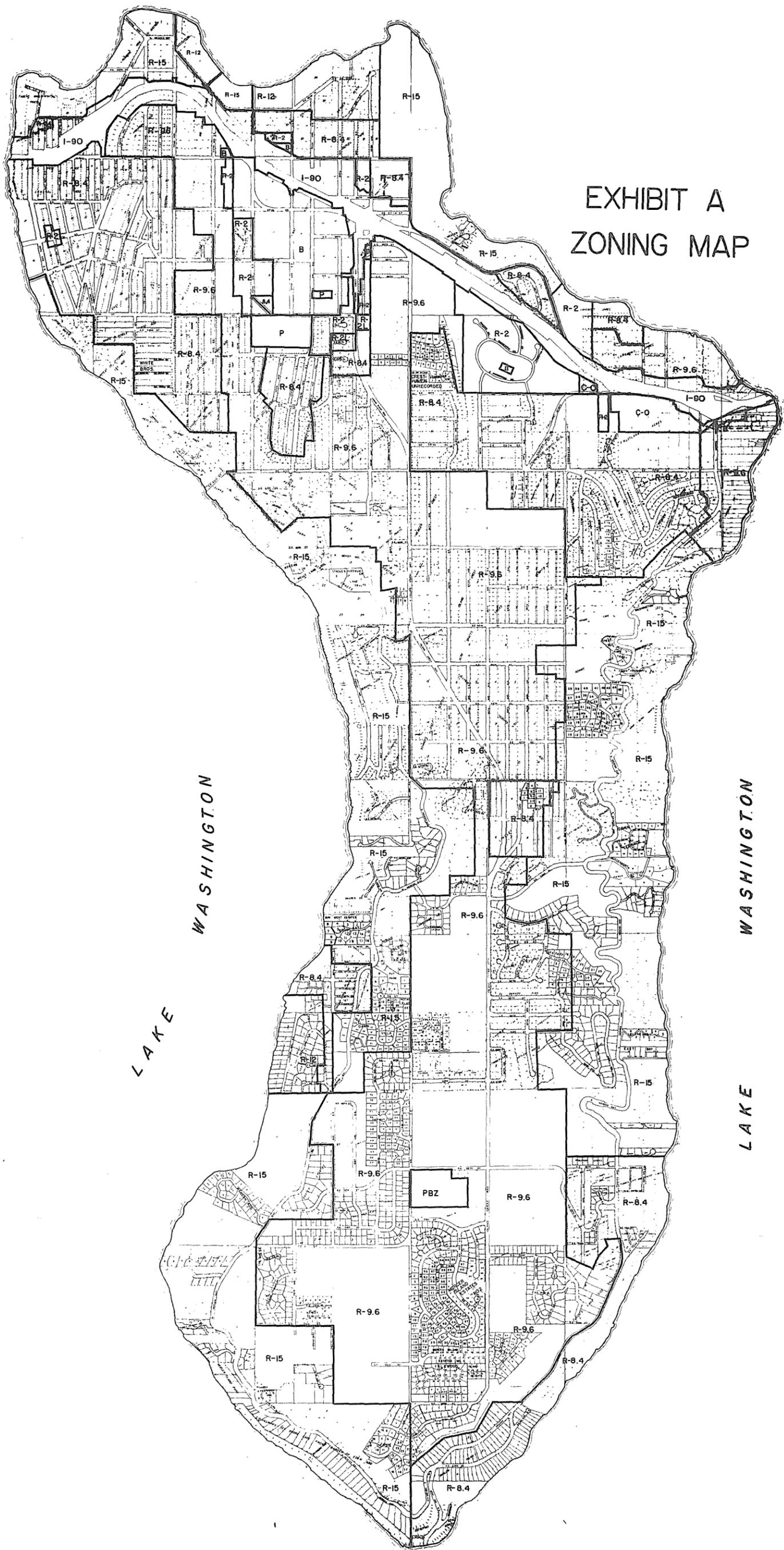
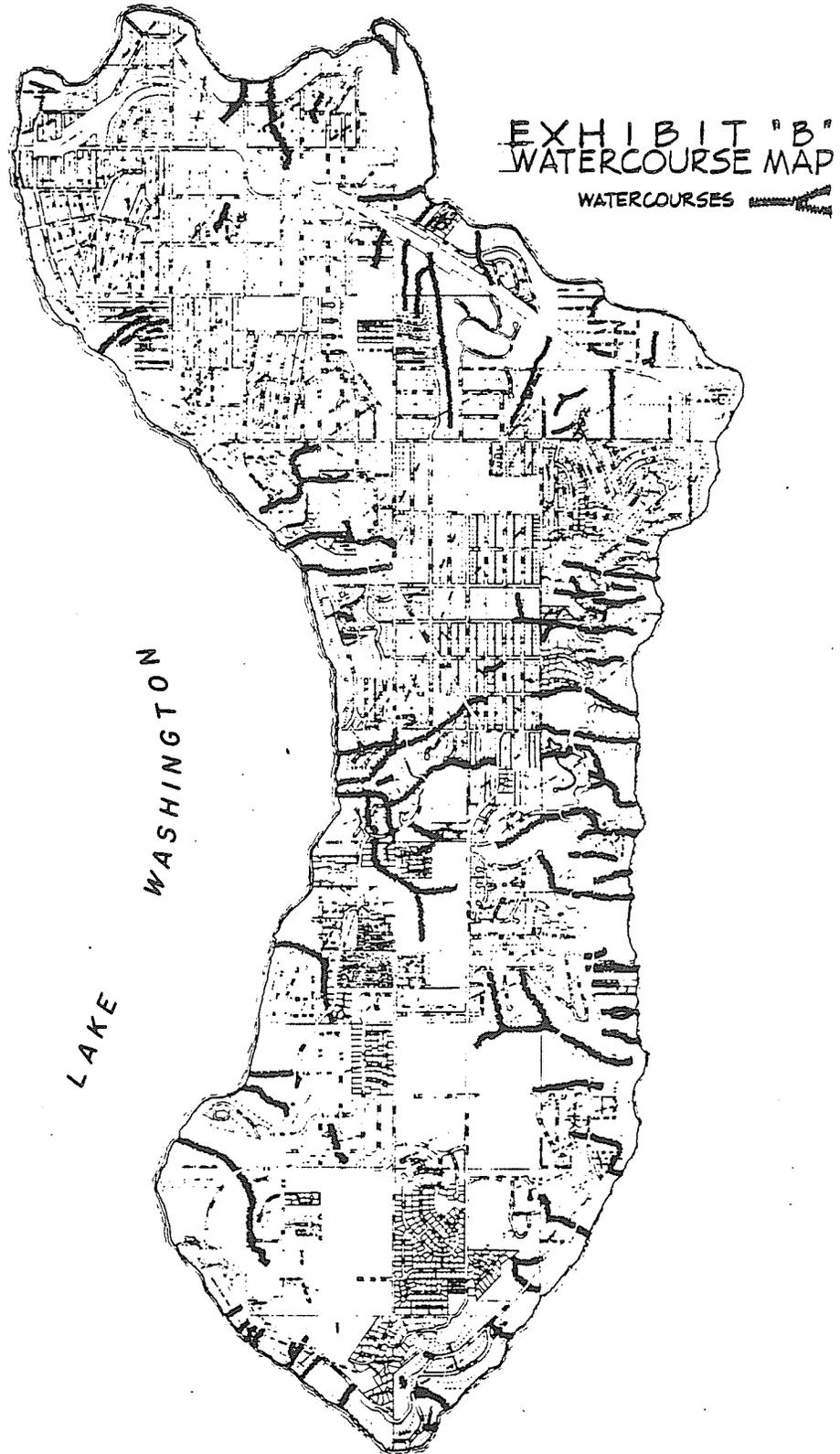


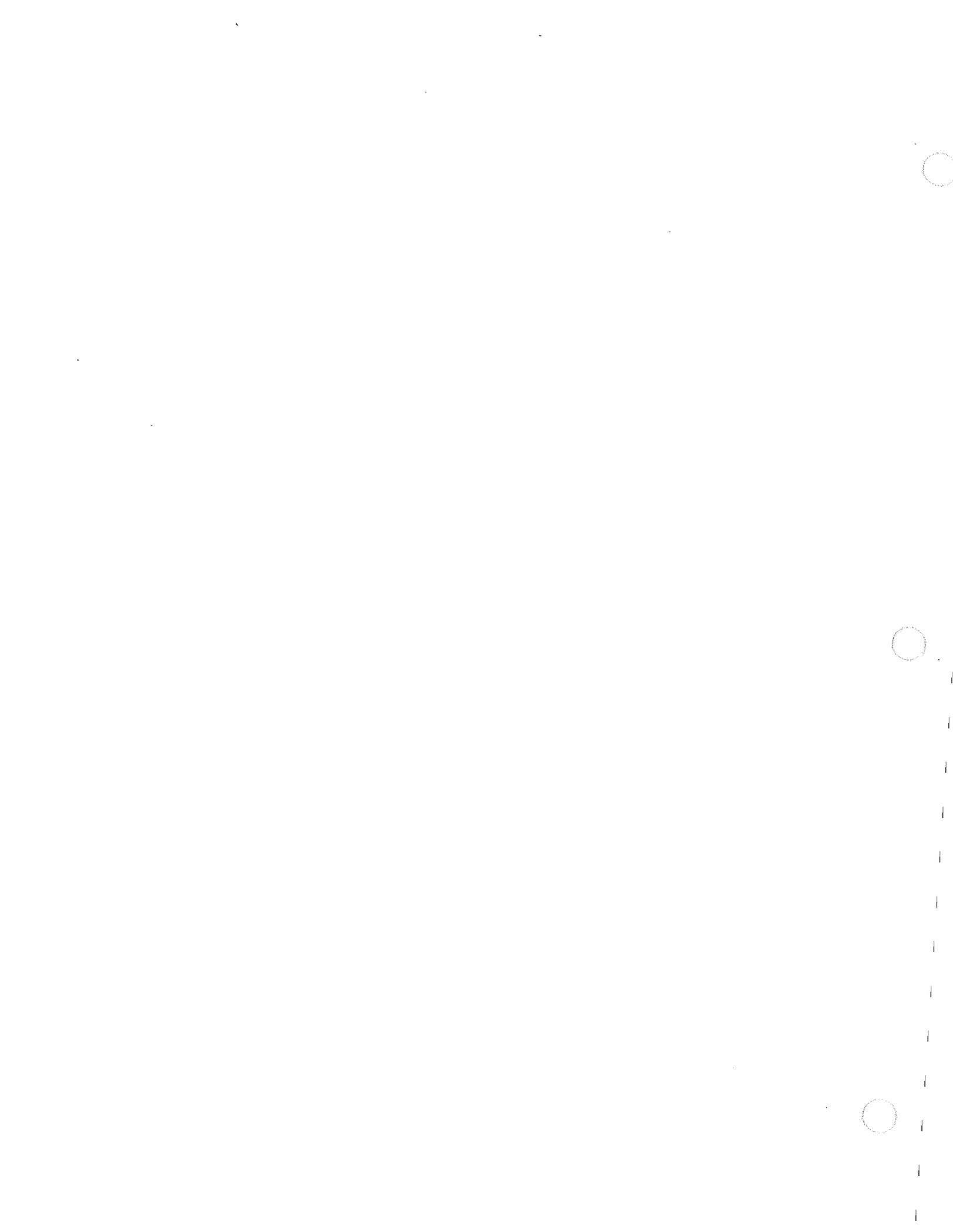
EXHIBIT A
ZONING MAP

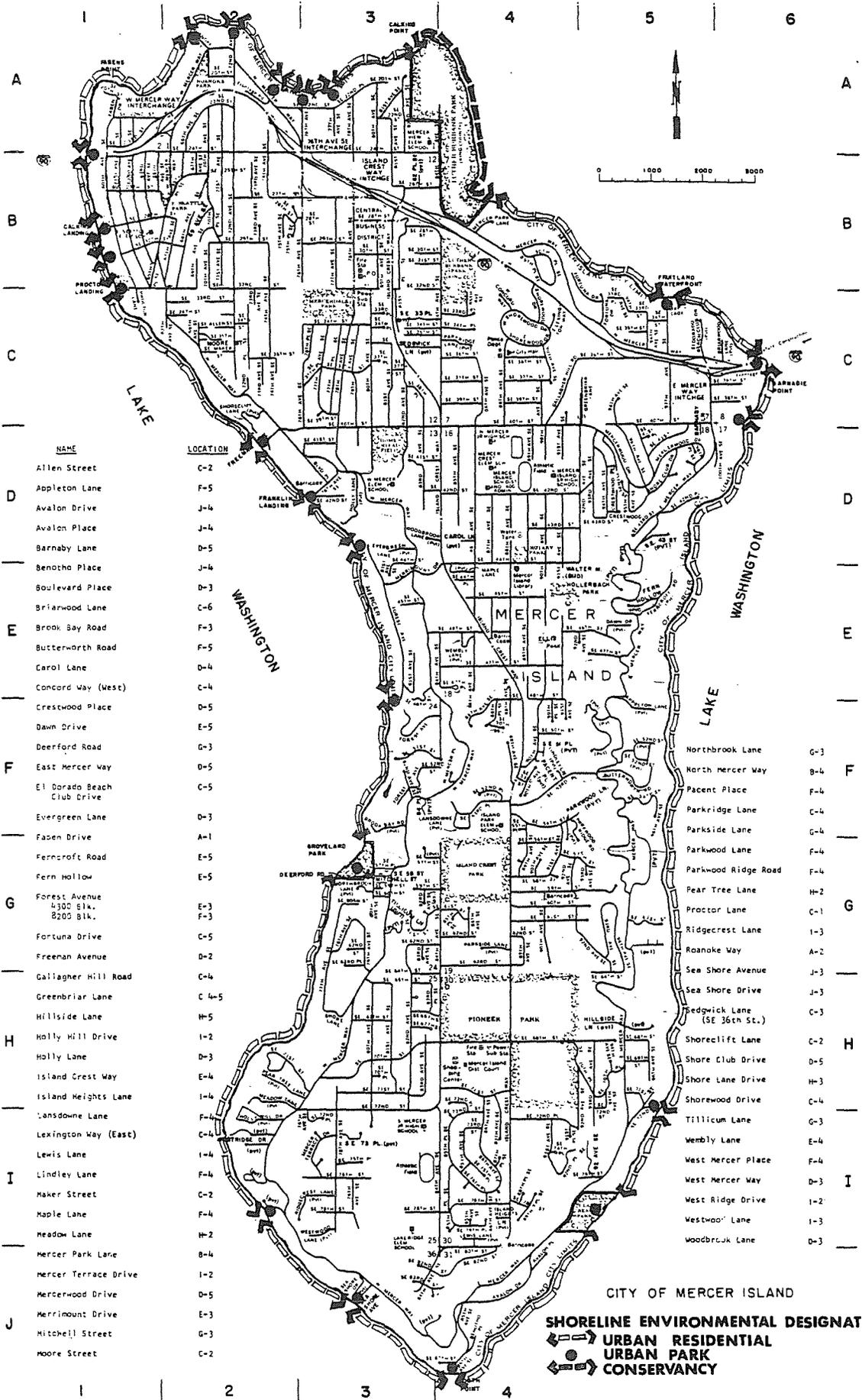
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THIS MAP DOES NOT REFLECT RECENT CHANGES







Chapter 17.08

LAND CLEARING CODE

Sections:

- 17.08.010 Short title.
- 17.08.020 Purposes and permit criteria.
- 17.08.030 Definitions.
- 17.08.040 Permits.
- 17.08.050 Exemptions.
- 17.08.060 Application for permits.
- 17.08.070 Performance bond.
- 17.08.080 Appeals.
- 17.08.090 Violation--Penalty.
- 17.08.100 Injunctive enforcement.

17.08.010 Short title.

This chapter may be known and cited as the "land clearing code." (Ord. A-18 § 1 (part), 1982; Ord. 312 § 1, 1972).

17.08.020 Purposes and permit criteria.

These regulations are adopted for the following purposes and the code official shall consider such purposes as criteria or standards for the issuance of land clearing permits under Section 17.08.040 of this chapter:

A. To promote the public health, safety and general welfare of the citizens of Mercer Island;

B. To preserve and enhance the island's physical and aesthetic character by preventing indiscriminate removal or destruction of trees and ground cover on undeveloped and partially developed property;

C. To promote land development practices that result in a minimal disturbance to the island's vegetation and soils;

D. To minimize surface water and ground-water runoff and diversion and to prevent erosion and reduce the risk of slides;

E. To minimize the need for additional storm drainage facilities;

F. To retain clusters of trees for the abatement of noise and wind protection;

G. To acknowledge that trees and ground cover reduce air pollution by producing pure oxygen from carbon dioxide;

H. To minimize devaluation of property values due to unnecessary destruction of trees and ground cover;

I. To promote building and site planning practices that are consistent with the island's natural topographical and vegetational features while at the same time recognizing that certain factors such as condition (e.g. disease, danger of falling, etc.) proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover;

J. To ensure prompt development, restoration and replanting and effective erosion control of property after land clearing through the use of phase development, performance bonds, and other reasonable controls;

K. To reduce siltation and water pollution in Lake Washington;

L. To implement the goals and objectives of the Washington State Environmental Policy Act;

M. To implement and further the city's comprehensive plan;

N. It is not the intent or purpose of this chapter to prevent the reasonable development of land on Mercer Island. (Ord. 312 § 2, 1972).

17.08.030 Definitions.

A. "City" means the city of Mercer Island, Washington, and when that term is used in a territorial sense, it shall exclude the territory of Mercer Island community municipal corporation located within the city.

B. "Code official" means the city manager or his designated representative, or shall mean the city council or the committee of the city planner, city engineer and city building official in the case of subdivisions regulated under Title 19.

C. "Ground cover" means small plants such as salal, ivy, ferns, mosses, grasses or other types of vegetation which normally cover the ground and includes trees less than four (4) inches in

diameter measured at twenty-four (24) inches above the ground level.

D. "Land clearing" means the act of removing or destroying trees or ground cover from any undeveloped or partially developed lot, public lands or public right-of-way.

E. "Partially developed lot" means a lot or parcel of land upon which a single-family dwelling is located and which is of sufficient area so as to be capable of subdivision in accordance with the city of Mercer Island Subdivision Ordinance No. 59 as amended.

F. "Tree" means any living woody plant characterized by one main stem or trunk and many branches, and having a diameter of four (4) inches or more measured at twenty-four (24) inches above the ground level.

G. "Undeveloped lot" means a lot or parcel of land upon which no single-family dwelling exists. (Ord. A-18 § 1 (part), 1982: Ord. 312 § 3, 1972).

17.08.040 Permits.

No person shall engage in or cause land clearing in the city without having obtained a land clearing permit from the code official. (Ord. A-18 § 1 (part), 1982: Ord. 312 § 4, 1972).

17.08.050 Exemptions.

The following shall be exempt from the provisions of this chapter:

A. Projects requiring approval of the city design commission under the provisions of Title 19, as now or hereafter amended; provided, that land clearing on such projects shall take place only after design commission approval and shall be in accordance with such approval;

B. The installation and maintenance of fire hydrants, water meters and pumping stations, and street furniture by the city or its contractors;

C. Removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;

D. Removal of dead or diseased ground cover or trees;

E. Removal of trees or ground cover on partially developed lots for purposes of general property and utility maintenance, landscaping or gardening; provided, that this exemption shall not apply to any land clearing which includes the use of a bulldozer or similar mechanical equipment and shall not be construed to eliminate the requirement of permits for land clearing for the purpose of developing the property with substantial permanent improvements such as roads, driveways, utilities, or buildings. (Ord. A-18 § 1 (part), 1982: Ord. 312 § 5, 1972).

17.08.060 Application for permits.

A. An application for a land clearing permit shall be submitted on a form provided by the city, together with a plot plan and other information as described hereinafter:

1. The applicant shall give the name, address and telephone number of the applicant and owner of the property.

2. The applicant shall give the street address (if known) and legal description of the property.

3. The application shall bear a proposed time schedule for land clearing, land restoration, implementation of erosion control and any excavation or construction of improvements.

4. Four (4) prints of the plot plan shall be provided at a scale of one inch equals ten feet (1" = 10'0") or larger. Plot plans of smaller scale will not be accepted unless prior permission is obtained from the code official. The scale and north indicator shall be given on the plan. The plot plan shall contain all those items as indicated herewith superimposed on the same drawings.

5. The plot plan shall indicate topography by contours at a minimum of five (5) feet intervals, and the grading by dashed contour lines for existing grades and by solid contour lines for existing grades to be changed. The entire area to be cut and/or filled shall be indicated, and temporary storage of any excavated or fill material also indicated.

6. The plot plan shall indicate the location of existing and proposed improvements, including, but not limited to, structures, driveways, ponds, and the location of building (zoning) setbacks.

7. The plot plan shall indicate the location, diameter and/or size, and species of all existing trees and ground cover. Areas of significant ground cover shall also be identified. Trees and ground cover proposed to be removed shall be identified and differentiated from those trees and ground cover to remain.

8. The plot plan shall bear statements and other pertinent information indicating the method to be followed in erosion control and restoration of land during the immediately following construction period.

9. A proposed landscaping plan may be submitted with the application.

10. Other information as deemed necessary by the code official may be required.

B. The code official shall complete his review and make his decision within twenty (20) days from the date a complete application is submitted unless an extension is authorized by the city council.

C. Any permit granted hereunder shall expire one (1) year from the date of issuance. Upon a showing of good cause, a permit may be extended for six (6) months. Approved plans shall not be amended without authorization of the code official. The permit may be suspended or revoked by the city official because of incorrect information supplied or any violation of the provisions of this chapter.

D. No work shall commence until a permit notice has been posted on the subject site at a conspicuous location. The notice shall remain posted until the project has been completed.

E. Applications for land clearing permits shall be circulated to other departments or agencies of the city for review and approval as is deemed necessary by the code official. (Ord. A-18 § 1 (part), 1982; Ord. 456 § 1, 1978; Ord. 312 § 6, 1972).

17.08.070 Performance bond.

The code official may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the city to secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of this permit and within the term thereof. The bond shall be in an amount equal to the estimated cost of such restoration and replanting and with surety and conditions satisfactory to the code official. (Ord. A-18 § 1 (part), 1982; Ord. 312 § 7, 1972).

17.08.080 Appeals.

Any person or persons aggrieved by any action of the code official may within ten (10) days of such action file a notice of appeal as set

forth in Chapter 2.30. (Ord. A-18 § 1 (part), 1982: amended during 1980 codification: Ord. 312 § 8, 1972).

17.08.090 Violation—Penalty.

A. A violation of any of the provisions of this chapter shall constitute a misdemeanor. It shall be a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted.

B. A violation of any of the provisions of this chapter which results in the removal or destruction of one or more trees shall be deemed a separate offense for each and every tree so removed or destroyed. (Ord. A-18 § 1 (part), 1982: Ord. 456 § 2, 1978: Ord. 312 § 9, 1972).

17.08.100 Injunctive enforcement.

Any violation of the provisions of this chapter is declared to be a public nuisance and may be abated through proceedings for injunctive or similar relief in superior court or other court of competent jurisdiction. (Ord. A-18 § 1 (part), 1982: Ord. 312 § 10, 1972).

"Steep Slope Code." (Ord. A-18 § 1 (part), 1982).

17.10.020 Purpose.

The purpose of this chapter is to promote the public health, safety and general welfare of the city by regulating construction activity on steep-slope lots in the city and through such regulation to accomplish the following objectives:

A. Implementation of the best possible environmental design, land use planning, soil mechanics, architecture, engineering, geology, hydrology, civil and structural engineering, and landscape architecture techniques and practices to protect, preserve, enhance and promote the existence and future appearance in the development of the city's steep-slope areas:

B. Provision for building and construction requirements on steep-slope lots which are designed to ensure the best use of the rural terrain consistent with the public health, safety and general welfare;

C. Preservation and enhancement of the beauty and appearance of the city by requiring that maximum retention of natural topographic features such as drainage ways, streams, slopes, ridge lines, native vegetation, trees and topsoil:

D. Provision for safe means of access for vehicular and pedestrian traffic to and from steep-slope lots while minimizing the scarring effects of construction activities on steep-slope areas;

E. Regulation insofar as is feasible and reasonable for the use of building pads or terraces on steep-slope lots;

F. Regulation of the disposition of excavation and construction spoils on and off the construction site. (Ord. A-18 § 1 (part), 1982).

17.10.030 Application.

The provisions of this chapter shall be applicable only to those lots which are zoned for residential single-family use as established by the zoning code. The provisions shall not be applicable to property located within the territory of the Mercer Island Community Municipal

Chapter 17.10

STEEP SLOPE CODE

Sections:

- 17.10.010 Short title.
- 17.10.020 Purpose.
- 17.10.030 Application.
- 17.10.040 Interpretation.
- 17.10.050 Definitions.
- 17.10.060 Compliance.
- 17.10.070 Waiver.
- 17.10.080 Construction requirements.
- 17.10.090 Driveways.
- 17.10.100 Utilities.
- 17.10.110 Appeal.
- 17.10.120 Violation—Penalty.

17.10.010 Short title.

This chapter may be known and cited as the

Corporation, former town of Mercer Island. The provisions shall not be applicable to those uses allowed in the single-family residential zones which require authorization by the issuance of a conditional use permit as provided in Section 4.02 of the city zoning code. (Ord. A-18 § 1 (part), 1982).

17.10.040 Interpretation.

A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public safety, health and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of land or buildings than is imposed or required by other resolutions, rules or regulations, easements, covenants, or agreements, the provisions of this chapter shall govern.

B. Where private restrictions impose greater requirements than those imposed by this chapter, they are not superseded by the provisions of this chapter. (Ord. A-18 § 1 (part), 1982).

17.10.050 Definitions.

When used in this chapter, the following words shall have the following meaning:

A. "Code official" means the city manager or his designated representative.

B. "Construction activity" includes, but is not limited to, construction of any structure, patio, walkway, driveway, cleared yard, retaining wall, paved area, pool, or earth cuts and fills, where such activity requires a permit from the city.

C. "Developer" means the person(s), who owns the steep-slope area or the person(s) who has been retained by the owner to effect compliance with this chapter.

D. "Ground cover" means small plants such as salal, ivy, ferns, mosses, grasses, or other types of vegetation which normally cover the ground and shall include trees less than four (4) inches

in diameter measured at twenty-four (24) inches above ground level.

E. "Minimum percent of ground surface of the lot to be left in or returned to vegetation and/or ground cover" is a requirement which indicates the portion of the lot, which must be left in or returned to and permanently maintained in appropriate vegetation and/or ground cover after all construction activity has been completed.

F. "Slope" is the existing slope of a lot for the specific purposes of this chapter and is calculated as follows:

1. Obtain a vertical measurement from the highest point of elevation of the lot to the lowest point of elevation of the lot by calculating the difference in elevation between these points;

2. Obtain a horizontal measurement of the shortest distance between the highest point of elevation on the lot and the lowest point of elevation on the lot;

3. Divide the measurement obtained in (1) by the measurement obtained in (2);

4. The resultant number is the slope expressed as a percentage.

G. "Steep-slope lot" means any lot as defined by the city zoning code which has a slope of twenty percent (20%) or more. (Ord. A-18 § 1 (part), 1982).

17.10.060 Compliance.

No building permit or other required permit shall be issued for construction activity on a steep-slope lot, and no person shall engage in construction activity on a steep-slope lot without compliance with the requirements of this chapter. (Ord. A-18 § 1 (part), 1982).

17.10.070 Waiver.

A. Upon good cause, the code official shall have the authority to waive or modify the requirements of this chapter in whole or in part. Demonstration of good cause shall be in the form of detailed plans, calculations, graphics and text submitted at the request of the code official.

B. The materials submitted shall contain detailed information concerning the lot in question, including but not limited to, the following:

1. Hydrology;
2. Soil stability;
3. Stormwater retention;
4. Tree population;
5. Construction sequence, duration of construction;
6. Erosion control measures (during and after construction);
7. Restoration methods and plans;
8. Emergency procedures in the event of natural or man-made disasters;
9. Disposal of excavation and construction spoils;
10. Proof of financial responsibility to provide assurance that recourse will be available to the city and to any person who may be damaged in any way by construction activity on the lot. (Ord. A-18 § 1 (part), 1982).

17.10.080 Construction requirements.

A. Requirements for regulating construction activity on a steep-slope lot where the average slope is at least twenty percent (20%) but less than forty percent (40%):

1. The minimum percent of ground surface of the lot to be left in or returned to and permanently maintained in appropriate vegetation and ground cover, irrespective of lot size, shall be sixty-five percent (65%).
2. A satisfactory soils analysis report, soils stability report and hydrology report prepared by a registered engineer by the state and qualified in soils mechanics shall be submitted to the code official.
3. Excavation spoils, construction waste materials and organic waste materials shall all be removed from the site within three (3) working days after demand for removal is made by the code official. With prior approval of the code official, excavation spoils may be used for the following purposes and no others:
 - a. Backfill around footings and foundations

as long as the finished grade does not exceed the original grade;

b. Backfill behind permanent retaining structures.

Construction waste materials and organic waste materials may not be used for such purposes.

4. A permanent and complete stormwater control program shall be submitted to the code official. The program shall include but not be limited to the following items as appropriate: curbs, gutters, inlets, catch basins, tightlines, retention facilities and stabilized outfalls.

5. Construction activity may be restricted to a construction season commencing on April 1st and ending October 1st of any year. If a construction season is established, it may be subsequently modified by the code official.

6. The owner or developer shall provide assurance that recourse will be available to the city and/or any person who may be damaged in any way by construction activity on the building lot.

7. If the circumstances warrant the imposition of any or all of the additional requirements set out in subsection B of this section, the code official may impose any or all of the requirements.

B. Requirements for regulating construction activity on a steep-slope lot where the slope is 40 percent (40%) or more:

1. The minimum percent of ground surface of the lot to be left in or returned to and permanently maintained in appropriate vegetation and/or ground cover, irrespective of lot size, shall be seventy percent (70%).

2. The requirements of provisions 2 through 6 of subsection A of this section are incorporated by reference in and shall be required in this subsection B.

3. A development plan shall be submitted by the applicant and approved by the code official. The development plan shall include but not be limited to a detailed description of the following: the techniques of construction to be used; the sequence of events in which construction will take place; and the earth-moving equipment

to be used and the manner in which it is to be used.

4. A restoration plan shall be submitted and approved by the code official. The restoration plan shall include a detailed description of the steps to be taken to restore any and all portions of the lot required to be left in or returned to and permanently maintained in appropriate vegetation and/or ground cover. The plan shall contain a commitment to complete the restoration within a reasonable time period as specified after the construction activity has been completed as specified by the code official.

5. The code official may require the use of foundation systems which limit the amount of excavation, for example, pilings, caissons, footings, with grade berms, or other appropriate systems. The code official may refuse to permit the use of conventional spread footings at building perimeters. The code official may require excavations to be dug by hand. (Ord. A-18 § 1 (part), 1982).

17.10.090 Driveways.

A. Collective private driveways may be required if it is determined that their use will result in better siting and lesser amounts of land coverage than would result if a separate private driveway is used.

B. Innovations in driveway design and road construction shall be permitted in order to keep grading and cuts or fills to a minimum. (Ord. A-18 § 1 (part), 1982).

17.10.100 Utilities.

All new service utilities, both on-site and off-site, shall be placed underground and under roadbeds where possible. Every effort shall be made to minimize the impact of utility construction along the edge of a roadway. (Ord. A-18 § 1 (part), 1982).

17.10.110 Appeal.

Any developer, as defined herein, who is aggrieved by any action of the code official under the provisions of this chapter may within ten (10) days of such action file a notice of

appeal as provided in Chapter 2.30. (Ord. A-18 § 1 (part), 1982).

17.10.120 Violation—Penalty.

A. A violation of any of the provisions of this chapter shall constitute a misdemeanor. It shall be a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted.

B. Any construction activity contrary to the provisions of this chapter shall be deemed a public nuisance, and the city may immediately commence action to abate such nuisance in superior court, or in some other court of competent jurisdiction. (Ord. A-18 § 1 (part), 1982).

CITY OF MERCER ISLAND
ORDINANCE NO. A-36

AN ORDINANCE regarding the adoption of the Mercer Island Environmental Procedures Code; adopting the State Environmental Policy Act Rules, as applicable to the City; and adding a new chapter 17.80 to the Mercer Island City Code.

WHEREAS, on January 26, 1984, the Department of Ecology of the State of Washington adopted Washington Administrative Code Chapter 197-11 adopting the new State Environmental Policy Act Rules, and repealed Washington Administrative Code Chapter 197-10 containing the former State Environmental Policy Act Guidelines; and

WHEREAS, under Washington Administrative Code 197-11-904 and 906 the City is required to adopt SEPA policies and procedures, which must implement and be consistent with the SEPA rules adopted by the Department of Ecology pursuant to WAC Chapter 197-11; and

WHEREAS, it is the purpose of this ordinance to comply with WAC 197-11-904 and 906 by adding certain new provisions to the City Code, which are consistent with and will implement such SEPA rules; now, therefore,

THE CITY COUNCIL OF THE CITY OF MERCER ISLAND DO ORDAIN AS FOLLOWS:

Section 1. The Mercer Island City Code, Title 17, "Building and Construction Codes," is hereby amended by adding a new chapter 17.80 thereto, entitled "Environmental Procedures Code" to read as follows:

"Chapter 17.80
ENVIRONMENTAL PROCEDURES CODE

Sections:

- 17.80.010 Authority
- 17.80.020 Purpose
- 17.80.030 Scope and Coverage
- 17.80.040 Adoption by Reference
- 17.80.050 Additional Definitions
- 17.80.060 Designation of Responsible Official
- 17.80.070 Responsible Official - Duties
- 17.80.080 Lead Agency Determination and Responsibilities
- 17.80.090 Timing of Review Process
- 17.80.100 Determination of Categorical Exemption
- 17.80.110 Environmental Checklist
- 17.80.120 Threshold Determination

| | |
|-----------|--|
| 17.80.130 | Early Notice of Threshold Determination and Mitigated DNS |
| 17.80.140 | Environmental Impact Statements |
| 17.80.150 | Internal Circulation of Environmental Documents |
| 17.80.160 | Emergencies |
| 17.80.170 | Public Notice |
| 17.80.180 | Fees |
| 17.80.190 | Authority to Condition or Deny Proposals (Substantive Authority) |
| 17.80.200 | Appeals |
| 17.80.210 | Notice - Statute of Limitations |

Chapter 17.80
ENVIRONMENTAL PROCEDURES CODE

17.80.010 Authority.

The City of Mercer Island adopts this ordinance under the State Environmental Policy Act (SEPA), RCW 43.21C.120, and the SEPA rules, WAC 197-11-904.

This ordinance contains this city's SEPA procedures and policies.

The SEPA rules, chapter 197-11 WAC, must be used in conjunction with this ordinance.

17.80.020 Purpose.

The purpose of these procedures is to implement the requirements of the State Environmental Policy Act of 1971 (SEPA), RCW Chapter 43.21C, as amended, and the SEPA Rules adopted by the State of Washington Department of Ecology and the authority and function of the City as provided therein. These procedures shall provide the City of Mercer Island with principles, objectives, criteria and definitions to provide an efficient overall city-wide approach for implementation of the State Environmental Policy Act and Rules. These procedures shall also designate the responsible official, where applicable, and assign responsibilities within the City under the National Environmental Policy Act (NEPA).

17.80.030 Scope and Coverage.

It is the intent of the City that compliance with the requirements of this Ordinance shall constitute procedural compliance with SEPA and the SEPA Rules for all proposals. To the fullest extent possible, the procedures required by this Ordinance shall be integrated with existing planning and licensing procedures utilized by the City.

17.80.040 Adoption by Reference.

The City adopts by reference as though fully set forth herein the following sections and subsections of Chapter 197-11 of the Washington Administrative Code (the SEPA Rules) as adopted by the Department of Ecology of the State of Washington on January 26, 1984, and as the same may be hereafter amended:

| | |
|--------------------|--|
| WAC 197-11-020(3): | Purpose |
| 030: | Policy |
| 040: | Definitions |
| 050: | Lead Agency |
| 055: | Timing of the SEPA Process |
| 060: | Content of Environmental Review |
| 070: | Limitations on Actions During the SEPA Process |
| 080: | Incomplete or Unavailable Information |
| 090: | Supporting Documents |
| 100: | Information Required of Applicants |
| 300: | Purpose of this Part (Categorical Exemptions and Threshold Determinations) |
| 305: | Categorical Exemptions |
| 310: | Threshold Determination Required |
| 315: | Environmental Checklist |
| 330: | Threshold Determination Process |
| 335: | Additional Information |
| 340: | Determination of Non-Significance |
| 350: | Mitigated DNS |
| 360: | Determination of Significance (DS)/ Initiation of Scoping |
| 390: | Effect of Threshold Determination |
| 400: | Purpose of EIS |
| 402: | General Requirements |
| 405: | EIS Types |
| 406: | EIS Timing |
| 408: | Scoping |
| 410: | Expanded Scoping |
| 420: | EIS Preparation |
| 425: | Style and Size |
| 430: | Format |
| 435: | Cover Letter or Memo |
| 440: | EIS Contents |

442: EIS Contents on Non-Project Proposals
 443: EIS Contents when Prior Non-Project EIS
 444: Elements of the Environment
 448: Relationship of EIS to Other Considerations
 450: Cost Benefit Analysis
 455: Issuance of DEIS
 460: Issuance of FEIS
 500: Purpose of this Part (Commenting)
 502: Inviting Comment
 504: Availability and Cost of Environmental Documents
 508 (2): SEPA Register
 535: Public Hearings and Meetings
 545: Effect of No Comment
 550: Specificity of Comments
 560: FEIS Response to Comments
 570: Consulted Agency Costs to Assist Lead Agency
 600: When to Use Existing Environmental Documents
 610: Use of NEPA Documents
 620: Supplemental Environmental Impact Statement-Procedures
 625: Addenda - Procedures
 630: Adoption - Procedures
 635: Incorporation by Reference - Procedures
 640: Combining Documents
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 750: Expanded Scoping
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 758: Lead Agency
 760: License
 762: Local Agency
 764: Major Action
 766: Mitigated DNS
 768: Mitigation
 770: Natural Environment
 772: NEPA
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 778: Preparation
 780: Private Project
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 784: Proposal
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17.80.050 Additional Definitions.

In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in this ordinance, the following terms shall have the following meanings, unless the context indicates otherwise:

- (1) "City" means the municipal corporation of Mercer Island and all departments and divisions thereof.
- (2) "Department" means any division, subdivision or organizational unit of the city established by ordinance, rule, or order.
- (3) "SEPA rules" means chapter 197-11 WAC adopted by the Department of Ecology, as now or hereafter amended.
- (4) "Early notice" means the city's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of non-significance [DNS] procedures).
- (5) "Complete Application" means an application which has been reviewed by the appropriate Department(s) of the City and all information is found to be adequate except for information required under this Ordinance.
- (6) "Advisory Body" means any body established by ordinance of the Mercer Island City Council whose responsibilities include making a recommendation to the City Council on actions subject to SEPA.

(7) The following abbreviations are used in this Ordinance:

- (a) "DNS" means Determination of Non-Significance.
- (b) "DS" means Determination of Significance.
- (c) "SEIS" means Supplemental Environmental Impact Statement.

17.80.060 Designation of Responsible Official.

For those proposals for which the city is the lead agency, the responsible official shall be:

The Director of Community Development or his duly authorized designee.

17.80.070 Responsible Official - Duties.

The Responsible Official shall:

- (1) Perform all duties of the responsible official under SEPA and the SEPA Rules, and this Ordinance.
- (2) Perform all duties required to be performed by the City under NEPA, including the provision of coordination with the appropriate federal agencies.
- (3) Make the threshold determination on all proposals for which the City is the lead agency.
- (4) Supervise scoping and the preparation of all Draft and Final Environmental Impact Statements and Supplemental Environmental Impact Statements, whether the same are prepared by the City or an applicant.
- (5) Establish procedures as needed for the preparation of environmental documents, including Environmental Impact Statements.
- (6) Ensure that environmental factors are considered by City decisionmakers.
- (7) Coordinate the response of the City when the City is a consulted agency, and prepare timely written comments, which include data from all appropriate City departments, in response to consultation requests prior to a Threshold Determination.

- (8) Provide information to citizens, proposal sponsors and others concerning SEPA and this Ordinance.
- (9) Retain all documents required by the SEPA rules (chapter 197-11 WAC) and make them available in accordance with chapter 42.17 RCW.
- (10) Perform any other function assigned to the lead agency or responsible official by those sections of the SEPA rules that were adopted by reference in Section 17.80.040.

17.80.080 Lead Agency Determination and Responsibilities.

- (1) The department within the city receiving an application for or initiating a proposal that involves a nonexempt action shall ask the responsible official to determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940 unless the lead agency has been previously determined.
- (2) When the City is the lead agency for a proposal, the responsible official shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.
- (3) When the City is not the lead agency for a proposal, all departments of the City shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. No City department shall prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the City may conduct supplemental environmental review under WAC 197-11-600.
- (4) If the City or any of its departments receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the City must petition the Department of Ecology for a lead agency determination under WAC 197-11-946 within the fifteen day time period. Any such petition on behalf of the City must be initiated by the Responsible Official.

- (5) Departments of the City are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944: PROVIDED, That the Responsible Official and any department that will incur responsibilities as the result of any such agreement approve the agreement.

17.80.090 Timing of the Environmental Review Process.

- (1) The timing of the environmental review process shall be determined based on the criteria in the SEPA rules and this section.
- (2) If the City's only action on a proposal is a decision on a Building Permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the City conduct environmental review prior to submission of detailed plans and specifications. A decision as to whether or not to do early environmental review, prior to receiving a complete application, shall be at the discretion of the Responsible Official.
- (3) The Responsible Official may elect to do early environmental review if adequate information is available to determine the size and scope of the proposed action, including dimensions and use of all proposed improvements, project timing, and the extent of clearing and grading.
- (4) The City may initiate preliminary environmental review and have informal conferences with applicants prior to receipt of a complete application. However, this review shall not be binding on the City or the applicant.
- (5) For City-initiated proposals, the initiating department should contact the Responsible Official as soon as a proposal is formulated to integrate environmental concerns into the decision-making process as soon as possible.
- (6) The procedural requirements of SEPA and this chapter shall be completed prior to the issuance of a permit or final decision on a non-exempt proposal.

17.80.100 Determination of Categorical Exemption.

(1) Upon the receipt of an application for a proposal, the receiving department shall, and for City proposals, the initiating department shall, determine whether the proposal is an action potentially subject to SEPA and, if so, whether it is categorically exempt. This determination shall be made based on the definition of action (WAC 197-11-704) and the process for determining categorical exemption (WAC 197-11-305). As required, departments shall ensure that the total proposal is considered. If there is any question whether or not a proposal is exempt, then the Responsible Official shall be consulted.

(2) If a proposal is exempt, none of the procedural requirements of this ordinance apply to the proposal. The City shall not require completion of an environmental checklist for an exempt proposal. The determination that a proposal is exempt shall be final and not subject to administrative review.

(3) If the proposal is not categorically exempt, the department making the this determination (if different from proponent) shall notify the proponent of the proposal that it must submit an Environmental Checklist (or copies thereof) to the Responsible Official.

(4) If a proposal includes both exempt and nonexempt actions, the City may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that:

(a) The City shall not give authorization for:

- (i) Any nonexempt action;
- (ii) Any action that would have an adverse environmental impact; or
- (iii) Any action that would limit the choice of alternatives.

(b) A department may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and

(c) A department may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt actions were not approved.

17.80.110 Environmental Checklist.

- (1) A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this ordinance; except, a checklist is not needed if the City and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency.
- (2) For private proposals, the City will require the applicant to complete the environmental checklist, providing assistance as necessary. For City proposals, the department initiating the proposal shall complete the checklist for that proposal.
- (3) The City may complete all or part of the environmental checklist for a private proposal, if either of the following occurs:
 - (a) The City has technical information on a question or questions that is unavailable to the private applicant; or
 - (b) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

17.80.120 Threshold Determination.

The Responsible Official shall make the threshold determination and issue a Determination of Non-Significance (DNS) or Significance (DS). The Responsible Official shall make such threshold determination in accordance with the procedures of WAC 197-11, Part 3, as adopted by this Ordinance. The Responsible Official shall notify the applicant, the lead department, and (where a permit is involved) the permit issuing department of the threshold determination. The decision of the Responsible Official to issue a Determination of Significance shall not be appealable. The decision of the Responsible Official to issue a Determination of Non-Significance shall be appealable pursuant to Section 17.80.200.

17.80.130 Early Notice of Threshold Determination and Mitigated DNS.

- (1) As provided in this section and in WAC 197-11-350, the Responsible Official may issue a DNS based on conditions attached to the proposal by the Respon-

sible Official or on changes to, or clarifications of, the proposal made by the applicant.

- (2) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:
 - (a) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and
 - (b) Precede the City's actual threshold determination for the proposal.
- (3) The Responsible Official should respond to the request for early notice within ten (10) working days. The response shall:
 - (a) Be written;
 - (b) State whether the City currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the City to consider a DS; and
 - (c) State that the applicant may change or clarify the proposal to mitigate the indicated impacts, revising the environmental checklist and/or permit application as necessary to reflect the changes or clarifications.
- (4) The City's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the City to consider the clarifications or changes in its threshold determination.
- (5) As much as possible, the City should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.
- (6) When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the City shall base its threshold determination on the changed or clarified proposal and should make the determination within fifteen days of receiving the changed or clarified proposal:

- (a) If the City indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the City shall issue and circulate a DNS under WAC 197-11-340(2).
 - (b) If the City indicated areas of concern, but did not indicate specific mitigation measures, the City shall make the threshold determination, issuing a DNS or DS as appropriate.
 - (c) The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific and feasible. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate.
 - (d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.
- (7) A proposal shall not be considered changed or clarified to permit the issuance of a mitigated DNS under WAC 197-11-350 unless all license applications for the proposal are revised to conform to the changes or other binding commitments made.
 - (8) If a mitigated DNS is issued then the aspects of the proposal that allowed a mitigated DNS to be issued shall be included in any decision or recommendation of approval of the action. Mitigation measures incorporated into the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the City.
 - (9) A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen-day comment period and public notice.

- (10) If at any time the proposal (including associated mitigating measures) is substantitally changed, the Responsible Official shall re-evaluate the threshold determination and, if necesssary, withdraw the mitigated DNS and issue a DS. Any questions regarding whether or not a change is substantial shall be resolved by the Responsible Official.

17.80.140 Environmental Impact Statements.

- (1) An Environmental Impact Statement shall be required on any proposal determined to be a major action having a probable significant, adverse environmental impact. If it is determined that an Environmental Impact Statement is required, the Responsible Official shall notify the applicant or proposal sponsor, the lead department and (where a permit is involved) the department responsible for issuing the permit. The Reponsible Official shall arrange for a meeting with the applicant or proposal sponsor to schedule necessary events and give any guidance necessary in the preparation of the EIS.
- (2) For private proposals, an EIS shall be prepared by a private applicant or agent thereof or by the City. For City proposals, the EIS shall be prepared by a consultant or by City staff. In all cases, the method of preparation and the selection of the consultant shall be subject to the approval of the Responsible Official. The Responsible Official shall assure that the EIS is prepared in a responsible and professional manner and with appropriate methodology and consistent with SEPA rules. The Responsible Official shall also direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document. The Responsible Official may retain the services of a consultant to review all or portions of EIS, prepared by an applicant, his agent, or the City, at the applicant's expense. Services rendered by the Responsible Official and other City staff shall be subject to collection of fees as described in the City's officially adopted Land Use and Planning Fee Schedule.
- (3) The Responsible Official will coordinate any pre-draft consultation procedures and scoping procedures so that the consultant preparing the EIS immediatly receives all substantive information submitted by consulted agencies or through the scoping process. The Responsible Official shall also attempt to obtain any information needed by the consultant preparing the EIS

which is on file with another agency or federal agency.

- (4) An Environmental Impact Statement is required to analyze those probable adverse environmental impacts which are significant. Beneficial environmental impacts may be discussed. The Responsible Official shall consult with agencies, affected tribes and the public to identify such impacts and limit the scope of an Environmental Impact Statement in accordance with the procedures set forth in subsection (5) below. The purpose of the scoping process is to narrow the scope of every EIS to the probable significant adverse impacts and reasonable alternatives, including mitigation measures.
- (5) Procedures for Scoping.
 - (a) The Responsible Official shall consult with agencies and the public to limit the scope of an Environmental Impact Statement by any or all of the following means. The specific method to be followed shall be determined on a proposal-by-proposal basis by the Responsible Official, but at a minimum shall include subsection (i) below:
 - (i) The Responsible Official shall give notice that an EIS is to be prepared, which notice shall provide that agencies, affected tribes and the public may submit written comments to identify significant impacts and reasonable alternatives and limit the scope of the EIS. Comments must be submitted not later than 21 days from the date of issuance of the Declaration of Significance. Additionally, notice may be sent to any community groups known by the Responsible Official to have a possible interest in the proposal. Notice of the intent to prepare an EIS and the opportunity for commenting on the scope thereof may be sent with other public notices concerning the project.
 - (ii) The Responsible Official may conduct a meeting to provide the opportunity for oral comment on the scope of the EIS. Notice of such meeting shall be published in a newspaper of general circulation at least five days prior to the date of the meeting. The scoping meeting may be combined with other meetings or hearings concerning the proposal.

- (b) The appendix to the EIS shall include an identification of the issues raised during the scoping process and whether those issues have or have not been determined significant for analysis in the EIS. All written comments regarding the scope of the EIS shall be included in the proposal file.
 - (c) The public and agency consulting process regarding the scope of the EIS shall normally occur within 30 days after the Declaration of Significance is issued, unless the Responsible Official and the applicant agree on a later date.
 - (d) EIS preparation may begin during scoping.
- (6) The following additional elements may, at the option of the Responsible Official, be considered part of the environment for the purpose of EIS content, but do not add to the criteria for the threshold determinations or perform any other function or purpose under these rules:
- (a) Economy
 - (b) Social policy analysis
 - (c) Cost-benefit analysis.
- (7) When a public hearing is held under WAC 197-11-535(2), such hearing shall be held before the Planning Commission.

17.80.150 Internal Circulation of Environmental Documents.

Environmental documents shall be transmitted to decisionmakers and advisory bodies prior to their taking official action on proposals subject to SEPA.

17.80.160 Emergencies.

The responsible Official shall designate when an action constitutes an emergency under WAC 197-11-880.

17.80.170 Public Notice.

- (1) Whenever the City issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the City shall give

public notice of the DNS or DS by publishing notice in the City's official newspaper.

- (2) Whenever the City issues a DS under WAC 197-11-360(3), the City shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.
- (3) Whenever the City issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by:
 - (a) Indicating the availability of the DEIS in any public notice required for a nonexempt license; and
 - (b) Publishing notice in the City's official newspaper.
- (4) Whenever an EIS hearing is required, the City shall post the site, a minimum of ten (10) days prior to the hearing, for site specific proposals.
- (5) Whenever possible, the City shall integrate the public notice required under this section with existing notice procedures for the City's nonexempt permit(s) or approval(s) required for the proposal.
- (6) The Responsible Official may also elect to give notice by one or more of the other methods specified in WAC 197-11-510.
- (7) The City may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

17.80.180 Fees.

- (1) Environmental Checklist. The City shall establish a fee for review of an Environmental Checklist performed by the City when the City is the lead agency. The fee shall be identified in the City's officially adopted Land Use and Planning Fee Schedule, and collected prior to undertaking a threshold determination.
- (2) Environmental Impact Statements. For all proposals when the City is the lead agency and the Responsible Official determines that an EIS is required, the applicant shall be charged a fee for the administrative costs of supervision and preparation of the draft and final EIS's. This fee shall be identified in the

City's officially adopted Land Use and Planning Fee Schedule, and collected prior to the initiation of work on the Draft EIS.

- (3) For private proposals, the cost of retaining consultants for assistance in EIS preparation shall be borne by the applicant whether the consultant is retained directly by the applicant or by the City.
- (4) Consultant Agency Fees. No fees shall be collected by the City for performing its duty as a consultant agency.
- (5) Document Fees. The City may charge any person for copies of any documents prepared pursuant to the requirements of this Ordinance and for mailing thereof, in a manner provided by RCW Chapter 42.17; provided, that no charge shall be levied for circulation of documents as required by this Ordinance to other agencies.

17.80.190 Authority to Condition or Deny Proposals (Substantive Authority).

- (1) The policies and goals set forth in this ordinance are supplementary to those in the existing authorization of the City of Mercer Island.
- (2) The City may attach conditions to a permit or approval for a proposal so long as:
 - (a) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and
 - (b) Such conditions are in writing; and
 - (c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
 - (d) The City has considered whether other local, state or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

- (e) Such conditions are based on one or more policies in subsection (4) of this section and cited in the license or other decision document.
- (3) The City may deny a permit or approval for a proposal on the basis of SEPA so long as:
- (a) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this ordinance; and
 - (b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
 - (c) The denial is based on one or more policies identified in subsection (4) of this section and identified in writing in the decision document.
- (4) The City designates and adopts by reference the following policies as the basis for the City's exercise of authority pursuant to this section:
- (a) The City shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
 - (i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - (ii) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
 - (iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
 - (iv) Preserve important historic, cultural, and natural aspects of our national heritage;
 - (v) Maintain, wherever possible, an environment which supports diversity and a variety of individual choice;

- (vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities;
 - (vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
- (b) The City recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.
- (c) The City adopts by reference the policies in the following city codes, ordinances, resolutions, and plans, as presently adopted or hereafter amended:
- (i) The Comprehensive Plan of the City;
 - (ii) The Zoning Code of the City;
 - (iii) The Shoreline Master Program of the City;
 - (iv) The policies of the Mercer Island Environmental Procedures Code, including the policies and objectives of SEPA (RCW 43.21C) as adopted by the City;
 - (v) The Parks and Open Space Plan of the City;
 - (vi) The Community Facilities Plan of the City;
 - (vii) The Design Commission Ordinance No. 297, and the Design Guidelines Ordinance No. 491 of the City;
 - (viii) The Land Clearing Code, Chapter 17.08 of the Mercer Island City Code;
 - (ix) The Steep Slope Code, Chapter 17.10 of the Mercer Island City Code;
 - (x) The Model Building Codes and Related Standards, Chapters 17.30 and 17.40 of the Mercer Island City Code;
 - (xi) The Fire Prevention Code, Chapter 17.50 of the Mercer Island City Code;

- (xii) Ordinance No. 446, establishing regulations for plats, subdivisions, and dedications within the City of Mercer Island;
 - (xiii) The City's Arterial Plan, Ordinance No. 404;
 - (xiv) The Six-Year Comprehensive Street Improvement Program;
 - (xv) 1976 Memorandum Agreement regarding I-90, signed by the Cities of Mercer Island, Bellevue and Seattle, and the Washington State Department of Transportation;
 - (xvi) Model Traffic Ordinance, Chapter 10.98 of the Mercer Island City Code;
 - (xvii) Construction Standards for Streets and Sidewalks, Chapter 14.04 of the Mercer Island City Code;
 - (xviii) Street Improvement and Maintenance Guidelines, approved September 13, 1982;
 - (xix) Street Excavation Ordinance, Chapter 14.08 of the Mercer Island City Code;
 - (xx) Sewer Rates and Regulations, Chapter 15.08 of the Mercer Island City Code;
 - (xxi) Water System, Chapter 15.12 of the Mercer Island City Code;
 - (xxii) Minimum Fire Flow Requirements, Resolution No. 778;
 - (xxiii) Comprehensive City Water Plan.
- (5) The responsibility for enforcing conditions under SEPA rests with the department or official responsible for enforcing the decision on the underlying action.
 - (6) This section shall not be construed as a limitation on the authority of the City to approve, deny or condition a proposal for reasons based upon other statutes, ordinances or regulations.

17.80.200 Appeals.

- (1) Except for permits and variances issued by the Code Official or Hearing Examiner under the Shoreline Management provisions of the City Code, when any proposal or action is or is recommended to be conditioned or denied on the basis of SEPA by a non-elected official, department or commission, the following shall be appealable to the City Council under this section:
 - (a) The decision to issue a Determination of Non-Significance rather than to require an EIS;
 - (b) Mitigation measures and conditions that are required as part of a Determination of Non-Significance;
 - (c) The adequacy of a FEIS or an SEIS;
 - (d) Any conditions or denials of the proposed action under the authority of SEPA.
- (2) How to Appeal. The appeal must be consolidated with any appeal that is filed on the proposal action, must be in the form of a written Notice of Appeal, and must contain a brief and concise statement of the matter being appealed, the specific components or aspects that are being appealed, the appellant's basic rationale or contentions on appeal, and a statement demonstrating standing to appeal. The appeal may also contain whatever supplemental information the appellant wishes to include. The appeal may be perfected by the proponent or any aggrieved party by giving notice to the Responsible Official within ten days of the decision or recommendation being appealed. Review by the City Council shall be on a de novo basis.
- (3) For any appeal under this subsection, the City shall provide for a record that shall consist of the following:
 - (a) Findings and conclusions;
 - (b) Testimony under oath; and
 - (c) A taped or written transcript.
- (4) The procedural determination by the City's Responsible Official shall carry substantial weight in any appeal proceeding;

- (5) The City shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

17.80.210 Notice - Statute of Limitations.

- (1) The applicant for or proponent of an action of the City, when the action is one the City is proposing, may publish notice of action pursuant to RCW 43.21C.080 for any action.
- (2) The form of the notice shall be substantially in the form and manner set forth in RCW 43.21C.080. The notice may be published by the City for City projects or the applicant or proponent for private projects.
- (3) If there is a time period for appealing the underlying City action to court, the City shall give notice stating the date and place for commencing an appeal of the underlying action and an appeal under RCW Chapter 43.21C, the State Environmental Policy Act. Notice shall be given by mailing notice to parties of record to the underlying action and may also be given by publication in a newspaper of general circulation."

Section 2. Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance, or the application to other persons or circumstances, shall not be affected.

Section 3. Effective Date.

This Ordinance shall take effect and be in force five (5) days after its passage and publication.

PASSED by the City Council this 10th day of September, 1984, and signed in authentication of its passage this 10th day of September, 1984.


Fred Jarrett, Mayor

Approved as to form:

Ronald C. Dickinson
Ronald C. Dickinson, City Attorney

Attest:

Altra E. Symmonds
City Clerk

Published September 18, 1984 in the Mercer
Island Reporter.

CITY OF MERCER ISLAND

ORDINANCE NO. 446

AN ORDINANCE establishing regulations for plats, subdivisions and dedications within the City of Mercer Island, State of Washington; providing for the administration and enforcement of these regulations; and repealing City of Mercer Island Ordinances No. 59, No. 76, No. 186, and No. 313.

THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. PURPOSE OF THESE REGULATIONS

These regulations are determined to be consistent with the comprehensive plan previously adopted and are intended to lead to development in accordance therewith by lessening traffic congestion and accidents, securing safety from fire, providing adequate light and air, preventing overcrowding of land, avoiding undue concentration of population, promoting a coordinated development of the unbuilt areas, encouraging the formation of neighborhood or community units, securing an appropriate allotment of land area in new developments for all the requirements of community life, conserving and restoring natural beauty and other natural resources and facilitating the adequate provision of transportation, water, sewerage and other public uses and requirements, all pursuant to Chapter 119, Laws of 1967, extraordinary session, as amended, RCW 35A.63. Also, and more specifically, these regulations are intended to control the forms of plats, subdivisions and dedications to be filed, the minimum width of streets, and minimum lot or tract area, street arrangement, provisions for improvement of streets and public places and for water supply, sewerage and other public services, and dedications of parks, playgrounds and other public places, all pursuant to Chapter 271, Laws of 1969, as amended, RCW 58.17 and Section 2341, Code 1881, RCW 58.10.040.

SECTION 2. DEFINITIONS

COLLECTOR ARTERIAL: A street designed to collect and distribute traffic from more important arterials to the local access streets. The collector arterial is similar to a local access street except for stop and yield privileges over a local access street and restrictions for on-street parking.

LOCAL ACCESS STREET: A street designated for direct access to properties, and which is tributary to the arterial system.

MAJOR ARTERIAL STREET: A street designed to collect and distribute large volumes of traffic from the freeway, central business district and less important arterial streets. This type of arterial normally is designed to expedite through traffic.

LOT: A fractional part of subdivided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include all land held as a unit, regardless of whether platted or unplatted, and regardless of whether described on plats or in documents of title as one or several tracts, blocks, lots, parcels or portions thereof. Land is held as a unit if contiguous and beneficially owned or controlled by one person or by a group of affiliated persons (such as a marital community,

or joint venture, or partnership or a corporation and one or more of its subsidiaries, officers, directors or stockholders, etc.) acting together with respect to the land; provided that the existence of a public or private roadway, utility and/or similar easement shall not be deemed to divide or make land non-contiguous if land on both sides of such easement is so owned or controlled.

LOT LINE REVISIONS: A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site or division nor create any lot, tract, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.

PERSON: A natural person; a juristic person, such as a corporation; or a combination of affiliated natural or juristic persons (such as a marital community or joint venture, or partnership, or a corporation and one or more of its subsidiaries, officers, directors, or stockholders, etc.) acting together with respect to land.

SECOND ARTERIAL STREET: A street designed to collect and distribute traffic from the freeway or major arterials and less important streets.

STREET: See "Local Access Street", "Major Arterial Street", and "Secondary Arterial Street".

SUBDIVISION: The division of, or the act of division of land into two or more lots for the purpose of transfer of ownership, building development, or lease, whether immediate or future, and shall include all resubdivision of land.

SECTION 3. APPROVAL REQUIRED.

No person shall sell, or offer to sell, a part of a lot, or otherwise subdivide land, without first obtaining official approval as herein provided. Land contained in a prior short subdivision may not be further divided in any manner until a period of five years has elapsed from the approval of the short subdivision without the filing of a formal plat. Additional short subdivision is then permitted so long as no more than four (4) lots are created through the total short subdivision process, and there shall be no further short subdivision without approval of the Planning Commission as provided for in Section 4(F) of this ordinance.

SECTION 4. SUBDIVISION PROCEDURES FOR FOUR ACRES OR LESS, INTO FOUR OR LESS LOTS. (SHORT SUBDIVISION).

A. Application. A subdivision containing four acres or less, into four or less lots, or a lot line revision may be approved by a committee consisting of the Director of Community Development, the City Engineer, and the City Building Official, or their designees, upon the applicant's submission of nine (9) prints of the proposed subdivision or lot line revision and one tracing of the final subdivision or lot line revision on mylar or equal material, prepared by a registered civil engineer or land surveyor which includes the following information and documents:

1. A legal description of the property to be subdivided.
2. Name, address, and telephone number of persons proposing to subdivide.

3. Name and address of registered civil engineer or land surveyor; provided that the requirement that the prints be prepared by such an engineer or surveyor may be waived by the City Engineer.
4. Date, north arrow and adequate scale as determined by the Committee.
5. Current topography map showing contours at five-foot intervals, showing date and source of survey.
6. Lot lines, dimensions of lots, and area of lots.
7. Location of existing and proposed vehicular access.
8. Location of permanent buildings and structures, if any.
9. Location of existing or proposed streets and other access ways, trails, utilities, and storm drainage facilities and easements.
10. Legal description of the proposed lots.
11. Plans for storm water control, unless waived by the City Engineer.
12. Location, type, size and condition of trees and ground cover in accordance with the Land Clearing Code. Identification of the trees and ground cover which are proposed to be removed.
13. Tree and ground cover restoration program. The program shall address the construction phase and long term development.
14. Location of natural drainageways and/or watercourses as defined in the City Zoning Code and any proposed changes thereto.
15. A plan showing the placement and treatment of excavated materials, fill, and other graded material, retaining walls, rockeries, cuts and drainageways and a statement indicating the method to be followed in erosion control and restoration of land during and immediately following the construction period of improvements.
16. A preliminary soils report prepared by a civil engineer registered in this state and based upon adequate test borings and/or other field data, unless waived by the City Engineer.
17. A proposed time schedule for land clearing, excavation, filling, land restoration, and the implementation of erosion controls in connection with the installation and construction of any streets or other access ways, storm drainage facilities, or other improvements within the subdivision.
18. Protective covenants, if any.
19. A certificate of title from a qualified title insurance company, showing the ownership and title of all parties interested in the plat. The certificate shall have been issued not more than thirty (30) days before filing of the application.
20. Other information as determined necessary by the Committee.

Notice of the application for a subdivision under this section shall be given by one publication in the official newspaper of the City and the public shall have a period of not less than seven days from the date of such publication to inspect such application in the City Department of Community Development Office before official approval of the subdivision by the Committee.

The Code Official or his/her designee shall prepare a public notice of each lot line revision application which, if approved, would change the type of setback.

Public notice shall be mailed to each property owner within 60 feet of the boundaries of the subject properties. This notice shall give the applicant's name, a brief description of the proposal (including the change in setback location), address of the property, a statement that written comments may be submitted to the Code Official, and a deadline for submitting these comments (10 calendar days after the date of mailing of the notice).

B. Subdivision Design Standards.

The short subdivision shall be reviewed in accordance with the design standards set forth in Section 5.H. of this Ordinance.

- C. Lot Line Revisions. A proposed lot line revision shall be reviewed for compliance with the design standards set forth in Section 5.H. of this Ordinance. The City may require provision of site improvements and compliance with other provisions as set forth in Section 5.1 of this Ordinance. The review committee described in Section 4,.A. of this Ordinance may condition its' approval in any way necessary to uphold and meet the stated purpose (Section 1) of this Ordinance.

D. Approval Procedure. (Ordinance 313)

The person or persons proposing to subdivide, or make minor property line adjustments, shall pay fees as established by City Ordinance. The committee shall approve the subdivision if the application is in proper form and the subdivision complies with the foregoing design standards, provided that the Committee may require, as a condition of their approval, the installation of streets furnishing all weather access and storm drainage facilities and and the posting of a performance bond as provided in Section 5.1. If the Committee finds that the application is not in proper form or that the subdivision does not comply with the foregoing design standards, the application shall be returned to the applicant. The applicant may then either modify the application to satisfy the requirements or apply to the Planning Commission and City Council for approval of the subdivision under other provisions of this Ordinance. The Committee shall ordinarily take action on subdivisions of this type within 30 days from the date the application is filed. No construction of structures, utilities, storm drainage, grading, excavation, filling, or land clearing on any land within the proposed subdivision shall be allowed prior to the official approval of the subdivision and until the subdivider has secured a Land Clearing Permit under the provisions of the Land Clearing Code, provided that the issuance of such Land Clearing Permit may, at the request of the subdivider, be included as a part of the official approval of the subdivision. The Committee may require compliance with the conditions set forth in Section 5.1. An approved short subdivision must be filed for record in the office of the County Department of Records.

E. Waiver of Acreage Limitation for Short Subdivision.

The Planning Commission shall have the authority to grant a waiver, with restrictions if deemed necessary, of the four (4) acre limitation for purpose of permitting short subdivision of property containing more than four (4) acres into four (4) or less lots when the conditions set forth in this section have been found to exist. Before any waiver may be granted, all of the following circumstances shall be found to apply:

1. That there are special circumstances applicable to the particular lot, such type of ownership, restrictive covenants, physiographic conditions, location or surroundings, or other factors.
2. That the granting of the waiver will not result in future uncoordinated development nor alter the character of the neighborhood.
3. That granting the waiver will not conflict with the general purposes and objectives of the Comprehensive Plan and Subdivision Ordinance.

F. Waiver of Limitation on Further Short Subdivision.

The Planning Commission shall have the authority to waive the limitation on further short subdivision of land where all of the following conditions have been found to exist:

1. That the five (5) year period prescribed by State statute and this Ordinance has elapsed.
2. That the proposed additional lots are located, designed and served with utilities and vehicular access in a manner consistent with the previously approved short subdivision.
3. That the additional short plat subdivision is consistent with established land use planning principles applicable to formal subdivision design standards and public input processes.
4. That further short subdivision will not result in uncoordinated development, and the applicant has demonstrated that the public use and interest will be served.
5. That utilities, access, storm drainage, or other improvements are designed and installed to accommodate total lot subdivision and development.
6. That a long range development plan has been submitted and approved.
7. That the granting of the waiver will not conflict with the general purposes and objectives of the Land Use, Community Facility, and Arterial elements of the Comprehensive Plan.

G. Appeal.

Each application for a waiver under Section 4.E. and 4.F. shall be accompanied by a fee established by City Ordinance.

The action of the Planning Commission in granting or denying the waivers contained in Section 4.E. and 4.F. shall be final and conclusive unless an appeal to the City Council is filed in accordance with the provisions of City Ordinance pertaining to appeals.

SECTION 5. SUBDIVISION PROCEDURE FOR MORE THAN FOUR ACRES, OR FIVE LOTS OR MORE. (FORMAL SUBDIVISION).

- A. Preliminary Discussion. A person proposing to subdivide any parcel of more than four acres into any number of lots, or any parcel of any size into five lots or more, shall, before filing any documents, submit a tentative sketch in the form prescribed by Section 5.J.1. and discuss his proposal with the staff to eliminate features of the proposal which do not conform to these regulations, and shall proceed under this Section 5.
- B. Filing of Preliminary Plat. After such discussion, the person proposing to subdivide shall apply for official approval by filing with the staff a preliminary plat of the proposed subdivision, accompanied by a fee established by City Ordinance. The preliminary plat shall conform to the design standards prescribed by this Section and shall be in the form prescribed by Section 5.J.2.
- C. Notice of Public Hearing. On receiving the preliminary plat, the staff shall cause not less than three notices of a public hearing thereon to be posted in conspicuous places on or near the land to be affected, not less than seven days before the hearing, which notices shall state the time and place of hearing. Notice of such hearing shall also be given by publication of at least one notice not less than ten days prior to the hearing in the official newspaper of the City. Other notice may be given as deemed necessary by the Director of Community Development.

- D. Action on Preliminary Plat. At the public hearing stated in the notice or at a later public hearing announced at such first public hearing, the Planning Commission shall review all proposed subdivisions and make recommendations thereon to the City Council to assure conformance of the proposed subdivision to the general purposes of the Comprehensive Plan and to planning standards and specifications as adopted by the city. Such recommendation shall be submitted to the City Council not later than fourteen (14) days following action by the Planning Commission. Upon receipt of the recommendation on any preliminary plat, the City Council shall, at its next public meeting, set the date for the public meeting where it may adopt or reject the recommendations of the Planning Commission. If, after considering the matter at a public meeting, the City Council deems a change in the Planning Commission's recommendation approving or disapproving any preliminary plat is necessary, the change of the recommendation shall not be made until the City Council shall conduct a public hearing and thereupon adopt its own recommendations and approve or disapprove the preliminary plat. Such public hearing may be held before a committee constituting a majority of the City Council. If the hearing is before a committee, the committee shall report its recommendations on the matter to the City Council for final action. Whether conditions are stated or not, such approval of a preliminary plat shall be tentative, merely authorizing the applicant to submit a final plat in the form prescribed by Section 5.J.3. The final plat shall be recorded within twelve months after tentative approval of the preliminary plat. On application during the twelfth month after such tentative approval, the Planning Commission may extend the deadline for recording the final plat by not more than a second twelve months. If the final plat has not been recorded within the original or extended deadline, the preliminary plat must again be submitted to the Planning Commission at a new public hearing.
- E. Filing of Final Plat. Before the original or extended deadline for recording the final plat as set forth in Section D above, the applicant may file with the Planning Commission the final plat of the proposed subdivision, in the form prescribed by Section 5.J.3. To secure official approval of the final plat, the applicant must submit proof that the conditions, if any, of the tentative approval, have been performed. In addition, the applicant shall deposit with the City Engineer an amount equal to the estimated cost of checking the final plat, as determined by the City Engineer.
- F. Checking Final Plat. On receiving the final plat, the City Engineer shall check the plat. All work done by the City Engineer in connection with checking, computing and correcting the plat, either in the field or in the office, shall be charged to the deposit. If during the process of checking, the City Engineer finds that the cost of checking will exceed the estimated cost, the City Engineer shall notify the applicant to deposit an additional amount to cover the additional cost. After the City Engineer has completed checking the final plat, he shall sign it and send it to the Planning Commission with a letter stating that all requirements of these regulations have been met.
- G. Recording Final Plat. On receiving the final plat approved by the City Engineer, the staff shall cause the final plat to be approved by the Planning Commission, the City Council, the City Treasurer, and the County Treasurer, and shall file the plat for record. The applicant shall be refunded the balance of his deposit, or charged for any cost of checking exceeding deposit, as the case may be. After the final plat has been recorded, the original tract shall be returned to the City Engineer and filed as the property of the City. The recording of the final plat with the County Department of Records and Election shall constitute the official approval of the subdivision, as required by law and by these regulations.

H. Subdivision Design Standards. Subdivision shall be reviewed in accordance with the following standards:

1. The proposed subdivision shall comply with Arterial, Community Facility, and Land Use elements of the Comprehensive Plan, Zoning Ordinance, and the purposes and permit criteria of the Land Clearing Code, Shoreline Management Act and other applicable legislation.
2. Public Improvements. The subdivision shall be reconciled as far as possible with current official plans for acquisition of development of arterial or other public streets, trails, public buildings, utilities, parks, playgrounds, and other public improvements.
3. Control of Hazards. Where, because of flood, drainage problems, steep slopes, unstable soils, traffic access or public safety problems or other causes, the subdivision of land may create hazards to the health, safety, and welfare of, or inflict expense or damage upon, residents or property owners within or adjoining the subdivision, or passers-by or other members of the public, or the State or the City or other municipal corporations performing public functions in the area, the City Council (or committee in the case of short subdivisions) shall allow such subdivision only on condition that the subdivider formulate adequate methods for control of such hazards, or give adequate security for damages which may result from the subdivision, or both. If the City has knowledge of, or the preliminary soils report indicates, the presence of soils or drainage problems, a soils investigation of each lot in the subdivision may be required by the City Engineer. Such soils investigation shall be done by a civil engineer registered in the State, who shall recommend the corrective action which is likely to prevent damage in the area where such soils or storm drainage problems exist. Storm drainage retention based on after-development run-off from a hundred-year storm shall be reduced to not more than a ten (10) year storm discharge and shall not increase likely damage to downstream or upstream facilities or properties. Alternative tightline storm drains to the lake shall not cause added impact to the properties. Supportive calculations for storm drainage retention shall be submitted.
4. Rights-of-Way.
 - (A) The width and location of rights-of-way for major, secondary, and collector arterial streets shall be as set forth in the Comprehensive Arterial Plan.
 - (B) Public local access streets shall have a minimum right-of-way width of 50 feet.
 - (C) Private local access streets which can serve property beyond the proposed subdivision shall have a minimum right-of-way width of 50 feet.
 - (D) Public or private local access streets in subdivision of land zones for multiple residential or duplex use shall have a minimum right-of-way width of 60 feet.
 - (E) Vehicular access at least ten feet wide shall be provided to all lots in the subdivision.
 - (F) Streets of the proposed subdivision shall connect with existing improved public streets, or with existing improved private streets subject to easements of way in favor of the land to be subdivided.

5. Street Standards. Minimum roadway widths, grades and curves, intersections, parking strips, off-street parking areas, storm drainage, and provisions for utilities within public or private right-of-way in 4(A), 4(B), 4(C), and 4(D), above, shall conform to the City standards as to designs, dimensions, and construction materials.
6. Residential Lots.
 - (A) The area, width, depth, and frontage of each residential lot shall conform to the requirements for the zone in which the lot is located. Any lot which is located in two or more zones shall conform to the requirements of the zone prescribing the largest area, the widest width and the deepest depth, unless the part of the lot within any one of the zones would conform to the requirements for that zone, excluding the remainder of the lot.
 - (B) Each side line of a lot shall be approximately perpendicular or radial to the center line of the street on which the lot fronts.
 - (C) Each lot in the proposed subdivision shall be of such a size and shape as to include a rectangular area of land, the depth and width of which are equal to the minimum depth and width required in the use zone in which the subdivision is located, measured in accordance with the applicable provisions of the Zoning Ordinance. This section may be waived under Section 9 where certain circumstances exist such as steep slope, heavy tree or ground cover, poor soils, or proposed subdivision configuration.
7. Design Standards for Special Conditions.
 - (A) Subdivisions abutting an arterial street as shown on the Comprehensive Arterial Plan shall be oriented to require the rear or side portion of the lots to abut the arterial and provide for internal access streets.
 - (B) Where poor storm water drainage, presence of watercourses, steep slopes, unstable soils, or other causes exist, the short plat committee, or City Council, may require that certain portions of the subdivision remain undeveloped with such restrictions shown on the official subdivision documents.
 - (C) Where steep slope, presence of watercourses, poor soil conditions, poor storm water drainage, tree cover, or other causes exist, the short plat committee or City Council may increase the usual building setback requirements.
 - (D) Where steep slope, presence of watercourses, soils conditions, or other causes exist, the short plat committee or City Council may require appropriate building techniques to reduce the impact of site development.
 - (E) In situations where the Short Plat Committee or City Council finds that the proposed subdivision designed under Section 5.H., Subsection 1 through 7 above would cause substantial negative impact on the physiographic features and/or existing ground cover of the subject area, the applicant may be required to pursue the options set forth in Section 5.H., Subsection 8.

8. Optional Standards for Development.

- (A) The purpose of this subsection is to encourage subdivisions which provide for the permanent retention of wooded or steep areas, or preservation of other natural features, and which otherwise provide for parks, playgrounds, or other non-commercial recreational areas for neighborhood use and enjoyment.
- (B) In any subdivision, the applicant may instead of pursuing the foregoing requirements and the requirements of other City Ordinances as to the right-of-way, blocks and lots, propose any arrangement of blocks, lots, rights-of-way, streets, parking areas, parks, playgrounds, and other open spaces satisfactory to the City Council or Short Plat Committee as meeting the following standards:
- (1) The use of the land in the subdivision shall be one permitted in the zone in which the subdivision is located.
 - (2) The number of lots shall not exceed the number which would otherwise be permitted within the area being subdivided, excluding the shorelands part of any such lot, and/or any part of a lot which is part of a public or private street or is subject to an easement for use of motor vehicles.
 - (3) An area suitable for a private or public open space tract shall be set aside for such use.
 - (4) The lots may be of different areas, but the minimum lot area shall not be less than seventy-five percent (75%) of that otherwise permitted in the use zone in which the subdivision is located. The designated open space, or recreational tract, shall not be considered a lot. The ownership and use of the open space or recreational tract, if private, shall be shared by all property owners within the subdivision. In addition, there shall be conveyed to the public to be exercised at the sole option of the City Council, right of entry if such area shall cease to be an open space or recreational tract.
 - (5) Each lot in the proposed subdivision shall be of such a size and shape as to include a rectangular area of land, the depth and width of which is equal to the minimum depth and width required in the use zone in which the subdivision is located, measured in accordance with the applicable provisions of the Zoning Ordinance. Where certain circumstances exist, such as steep slope, heavy tree or ground cover, or poor soils, watercourses, or proposed subdivision configuration, this section may be waived.
 - (6) The open space or recreational tract must remain in its approved configuration and be maintained in accordance with approved plans. Any deviation from the foregoing conditions must receive expressed approval from the Planning Commission.

9. Waiver Process. The Short Plat committee or City Council may, for good cause, increase any requirements beyond the minimum design standards herein specified or may waive any of the design standards herein specified, to provide for unusual circumstances or conditions. Official approval of a

(M1-5/79, Ord. 478)

subdivision involving a zoning variance or watercourse deviation shall not take effect until this variance or deviation shall have been finally approved.

I. Provisions of Site Improvements. The proposed subdivision shall be provided with adequate improved streets, storm drainage control facilities, water supply, and sewage disposal. The detailed plans for such improvements shall not be made until after approval of the preliminary plat and shall be a condition precedent to official approval of the subdivision.

1. Streets, Utilities and Storm Drainage. The subdivision shall include provisions for improved streets, water, sanitary sewers, utility and storm drainage easements and facilities when required. All utilities shall be placed underground unless waived by the Director of Utilities.

Detailed plans for these provisions shall not be required until after the approval of the preliminary plat and shall be a condition precedent to the official approval of the subdivision. Notice of the submission of such detailed plans shall be given by one publication in the official newspaper of the City and the public shall have a period of not less than seven days from the date of such publication to inspect such plans before official approval of the subdivision by the City Council.

2. Installation of Improvements. No construction of structures, utilities, storm drainage, grading, excavation, filling, or land clearing on any land within the proposed subdivision shall be allowed prior to the recording of the final plat and until the subdivider shall have obtained a Land Clearing Permit under the provisions of the Land Clearing Code provided that the issuance of such Land Clearing Permit may, at the request of the subdivider, be included as a part of the official approval of the final plat. Prior to actual construction, the City Engineer may require a pre-construction conference.

3. Performance Bond. The person proposing to subdivide shall deposit with the City a performance bond, in a sum equal to the estimated costs of completing the improvements as determined by the City Engineer, conditioned upon the completion of the improvements, including the setting of the required survey monuments, to the satisfaction of the City Engineer within one year from the date when official approval of the subdivision becomes effective.

4. Site Supervision. Any and all services performed by city employees in field inspection of construction of plat improvements, clearings and grading processes, shall be charged to the developer at one hundred percent of direct salary cost, plus thirty-five percent of such cost for overhead. Any outside consultants retained by the City to evaluate any phase of plat design or construction shall be charged at actual cost, plus any additional administrative costs. Billings tendered to the developer shall be payable within thirty days.

5. Construction Seasons. The City Engineer may limit the construction project to a specific seasonal time period. The City Engineer may require that the construction impact zones be provided with short term soil and drainage control measures such as, but not limited to: hemping, seeding, gravel or light asphalt base roads, temporary siltation and retention ponds.

J. Documents Required.

1. Preliminary Administrative Review. Prior to official submittal of a preliminary plat, the person or persons proposing to subdivide their land shall be required to meet with the city departments. Thereafter the applicant is to prepare a concept sketch of the proposed subdivision to be followed by an additional staff/applicant discussion. Thereafter the applicant may proceed with the preliminary plat process.
2. The Preliminary Plat.
 - (A) Filing. Nine (9) prints of the preliminary plat shall be submitted. The preliminary plat shall be drawn to scale, 1" equalling 40' or less.
 - (B) The Department of Community Development requires:
 - (1) Identification and Description.
 - (a) Name of the proposed subdivision.
 - (b) A legal description of property to be platted.
 - (c) Name and address and telephone number of person proposing to subdivide.
 - (d) Name and address and telephone number of registered civil engineer or land surveyor.
 - (e) Scale of plat, date and North point. Approximate dimensions, bearings, and square footage for each lot less vehicular easements.
 - (f) Recent topography map showing contours at five-foot intervals. Indicate date and source of survey.
 - (g) Location of existing and proposed streets or other access ways, utilities and storm drainage facilities and easements, trails,
 - (h) Location of natural drainageways and/or watercourses as defined in the City Zoning Code and any proposed changes thereto.
 - (i) A plan showing the placement and treatment of excavation material, fill, and other graded material, retaining walls, rockeries, cuts and drainageways and a statement indicating the method to be followed in erosion control and restoration of land during and immediately following the construction period.
 - (j) A proposed time schedule for land clearing, excavation, filling, land restoration, and the implementation of erosion controls in connection with the installation and construction of any streets or other access way, storm drainage facilities or other improvements within the subdivision.
 - (k) Location, type, size and condition of trees and ground cover

in accordance with the Land Clearing Code. Identification of the trees and ground cover which are proposed to be removed.

- (l) Tree and ground cover restoration program during and immediately after the construction period.
 - (m) A preliminary soils report prepared by a civil engineer registered in this state and based upon adequate test borings and/or other field data shall be submitted, unless waived by the City Engineer.
 - (n) Proposed protective covenants, if any.
 - (o) Preliminary plans for storm water control, unless waived by the City Engineer.
 - (p) Other information as determined necessary by the Department of Community Development, or City Engineer.
- (2) Delineation of Existing Condition.
- (a) Boundary line of proposed subdivision indicated by solid heavy line which shall include all land held as a unit.
 - (b) Location, widths, and names of all existing or prior platted streets or other public ways, utility easements, parks and other open spaces, permanent buildings and structures, and section and municipal corporation lines, within or adjacent to the tract.
 - (c) In case of a replat, the lots, blocks, streets, alleys, easements, parks or open space tracts, building lines (if any) of the original plat being vacated, shall be shown by dotted lines in their proper position in relation to the new arrangement of the plat, the new plat being clearly shown in solid lines to avoid ambiguity.
 - (d) Boundary lines of adjacent tracts of unsubdivided and subdivided land, to the extent within 100 feet of the proposed subdivision, indicated by dotted lines.
 - (e) Existing zoning of proposed subdivision and adjacent tracts.
- (3) Delineation of Proposed Conditions.
- (a) Layout of streets, their names and widths, and also the widths of streets or other access ways, drives, and trail easements. The names of the streets shall conform to the general system of naming in use by the City.
 - (b) Layout, numbers, dimensions and approximate areas of lots.
 - (c) Tracts of land intended to be dedicated for public use or set aside for use of property owners in the subdivision.

3. The Final Plat.

- (A) FILING. After approval of the preliminary plat by the Planning Commission, the fulfillment of the general requirements of these regulations and any other requirements specified by the Planning Commission, one tracing of the final plat of the subdivision, on mylar or equal material 18 inches by 22 inches in size, allowing 1/2 inch for the border, shall be submitted to the Planning Commission for approval. A final plat shall be drawn with ink. If more than one sheet is required, each sheet, including the index sheet shall be on the above specified size. The index sheet must show the entire subdivision, with street and highway names and block numbers.
- (B) DATA TO BE SHOWN.
- (1) Identification and Description
- (a) Name of subdivision.
 - (b) Location by section, township and range, or by other legal description.
 - (c) The name and seal of the registered engineer or the registered land surveyor.
 - (d) Scale (same as preliminary plat) shown graphically, date and North Point. The scale of the final plat shall be such that all distances and bearings can be clearly and legibly shown thereon in their proper proportions. Where there is a difference between the legal and actual field distances and bearings, both distances and bearings shall be shown with the field distances and bearings shown in brackets.
 - (e) A description of property platted which shall be the same as that recorded in preceding transfer of said property or that portion of said transfer covered by plat. Should this description be cumbersome and not technically correct, a true and exact description shall be shown upon the plat, together with original description. The correct description shall follow the words: "The intent of the above description is to embrace all the following described property."
- (2) Delineation.
- (a) Boundary plat, based on an accurate traverse, with angular and lineal dimensions.
 - (b) Exact location, width, and name of all streets within and adjoining the plat, and the exact location and widths of all roadways, driveways, trail easements. The name of a street shall not duplicate that of any existing street in the city, unless the platted street be a new section or continuation of the existing street.

- (c) True courses and distances to the nearest established street lines or official monuments which shall accurately describe the location of the plat.
 - (d) Municipal, township, county or section lines accurately tied to the lines of the subdivision by courses and distances.
 - (e) Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
 - (f) All easements for rights-of-way provided for public services or utilities. Utility easements shall be designated as public or private.
 - (g) All lot and block numbers and lines, with accurate dimensions in feet and hundredths. Blocks in numbered additions to subdivisions bearing the same name may be numbered or lettered consecutively through the several additions. The square footage for each lot less vehicular easements shall be shown.
 - (h) Accurate location of all monuments, which shall be concrete commercial monuments 4" x 4" at top, 6" x 6" at bottom, and 16" long. One such monument shall be placed at each street intersection, and at locations to complete a continuous line of sight and at such other locations as are required by the Engineer.
 - (i) All plat meander lines or reference lines along bodies of water shall be established above the high water line of such water.
 - (j) Accurate outlines and legal description of any areas to be dedicated or reserved for public use, with the purpose indicated thereon and in the dedication; and of any area to be reserved by deed covenant for common uses of all property owners.
 - (k) Building setback lines accurately shown with dimensions.
- (3) Other Marginal Data on Final Plat.
- (a) Dedication of the plat, including dedication of streets and other public areas, if any, by the owner or owners, duly acknowledged.
 - (b) A copy of the protective covenants, if any, shall accompany the final plat.
 - (c) Certification by registered civil engineer or land surveyor to the effect that the plat represents a survey made by him and that the monuments shown thereon exist as located and that all dimensional and geodetic details are correct.

- (d) Proper forms for the approvals of the Engineer, the Planning Commission, and the City Council with space for signatures.
 - (e) Certificates by the City Treasurer and the County Assessor showing that the taxes and assessments on the land to be subdivided have been paid in accordance with law, including a deposit for the taxes for the following year.
 - (f) Approval by the County Department of Records.
- (4) Other Documents. When filed with the City, the Final plat shall be accompanied by the following additional documents.
- (a) A plan, profile and section drawing, prepared by a licensed engineer at a 1" equal 40' scale or less on a standard sheet 24" wide and 36" long for all streets and other access ways, water, sewer, storm water retention facilities, retaining walls, and rockeries within the subdivision.
 - (b) A certificate of title from a qualified title insurance company, showing the ownership and title of all interested parties in the plat. The certificate shall have been issued not more than thirty days before filing the final plat. Elevations shall be established in reference to coast and geodetic upland datum (aerial survey datum) if available.
- (5) Preparation of Documents. All plats, profiles, plans and section drawings shall be certified by registered civil engineers or land surveyors.

SECTION 6. STATUS OF PREVIOUSLY RECORDED PLATS.

Nothing in this ordinance shall prohibit subdivision in accordance with a final plat officially approved and recorded with the County Department of Records before the effective date of this ordinance, under Chapter 186, Laws of 1937, as amended, RCW 58.16, or under Chapter 271, Laws of 1969, Extraordinary Session, as amended RCW 58.17.

SECTION 7. ENFORCEMENT

- A. Criminal Remedies. Violation of any of the provisions of this ordinance shall be a misdemeanor and any person found guilty thereof shall be punished by a fine not to exceed \$500.00 or by imprisonment for not to exceed six (6) months, or both. It shall be a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, continued, or permitted.

B. Administrative and Civil Remedies. Any subdivision without the official approval as herein required shall be a public nuisance. No subdivision made prior to the effective date of this ordinance in violation of State law or County or City ordinance shall be validated hereby, and such subdivision shall be a public nuisance unless made in substantial conformity with the subdivision design standards in effect when the subdivision was made. To restrain such nuisances, the City may withhold from the subdivision all building permits, approvals of preliminary or final plats, and other permits and services, including official approval of further subdivision within the area thereof, of any kind. If necessary, the City may immediately commence action to abate such nuisance in the Superior Court or in some other court of competent jurisdiction. If the City shall fail to refuse or bring such action, then such action may be brought by any person who owns or resides on property within 300 feet of the subdivision, or who owns or resides on property the use and enjoyment of which in its existing state is impaired by the subdivision or who owns or resides on property the value of which for any purpose is impaired by the subdivision.

SECTION 8. INTERPRETATION, PURPOSE AND CONFLICT.

In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public safety, health, morals and general welfare. It is not intended by the ordinance to interfere with or abrogate or annul any easements, covenants, conditions, or restrictions created or imposed by plats or deeds or record or by agreements between parties, except where the provisions of this ordinance are more restrictive, in which event the provisions of this ordinance shall govern.

SECTION 9. VALIDITY.

If any section, paragraph, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The City Council hereby declare that they would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses or phrases be unconstitutional or invalid.

SECTION 10. INAPPLICABILITY OF ORDINANCE.

The provisions of this Ordinance shall not apply to the territory of the Mercer Island Community Municipal Corporation.

SECTION 11. REPEALER AND SAVINGS CLAUSE.

City of Mercer Island Ordinances No. 59, No. 76, No. 186, and No. 313 are each hereby repealed; provided, however, that any applications for subdivisions made to the City prior to the effective date of this Ordinance shall not be affected by this repealer.

SECTION 12. EFFECTIVE DATE

This ordinance shall take force and be in effect five days after its passage, approval, and publication.

PASSED by the City Council this 10th day of April, 1978, and signed in authentication of its passage this 10th day of April, 1978.

s/ *Ben D. Keene*
Mayor

s/ *Jim [unclear]*
Councilman

s/ *William H. Stewart*
Councilman

ATTEST:

Jack W. Bunnell
City Clerk

Approved as to form:

Ronald C. Dickinson
Ronald C. Dickinson,
City Attorney

Date of Publication: 4/20/78

CITY OF MERCER ISLAND
ORDINANCE No. 478

AN ORDINANCE establishing regulations for plats, subdivisions and dedications within the City of Mercer Island, State of Washington; providing for the administration and enforcement of these regulations; and amending Section 5.H.8 (B)(4) of the City of Mercer Island, Ordinance No. 446.

THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1. CITY OF MERCER ISLAND, WASHINGTON ORDINANCE NO. 446, SECTION 5.H.8. (B)(4) IS HEREBY AMENDED TO READ AS FOLLOWS:

"Section 5.H.8.(B)(4). The lots may be of different areas, but the minimum lot area shall not be less than seventy-five percent (75%) of that otherwise permitted in the use zone in which the subdivision is located. The designated open space, or recreational tract, shall not be considered a lot. The ownership and use of the open space or recreational tract, if private, shall be shared by all property owners within the subdivision. In addition, there shall be conveyed to the public to be exercised at the sole option of the City Council, right of entry if such area shall cease to be an open space or recreational tract."

SECTION 2. City of Mercer Island Ordinance No. 446 as hereby amended, is hereby ratified and confirmed and continued in full force and effect.

SECTION 3. This Ordinance shall take force and be in effect five (5) days after its passage, approval, and publication.

PASSED by the City Council this 14th day of May and signed in authentication of its passage this 14th day of May.



Ben J. Werner, Mayor

ATTEST:



Jack W. Bunnell, City Clerk



Ron C. Dickinson, City Attorney

Date of Publication: May 23, 1979

RULES AND REGULATIONS FOR CONDUCTING
THE BUSINESS OF THE CITY OF MERCER
ISLAND DESIGN COMMISSION

ARTICLE I GENERAL PROVISIONS

These rules and regulations are supplementary to Ordinances 297 and 298 of the City of Mercer Island and Mercer Island Community Municipal Corporation.

ARTICLE II OFFICERS AND THEIR DUTIES

Section 1. The officers shall consist of Chairman and Vice Chairman and shall be elected at the first regular meeting of the calendar year.

Section 2. In the absence of the Chairman and Vice Chairman, a Chairman Pro-tem shall be elected by the remaining members of the Design Commission and shall serve only for the meeting at which he is elected.

Section 3. A secretary shall be provided by the City Planning Department to prepare minutes and keep such record, attend to correspondence of the Design Commission, and perform such other duties as may be deemed necessary.

ARTICLE II MEETINGS

Section 1. Regular meetings of the Design Commission shall be held on the second and fourth Wednesday of each month at 7:30 p.m. in the School Administration Building or such other place as the Design Commission may determine. Any regular meeting may be cancelled or re-scheduled by the Chairman or in his absence by the Vice Chairman.

Section 2. If a regular meeting falls on a legal holiday, that meeting shall automatically be held on the next day which is not a holiday unless the Commission by formal action sets an alternative day.

Section 3. Special meetings of the Design Commission may be called by any of the following: Chairman or in his absence by the Vice Chairman, City Manager, Mayor. The scheduling and holding of all Design Commission meetings is to be done in accordance with the State Statutes.

Section 4. A majority of the Design Commission membership shall constitute a quorum. For the conduct of business, a majority vote of the members present at a meeting provided a quorum is present shall be sufficient to act. The Chairman of the meeting shall be a full voting member, but may not initiate or second a motion. The motion which decides the issue or makes the recommendations shall be in the form of findings of fact and shall state the reasons for the findings of the Design Commission.

ARTICLE IV CONDUCT OF MEETINGS

Section 1. All meetings of the Design Commission shall be conducted in accordance with the Roberts' Rules of Order.

Section 2. All meetings shall be conducted in accordance with the agenda.

Section 3. Non-members of the Commission may address the Design Commission only after being recognized by the Chairman of the meeting and shall confine their remarks to the subject before the Commission. The Chairman of the meeting shall endeavor to minimize the amount of cumulative redundant testimony by the public.

Section 4. Minutes of all regular meetings shall be kept and made part of a permanent public record. All actions of the Design Commission shall be considered conclusive as to general import as of the date of such action. Details of phraseology, conditions, etc., shall be subject to correction at the time of considering and approving the minutes of the meetings at which such actions were taken.

Section 5. Any member of the Design Commission who has a material, direct or individual interest in any matter before the Design Commission shall publicly so indicate, shall then absent himself from the meeting during the period of discussion and action thereon and shall refrain from any prior discussion of such matter with other members of the Design Commission.

ARTICLE V ATTENDANCE

Section 1. Attendance of regular and special meetings is expected of all Design Commission members.

Section 2. Any member anticipating absence from a meeting should notify the Chairman or City Planning Department.

Section 3. Any absence may be excused by the Design Commission, even for an extended period. Chronic unexcused absence of any member shall be referred by the Design Commission to the City Council.

ARTICLE VI AGENDA AND STAFF REPORTS

Section 1. Any agenda for every regular meeting shall be prepared and distributed by the City Planning Department to each member not less than five (5) days prior to the date of the meeting at which such agenda is to be considered. The agenda shall be accompanied with a complete copy of the unapproved minutes of the previous meeting, staff reports, and such material, illustrations, petitions, etc. as may pertain to the agenda.

CITY OF MERCER ISLAND

ORDINANCE 491

AN ORDINANCE RELATING TO THE REGULATION OF LAND USE WITHIN THE CITY OF MERCER ISLAND AND THE MERCER ISLAND COMMUNITY MUNICIPAL CORPORATION; AMENDING SECTION 16A.06 (e), CITY OF MERCER ISLAND ZONING CODE ORDINANCE NO. 15 AND AMENDING SECTION 12A.01 (e), COMPREHENSIVE ZONING ORDINANCE OF THE TOWN OF MERCER ISLAND ORDINANCE NO. 199, BY ADOPTING DESIGN GUIDELINES AND INCORPORATING THEM BY REFERENCE.

THE CITY COUNCIL OF THE CITY OF MERCER ISLAND DO ORDAIN AS FOLLOWS:

Section 1. Section 16.A.06(e) City of Mercer Island Zoning Code, Ordinance No. 15 and Section 12A.01(e), Comprehensive Zoning Ordinance of the Town of Mercer Island, Town Ordinance No. 199, are each hereby amended to read as follows:

"16A.06(12A.01). Powers of the Commission.

(e) The Design Commission shall complete its review and make its decision and/or recommendations within 60 days after a matter is submitted to it, unless an extension is authorized by the City Council. Decisions of the Design Commission shall be based upon the criteria set forth in Sections 16A.09(12A.09) below, which criteria shall be supplemented by the Design Guidelines of the Mercer Island Design Commission dated May 14, 1973 which are hereby adopted by reference and incorporated herein as though full set forth, with such amendments as may be made to said Design Guidelines from time to time by the City Council."

Section 2. City of Mercer Island Zoning Code, City Ordinance No. 15, as previously and hereby amended, is hereby ratified and confirmed and continued in full force and effect.

Section 3. The Comprehensive Zoning Ordinance of the Town of Mercer Island, Town Ordinance No. 199, as previously and hereby amended, is hereby ratified and confirmed and continued in full force and effect.

Section 4. This ordinance shall take force and be in effect five (5) days after its passage, approval and publication.

PASSED by the City Council this 14th day of January, 1980.

Beth Bland
Mayor

ATTEST"

Jack W. Bunnell
Jack W. Bunnell, City Clerk

APPROVED AS TO FORM:

Ronald C. Dickinson
Ronald C. Dickinson, City Attorney

DATE OF PUBLICATION:

January 23, 1980

DESIGN GUIDELINES

Mercer Island Design Commission

Prepared By

JOYCE, COPELAND, VAUGHAN & NORDFORS

JONES & JONES

in cooperation with the

MERCER ISLAND PLANNING DEPARTMENT

DESIGN GUIDELINES

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SIGN GUIDELINES



SIGN GUIDELINES

GOAL: Guide signs to be in balance with the streetscape, natural environment and commercial structures by assuring that signs are:

- INTENT:**
1. Compatible with their surroundings.
 2. Appropriate to the type of activity to which they pertain.
 3. Expressive of the identity of individual proprietors and the community as a whole.
 4. Legible at the speed and at the distance at which they are seen.

The intent is to control and direct all signing within the private sector to assure uniform application, achievement of a desirable balanced environment. As a group, signs can give the Business District a distinctive appearance and reinforce the character of the district as a distinctive place. Regardless of a particular activity to which a sign pertains, or the personality of the proprietor, a sign should not violate the visual area in which it is located, nor should its presence trespass unduly on the view from the public right-of-way, signs should realize an expression of good architectural (or aesthetic) taste and skilled design. Form, proportion, color, material, surface treatment and position will be considered in each case.

CRITERIA: The primary area of concern of signs is in the Business District. Guidelines for signs in that area are detailed in this section following a summary of signing for other activities on the Island not located in the Business District.

1. Single family residences: Maximum one unlighted sign no larger than 200 sq. in. or one lighted sign no larger than 100 sq. in. Unlighted directional signs on properties are also allowed.
2. Public utilities, schools, recreation and park facilities: Maximum one unlighted or exterior lighted sign on each separate street on a property line not to exceed 18 sq. ft.

nor 42 inches in height above the ground.

3. Churches and Clubs: same as 2 above.
4. Subdivision entrance sign: Maximum one each unlighted or exterior lighted sign at each entrance not to exceed 6 sq. ft. nor 42 inches in height above the ground, subject to setbacks required in that zone. Use natural materials of 20 year life expectancy, landscape to complement and blend into natural surroundings. No unit masonry materials.
5. Apartments: One wall sign or ground supported sign, unlighted or exterior lighted not to exceed 20% of the signable area of the wall or 6 sq. ft. if a ground supported sign. If ground supported maximum height off ground shall be 42 inches, location subject to setback requirements.
6. Hospitals, sanitariums: same as 5.
7. Day Nurseries, Pre-schools and Resthomes: same as 2 above.
8. Licensed Practitioners: One unlighted wall sign for identification purposes only bearing only the occupant's name and occupation not to exceed 72 square inches.
9. Real Estate signs: Temporary signs located on and indicating premises which are for sale, rent or lease. One sign per street frontage not to exceed 6 sq. ft. nor 42 inches in height above the ground if a ground sign.
10. Construction Sign: Temporary ground signs erected for a construction project on the project site and maintained only while such work is in progress. One sign per street frontage not to exceed 16 sq. ft. nor 8 feet high.

BUSINESS DISTRICT SIGNS

Content of Signs

Signs should be used primarily for the purpose of identifying premises. Signs may be used to advertise products or services in designated areas but only one sign containing such content will be allowed per building or complex. To identify is to convey recognition of a particular person, enterprise or group of enterprises. To advertise is to give information about the type, product line, quality or price of goods or services offered. If a "third party" sign is displayed (that is a sign identifying an enterprise, but including a sponsoring advertisement such as Coca Cola or 7-Up), that display will be counted as the one allowable sign containing advertising content.

Types of signs

Only on-premise signs are allowed; off-premise signs are not allowed. An on-premise sign is a sign identifying the premises upon which it is located or the occupants thereof.

Signs will be either: Ground signs; signs supported by poles upright extending from the ground or an object on the ground but not attached to any part of any building, or; Building signs; either fabricated or painted wall signs, or projecting signs. A fabricated wall sign is a sign attached to or erected against or as part of a wall of a building or other structural feature and whose display surface is parallel to the face of the building. A painted wall sign is a sign painted on the wall of a structure, the portion of which is parallel to the face of the building.

Other graphic means may be used to identify enterprises and in some cases display goods and service, these are auxiliary design elements. A great deal of the character of the Business District and individual establishments may be expressed by design factors which fall in this category. The style and a subtle, useful enhancement of graphic communication (including signs) may be to a large extent determined by the attention given to these auxiliary elements. Elements included are illumination of all types, movement, color, banners, awnings, canopies, marquees, window graphics, and sidewalk displays.

Signs will serve an individual business or groups of businesses. A sign which serves as a common or collective identification or advertisement for two or more business uses on the same premise is a joint sign. A sign which serves an individual business is an individual sign. Joint signs must identify more than one enterprise.

Sizes Of Signs

The following sections detail guidelines applicable to each type of sign. In most cases signs should be restricted to certain maximum areas and heights: Where maximum areas, heights or percentages of wall coverage are recommended the area or height will be measured from the outer perimeter including structural frames, borders and trim.

Where a sign has two or more display surfaces, the area of the largest visible outline should be measured to determine the area of the sign.

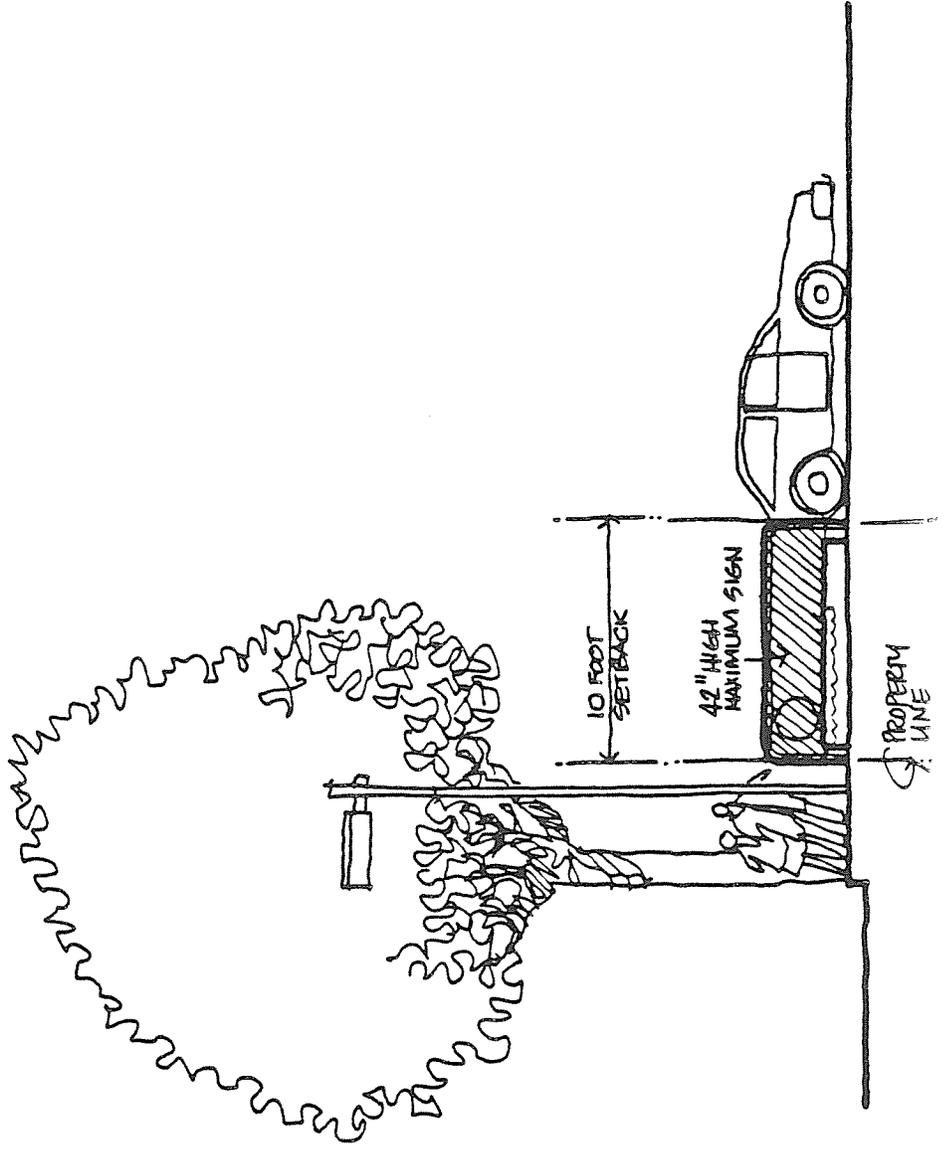
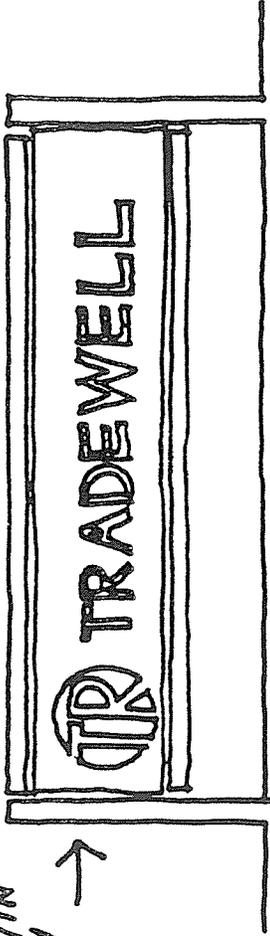
INDIVIDUAL
GROUND SIGN:

25 SF MAX

42" HT. LIMIT WITHIN

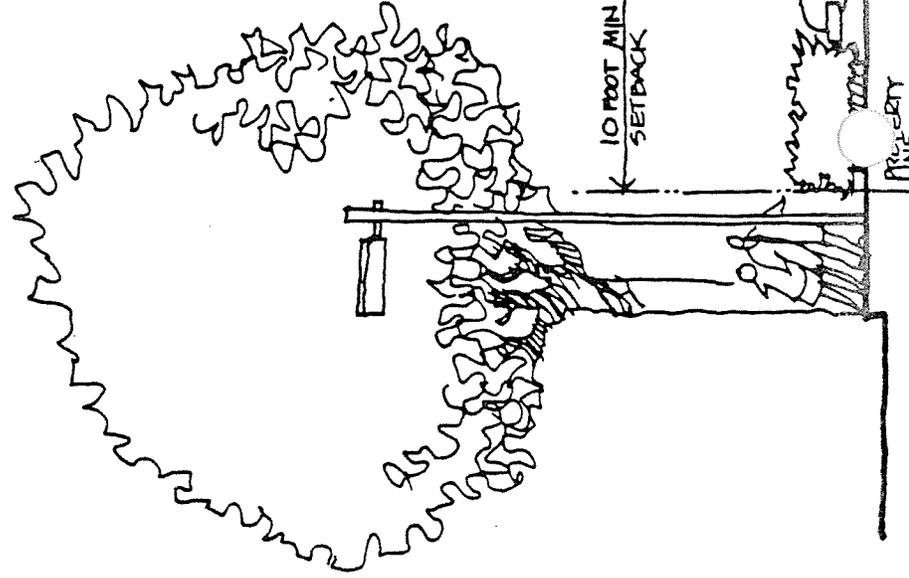
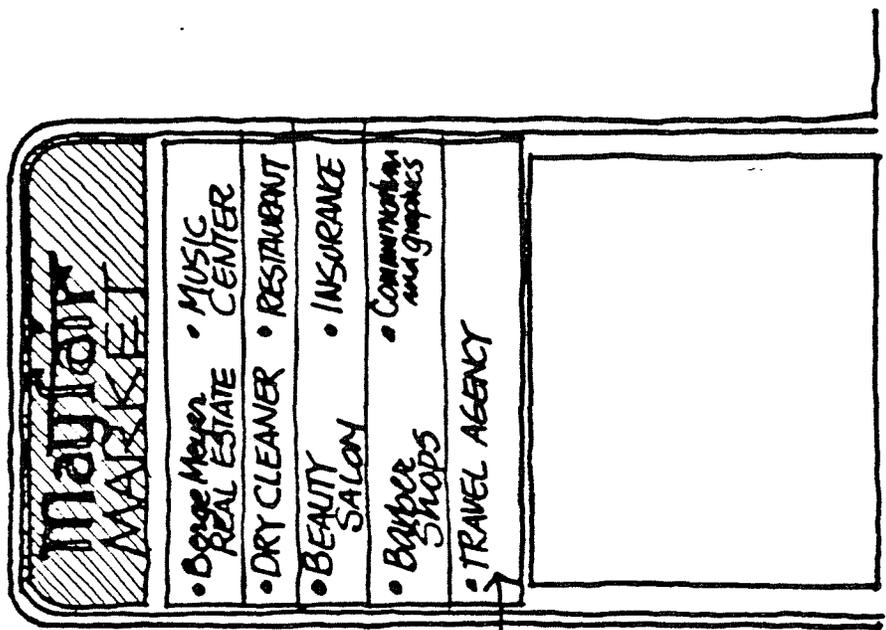
10' OF PROPERTY

LINE.

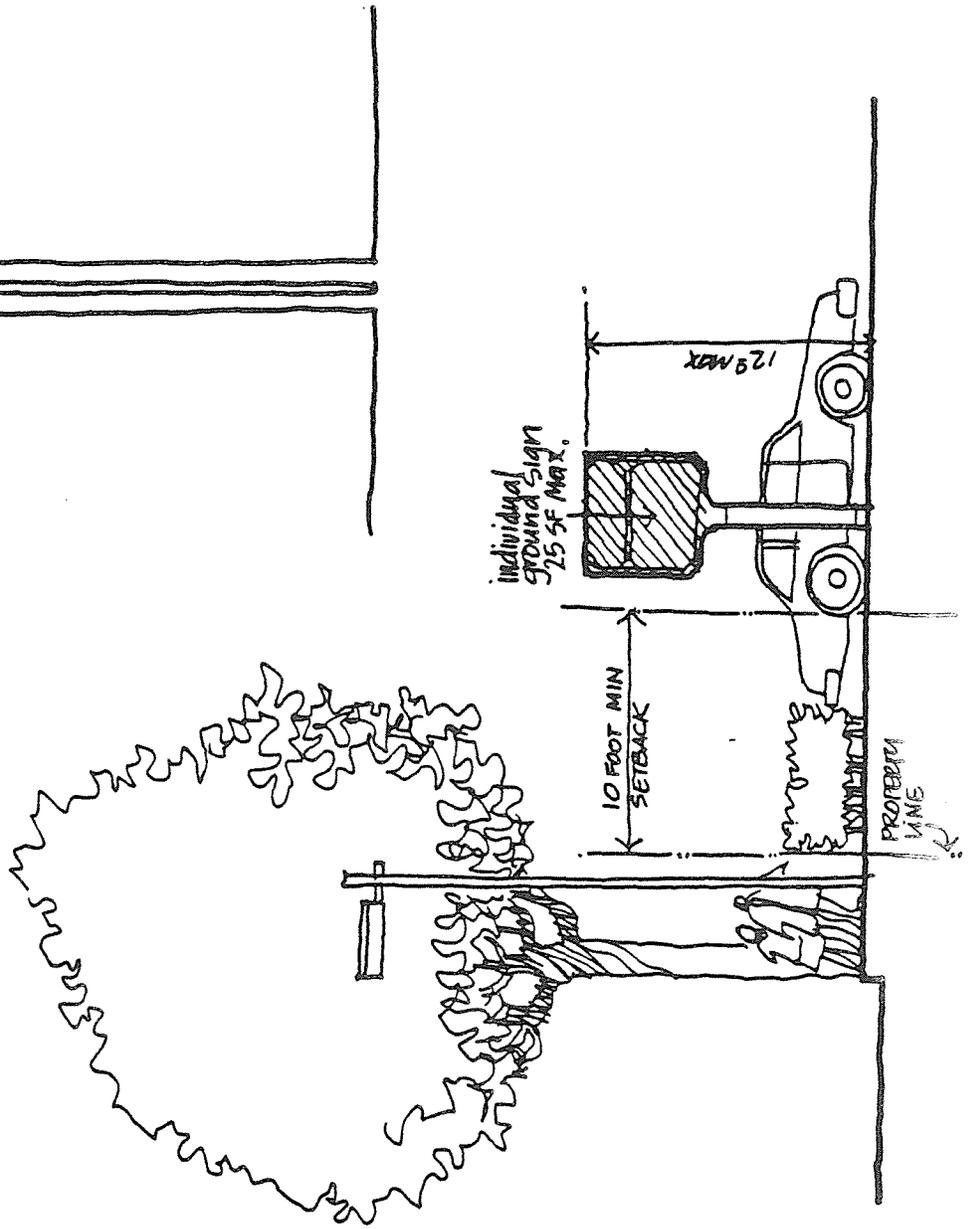
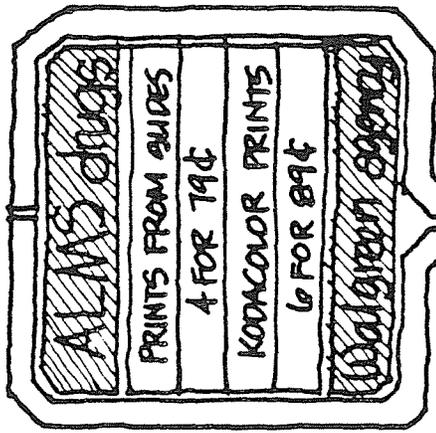


JOINT GROUND SIGN:
 50 SF MAX
 12' HT. LIMIT
 ALL MESSAGES INTEGRATED & CONTAINED IN ONE SIGN

identification or advertisement



INDIVIDUAL SIGN:
25 S.F. MAX.
12' HT. LIMIT
ALL MESSAGES
INTEGRATED &
CONTAINED IN
ONE SIGN.



Ground Signs

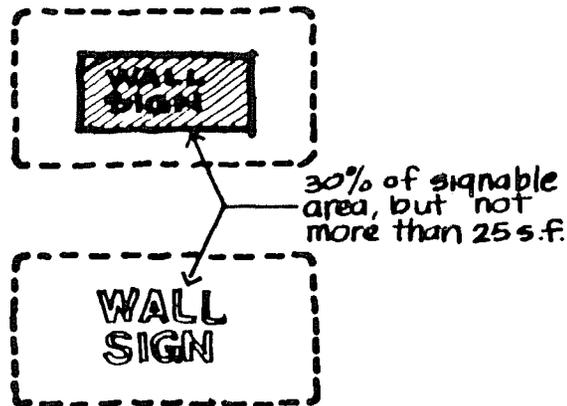
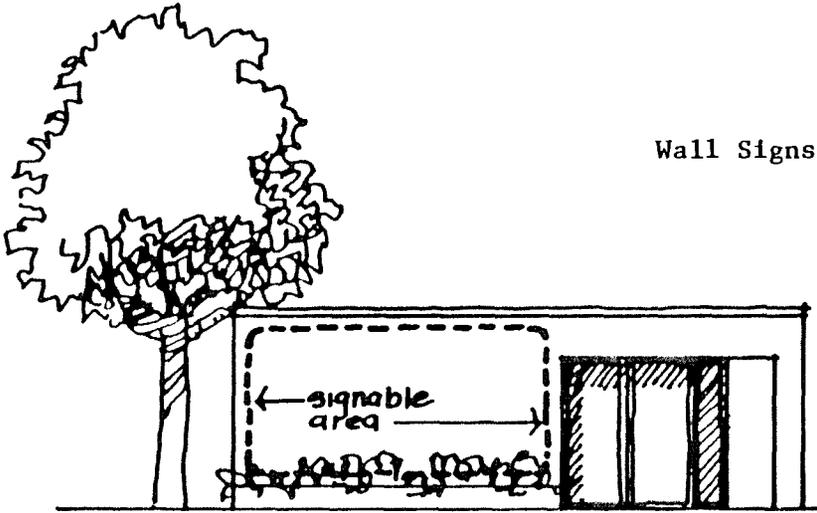
Any individual establishment not a part of a larger complex or group of establishments may display a ground supported sign provided:

1. The establishment is accessible by car and provides parking space.
2. The building which it occupies is set back at least 25 feet from public right-of-way.
3. Ground signs may not exceed 42 inches in height within a setback of 10 feet from any property line on a street. Ground signs may not exceed 12 feet in height beyond a 10 foot setback as measured at the street elevation. In all cases height is measured from grade at the edge of the right-of-way to the top of the sign. If for reasons of unusual topography, landscape, or road curvature a height greater than that recommended is needed, a special exemption from these guidelines might be considered.
4. A joint ground sign may allocate up to 6 square feet for each enterprise included on the premise and the shopping complex as a whole. The total area of any one joint sign may not exceed that allowed for a wall mounted sign or 50 square feet which ever is less except the minimum size may be 25 square feet. When more than five enterprises are included on a premise one additional ground sign may be placed on a street front if signs are located at least 100 feet apart. If more than one sign is used it should be the same design. Individual ground signs or a joint ground sign which identifies only the shopping complex as a whole may not exceed 25 square feet. Signs 42 inches high or less may not exceed 25 square feet.
5. Ground signs should employ extensive use of symbols.
6. A building or complex may not display more than one ground sign on each street except as allowed under the special conditions described in 4. above. Under no circumstances may a building display more than one sign containing advertising content.

7. Signs displaying identification and advertisement content should be designed so that all information is integrated and contained in one design in contrast to displaying two or more separate elements on one structure.
8. Exposed areas of backs of signs should be covered to present an attractive and finished appearance.

Each sign structure should at all times include a facing of proper dimensions to conceal back bracing and frame work of structural members. During periods of repair, alteration or copy change, such facing should be removed for a maximum period of 8 consecutive hours.

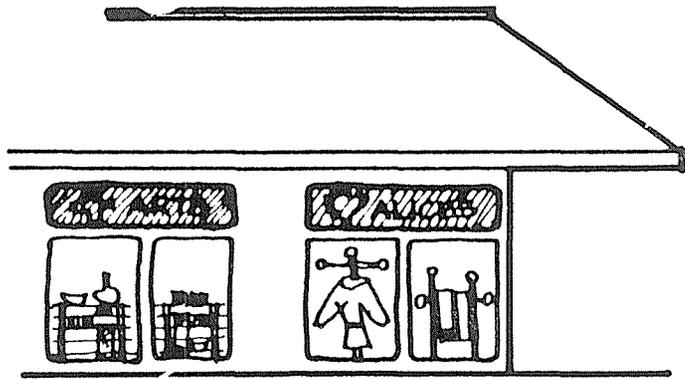
Wall Signs



Because a sign becomes a part of the fabric of the building on which it is displayed, it is important that the correct proportion between the wall and the sign be achieved. 30 percent of the signable wall area or 50 square feet if a joint identification sign, or 25 square feet if an individual identification sign, whichever is less may be covered except where special areas are reserved for signs (see Item 6. following). In certain circumstances painted wall signs may exceed 30 percent. The "signable" wall area is a continuous portion of the building unbroken by doors or windows. It is calculated by selecting a continuous facade then drawing an imaginary rectangle within specified height limitation (see following wall sign guidelines) and computing the square foot area of this rectangle.

Wall signs are subject to the following guidelines:

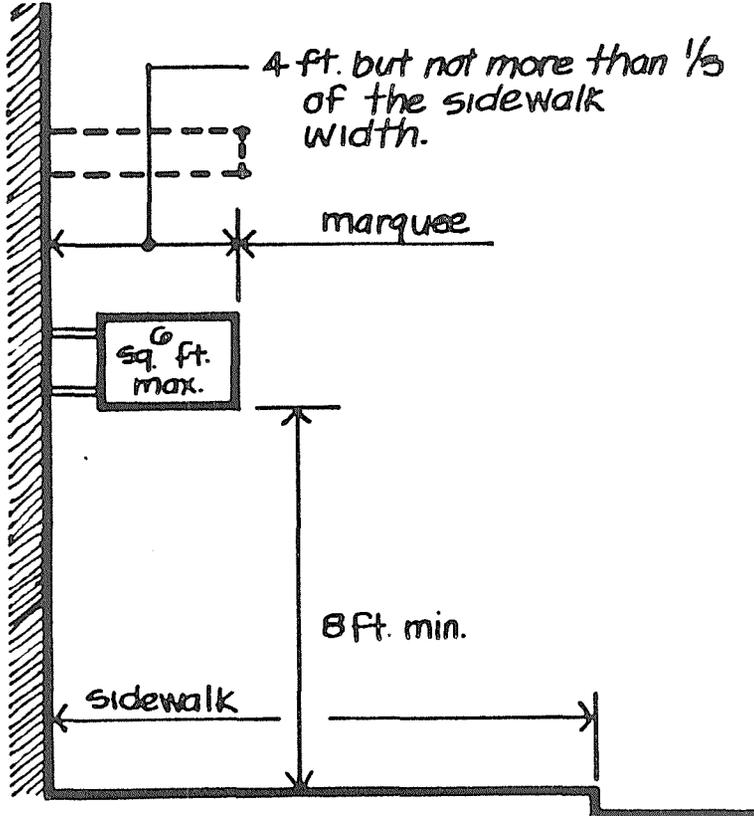
1. Wall signs may be displayed by any establishment in the Business District.
2. If a sign is fabricated and consists of a "boxed" display, the total area of the display, including both copy and background must be no greater than the maximum percentage(30 percent) of signable area allowed or the maximum size display allowed.
3. If a wall sign consists of individual cut-out letters, and symbols only the total area of the letters or symbols themselves is assessed against the allowable signable area.
4. If a sign is a painted wall sign only the total area of the letters or symbols themselves is assessed against the allowable signable area unless the background contrasts strongly with the wall it is painted on and is not construed to be a part of the architecture of the building. If an applicant demonstrates to the satisfaction of the Commission that a painted wall sign is an integral part of the architecture ("super graphic") than the Commission may waive the signable area and size restrictions.
5. A wall sign may not extend above the parapet, soffit, the eve line or the roof or the window sill of the second story (except in the latter case, as allowed under 4. above).



6. Many commercial structures provide space for signs above windows and below parapets or eaves usually contained by trim or a change in material. In these cases signs should be located within the confines of these spaces and evaluated for compatibility with neighboring signs on the same premise in terms of scale of letters, size, color, lighting, materials and style.

7. A wall sign should not extend more than 12 inches from the face of the wall.

Projecting Signs



Projecting signs may be displayed by any establishment in the Business District. A projecting sign may not exceed 6 square feet. In addition, projecting signs are subject to the following guidelines.

1. Projecting signs should clear sidewalks by 8 feet.
2. They should project no more than 4 feet from the building, or one-third of a public or private sidewalk width whichever is less, unless there is a permanent marquee over the sidewalk in which case a sign may project from the building the width of the marquee but not beyond.

PROJECTING SIGN

Auxiliary Design Elements

1. Illumination:

- a. Bare bulb illumination: The use of bare bulbs is restricted to establishments which would normally be associated with this light source such as eating and drinking places, amusements and recreation. Maximum wattage must not be greater than 15 watts and only clear or white bulbs should be used.
- b. Flashing and moving light: No flashing and moving lights are allowed except when out of view of all streets, parking lots and views from properties uphill as a part of a planned atmosphere appropriate to a group of enterprises.
- c. Flood lighting illumination: Graphics illuminated by flood lights or spot lights must be positioned in such a manner that none of the light spills over onto an adjoining property or glares or shines into the eyes of motorists and pedestrians.
- d. Indirect illumination: An indirectly illuminated graphic is one which is lighted by a source not seen directly; permitted to all establishments in the District.
- e. Internal illumination: An internally illuminated graphic is one with the light source concealed or contained within the graphic itself and which becomes visible in darkness by shining through a translucent surface; permitted in all establishments in the District.
- f. Neon tube illumination: A neon graphic is one with a light source supplied by a neon tube which is bent to form letters, symbols or other shapes. Permitted to all establishments.

2. Special features: Special features referred to here (banners, awnings, canopies, etc.) are essentially pedestrian oriented and will most frequently be used in conjunction with some other type of street sign.

a. Awnings, canopies and marquees may be used by all types of establishments. Only individual cut-out letters and/or symbols may be attached to painted stencils or otherwise placed on these devices; all other types of graphic treatment are prohibited.

b. Mechanical movement meaning animated or to physically revolve, move up and down or sideways. Not allowed except when out of view of all street, parking lots and views from properties uphill as a part of a planned atmosphere appropriate to a group of enterprises. Banners may be used with permission of the Commission.

c. Permanent and temporary window graphics: These may not occupy more than 25 percent of the total area of the window in which they are displayed.

d. Sidewalk showcases and kiosks: These may be used with special permission of the Commission.

e. Auto-oriented window signs: Signs attached to the interior of a window or within 1 foot of the window which are designed to attract the attention of motorists are not allowed.

3. Abandoned signs: A sign which is located on property which becomes vacant or unoccupied for a period of 90 days or more, or which was erected for an occupant or business other than the present occupant or business, or contains content of which pertains to a time, event or purpose which no longer pertains is an abandoned sign. If the sign does not conform to the criteria described in these guidelines and/or is unrelated to the present occupant or business it must be removed by the property owner.

4. Existing signs: When a sign which does not conform to the criteria described in these guidelines and an occupant proposes modifications to an existing sign, the sign should be brought into conformance with these guidelines or removed.

5. Performance bond: The City may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the City to secure the applicant's obligation to adhere to the sign guidelines.

ARTERIAL RIGHT-OF-WAY GUIDELINES



ARTERIAL RIGHT-OF-WAY GUIDELINES

CONCEPTS:

The intent of the guidelines is to develop further goals and objectives synthesized from previous Mercer Island planning studies, the community and the Design Commission in order to provide a framework within which right-of-way improvements may be implemented that will result in a coherent, continuous right-of-way system representative of the Island environment and complementary to its natural character.

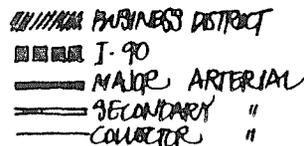
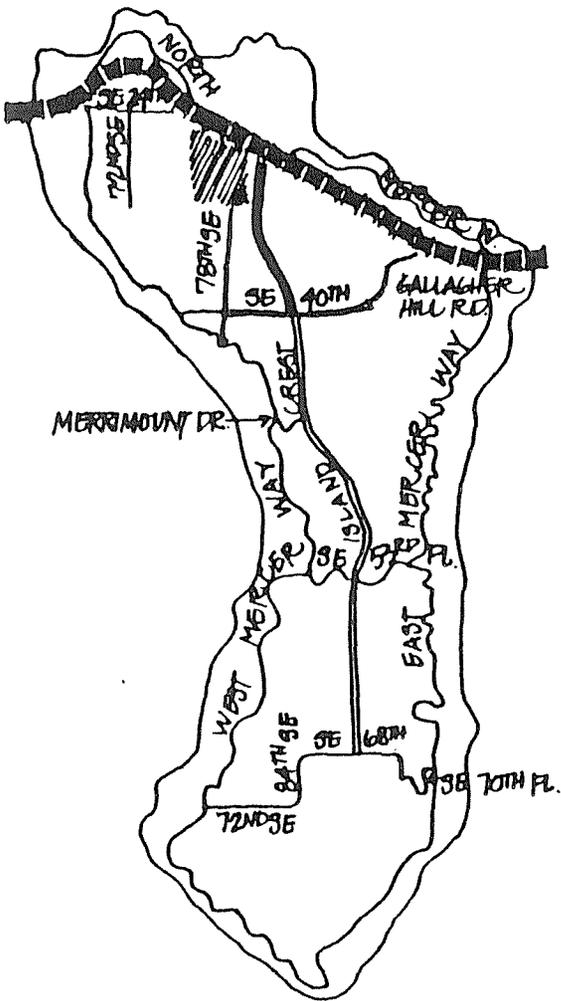
The following GOALS, INTENTIONS and CRITERIA constitute a basis for evaluating improvements and development as they may contribute to the overall intended right-of-way system.

CLASSIFICATION:

In consideration of the general environmental characteristics of the Island, the arterial right-of-ways have been grouped into three general classifications which are applicable to Mercer Island: rural, suburban, and urban. Several of the arterials may have more than a single classification depending on their basic character. For the purpose of developing guidelines, only the major distinct segments of an arterial have been differentiated.

Because there is general community consensus that the rural characteristics of the Island should be retained, right-of-way development must be evaluated, not only on the basis of the prevalent classification for any one arterial, but also on the basis of retaining and reinforcing the much-sought-after rural image. For this reason the suburban segments of any one right-of-way should be subordinated to the rural segments and development "downgraded" accordingly.

These arterials have also been assigned route and section numbers by the Public Works Department which are recognized by the Urban Arterial Board, as well as an arterial designation of major, secondary, and collector. However, since the guidelines deal chiefly with visual characteristics of the right-of-way, the arterial section designations have been introduced primarily as a means of reference. Diagrams keying the classification are found with the corresponding guidelines under rural, suburban, and urban right-of-way headings.



The rural right-of-ways are generally characterized by continuous vegetation belts, ravines, hillsides, winding roadways, group access drives, and relative freedom from infringing housing. These are the right-of-ways most highly characteristic of the Island environment and provide a unique exposure to Mercer Island for both visitors and residents. This category includes the majority of the Mercer Ways, Island Crest from SE 53rd Pl. to SE 68th, the majority of SE 53rd Pl., SE 68th east of Island Crest, and Gallagher Hill Rd.

The suburban right-of-ways pass through fairly dense residential communities and are characterized by closely adjoining housing, uniform front yard setbacks, individual driveways, and a lack of continuous vegetation buffers. This category includes SE 40th, SE 24th, 72nd SE, 78th SE, Island Crest from SE 40th to SE 53rd Pl., a portion of SE 53rd Pl., 84th SE, SE 68th and SE 72nd, SE 70th Pl., Merrimount Dr., and portions of the Mercer Ways.

The urban right-of-ways are the arterials within and adjoining the Business District. Island Crest north of SE 40th is the only right-of-way covered in this section.

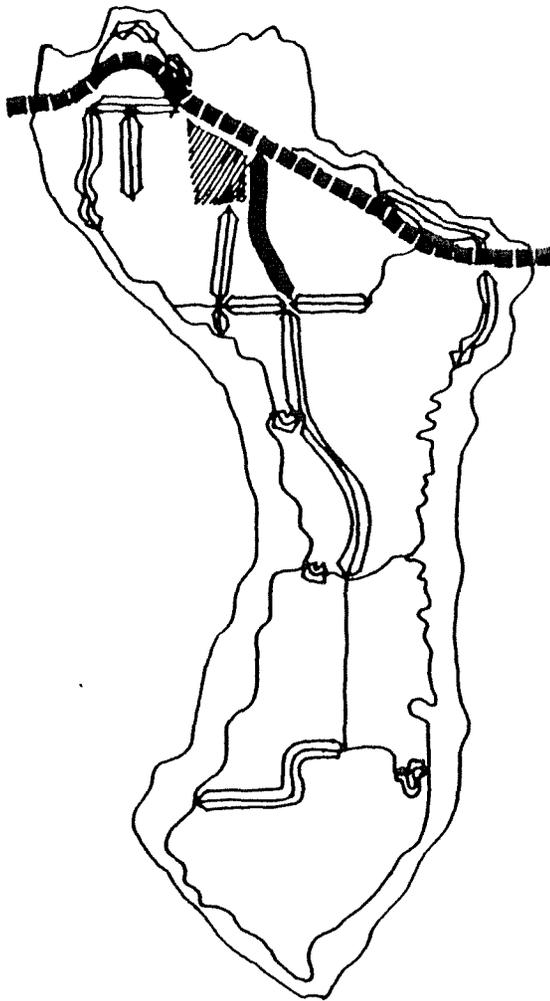
TRAILS

A. BICYCLE FACILITIES

Different needs exist for bicycles in urban right-of-ways than in rural. The volume composition and speed of vehicular traffic as well as topography generally dictate the type of system that should be provided. There are three basic types of bicycle facilities:

Shared Right-Of-Way (Class III Bikeway): a mixture of motorized vehicle and bicycle traffic in the same roadway; low vehicular volumes and speeds are a prerequisite.

Bicycle Lane (Class II Bikeway): a separately designated facility for bicycle traffic following the alignment of the roadway. The separation may be made by curbing, striping or buttons as required to insure bicycle safety.



// // // BUSINESS DISTRICT
 - - - - I-90
 - - - - URBAN RIGHT-OF-WAY
 - - - - SUBURBAN " "
 - - - - RUF " "

Bicycle Path(Class I Bikeway): a facility that is separated from motorized vehicles and may or may not parallel the alignment of the roadway.

B. PEDESTRIAN FACILITIES

Pedestrian facilities exist for purposes of commuting, recreation, exercise, health and pleasure, and must accommodate a variety of uses. For example, a facility chiefly in use by children capable of quick, erratic movements needs special safety consideration. This is particularly applicable in areas where schools, parks, playgrounds, etc., are the predominant pedestrian traffic generators.

Likewise, surfacing materials must be compatible with the right-of-way, surrounding landscape, topography, and drainage conditions. Pathways may be paved, covered with gravel or wood chips, or simply left in their natural state (e.g: the pathway network along Island Crest Park owes much of its charm to its meandering, unpaved state).

There are two types of pedestrian facilities that may be implemented within the right-of-ways:

Sidewalk or Lane: adjacent to roadway, either paved (sidewalk) or unsurfaced (lane).

Path: independently aligned and generally landscaped to enhance the walkers experience.

C. JOINT BICYCLE/PEDESTRIAN FACILITIES

In areas where right-of-way widths, road conditions, or grades restrict separate bicycle/pedestrian routes, a joint facility may be implemented. It is particularly appropriate in situations where pedestrian traffic is minimal or grades are such to preclude excessive bicycle speeds. A joint facility, particularly one designed to accommodate two way bicycle traffic, may also be advantageous where excessive pavement widening may not be a desirable right-of-way improvement.

Joint Bicycle/Pedestrian Lane: following the alignment of the roadway, either directly adjacent or separated from the roadway.

Joint Bicycle/Pedestrian Path: independently aligned and separated from the roadway.

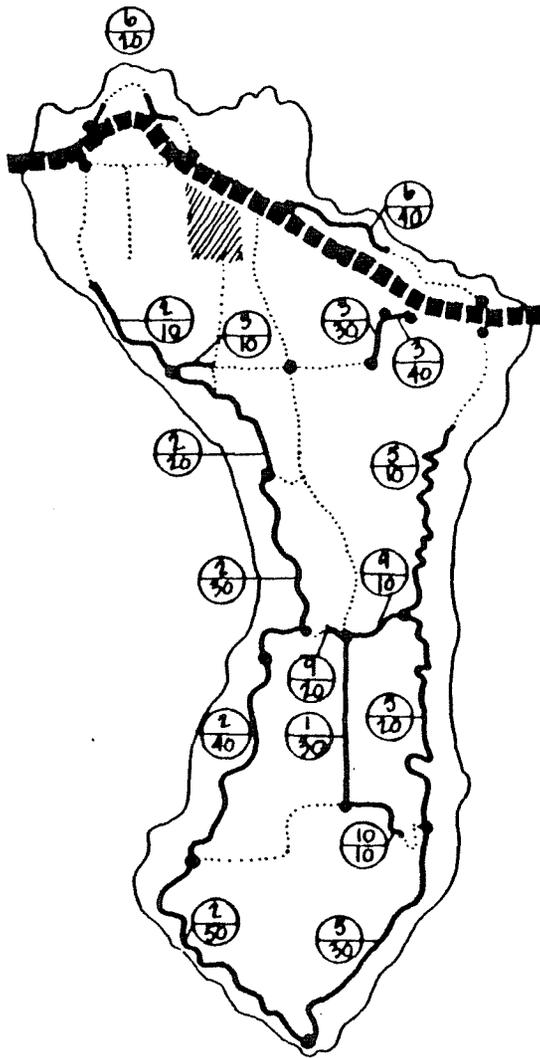
GENERAL GOALS

In order to enable a more specific consideration of the design criteria of individual right-of-ways, the general overriding considerations that are applicable to all right-of-ways are given here as reference for the more specific considerations that follow.

1. Develop right-of-ways consistent with the overall natural Island character and scale, with particular consideration given to any UAB and highway standards that may diminish the rural quality of the Island.
2. Emphasize key intersections and gateways that serve as an introduction to the Island by treating them in a manner that is representative of the best of the Island environment.
3. Develop views and vistas from the road as a means of locating and orienting the user to the Island.
4. Establish a safe and efficient system for all modes of acceptable traffic and encourage public transportation and pedestrian/bicycle facilities in appropriate locations, particularly in situations where they may serve schools and other public facilities.
5. Accommodate pedestrian/bicycle facilities by joint-use such as shared right-of-ways and joint bicycle/pedestrian facilities, with minimum widening of the paved surface.
6. Restore the Island environment and enhance the "street scene" by eventual undergrounding of utilities.
7. Provide direct and easy access to major Island "destination points".
8. Link communities, neighborhoods and facilities.
9. Provide adequate information regarding speed, location, and public destination points.
10. Discourage on-street parking except as provided by emergency regulation.

GUIDELINES

RURAL RIGHT-OF-WAYS: majority of Mercer Ways, Island Crest from SE 53rd Pl., to SE 68th, most of SE 53rd Pl., SE 68th east of Island Crest, a portion of SE 70th Pl., and Gallagher Hill Rd. For route section locations see the adjoining map.



GOAL:

Retain, restore and enhance the natural Island environment as perceived from the right-of-way.

INTENT:

1. Treat the full length of the right-of-ways as a continuous road/Island experience.
2. Emphasize and enhance views to ravines and occasional views to the Lake, Seattle and the East Shore.
3. Retain the "rural road" atmosphere and minimize further disruption of the right-of-way within the "Critical Environment Zone" as previously identified, within which the majority of these right-of-ways lie.
4. Strengthen vistas and important axes.
5. Reinforce the image of the roadway as a continuum of the landscape elements adjoining the right-of-way.
6. Prevent further infringement of buildings, fencing and street furniture elements through the use of adequate vegetation buffers, building and street furniture setbacks as well as height and size restrictions.
7. Provide adequate lighting to delineate the roadway in keeping with its intrinsic appearance.

CRITERIA:

- 1a. Buildings should be sited to preserve the maximum natural vegetation buffer along the right-of-way.
- 1b. Use of predominant Island plant materials is suggested to buffer structures and reinforce the vegetation belts within the right-of-way, with special attention given to the reforestation of those areas that are in need of reinforcement or are an obvious break to the continuous vegetation enclosure of the right-of way.

////////////// BUSINESS DISTRICT
 - - - - - I-90
 ——— RURAL RIGHT-OF-WAYS IDENTIFIED
 ○ ROUTE SECTION NUMBER
 ———— Path

Private easements should be considered wherever buffers within the right-of-ways are not sufficient to provide the desired roadway enclosure. The easements should be planted and maintained by the City for a period of one year.

2a. Preserve existing views and vistas at locations designated as viewpoints by limiting building sites, restricting building heights, and encouraging selective clearing and/or planting of vegetation both within the right-of-way and outside it if possible. See arterial landscape master plan.

- a. 3600 Block West Mercer Way
- b. 3662 West Mercer Way
- c. 82nd Ave. SE at West Mercer Way
- d. 7600 Block West Mercer Way
- e. 8200 Block East Mercer Way (midpoint of Avalon Dr.)

2b. Automobile turnouts should be developed at designated viewpoints to enhance the driving experience, provide for safe passing, accommodate school bus loading and emergency snow storm parking. Turnouts should be surfaced with pervious materials and, where location permits, should be left as much as possible in their natural state. Turnouts should be delineated by wood or log tire stops to prevent damage to groundcovers and low planting adjoining the roadway.

3a. Eliminate individual driveways in favor of group access drives in order to minimize disruption of roadways and vegetation.

3b. Limit the width of the road to two lanes, with additional pavement width permitted in curved sections where extra width may be required for safety purposes. Wherever possible, extend the plant materials to the pavement edge to further contain the width of the roadway.

4a. Strengthen vistas and important axes by selective clearing, elimination of conflicting street furniture elements such as utility poles, wiring, and fencing, and selection and planting of plant materials within the right-of-way that will heighten and emphasize the view.

5a. Repair all bank cuts and restore to near natural state cut and fill areas by replanting with indigenous plant material, with particular attention given to groundcovers that will help re-establish and retain slopes. Particular attention is directed to the planting and stabilization of banks along East Mercer Way. See arterial landscape master plan.

5b. On-street parking should be discouraged except at turnouts for designated viewpoints, trailheads, and during emergencies as stipulated by Resolution 504.

5c-6a. Buildings should be sited to preserve views of ravines and hillsides that are integral to the overall image and character of the right-of-way.

6b. Screen out all private fencing by planting buffers within the right-of-way if the fencing detracts from or is not in keeping with the overall roadway appearance.

6c. Screen all public utility installations visible from the right-of-way with adequate planting, and consider the use of ivy or similar vines along all chain link fencing except in specific instances where such planting may obstruct a view that contributes to the overall roadway experience and character.

7a. Lighting should be of a low level, more for the purposes of indicating the configuration of the roadway than for general illumination. The lighting standards should preferably be of wood and of a natural and unobtrusive finish, at a height of 12-16 feet. Lighting should occur at all intersections, at pathway/road crossings, and at private driveways wherever this is feasible without disrupting the overall spacing and sequence of the lighting. (Also see Public Signing, Lighting and Other Street Furniture.)

7b. Security lighting, gateway or driveway lighting should be used so as not to infringe upon the right-of-way where it may be a danger to the motorist and a hazard or nuisance to the pedestrian or bicyclist.

GOAL: Encourage use of the right-of-way as a means of providing access to the Island's ravine/open space system for recreational purposes.

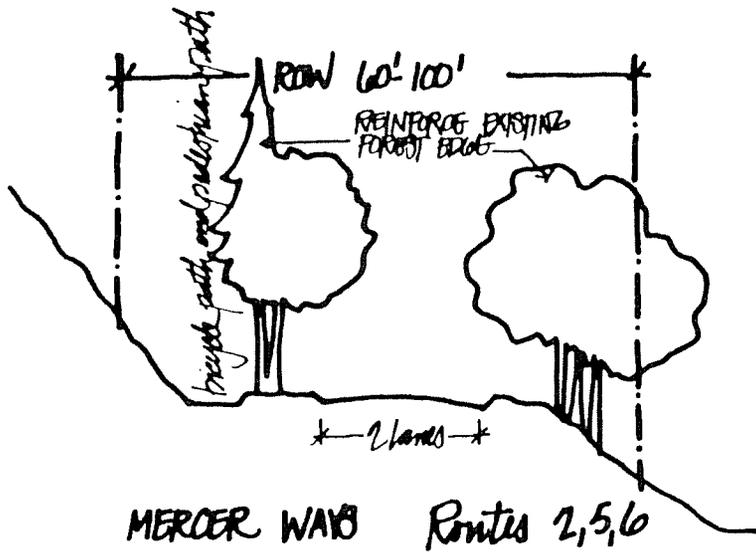
INTENT: 1. Provide for bicycle and pedestrian use of the right-of-way.
2. Consider the open space trail system as an extension of the right-of-way and make it more readily accessible for public use.

CRITERIA: 1a. Maintain roadway to minimum widths as provided in 3b. above.
1b. Consider a number of bicycle turnouts along the Mercer Ways, removed from the vehicular traffic and developed in conjunction with a bicycle path system that could thus provide rest-stops for the round-Island cyclist.
1c. Insure safe pedestrian/bicycle crossings of the roadway at all intersections, and wherever topography dictates, allow for the relocation of the path from one side to the other, by signing and locating crossing within relatively straight road sections with maximum two-way visibility.

2a. Provide 1-2 car turnouts at all trailheads.

2b. Private easements should be evaluated in order to accommodate both bicyclists and pedestrians as an alternate to right-of-way use, particularly in locations where safety considerations demand segregation of traffic.

Easements should be secured on all new developments with connecting links through previously developed land obtained as opportunity arises. Easements should be obtained in keeping with the Island wide trail system.



1d-2b. Bicycle and Pedestrian Facilities:

- a. Mercer Ways: Route 2 except for northern portion of section 2/10; route 5 except for northern portion of section 5/10; portions of section 6/20 and 6/40.

It is recommended that bicycle travel be accommodated along the Mercer Ways through a separation of the bicycle facility by a minimum setback of 5 feet from the roadway wherever topography permits. In considering the facility, extra care should be given to potential disruption of the right-of-way and its adjoining landscape. In some instances a continuous, separately designated bicycle facility may be extremely difficult to implement.

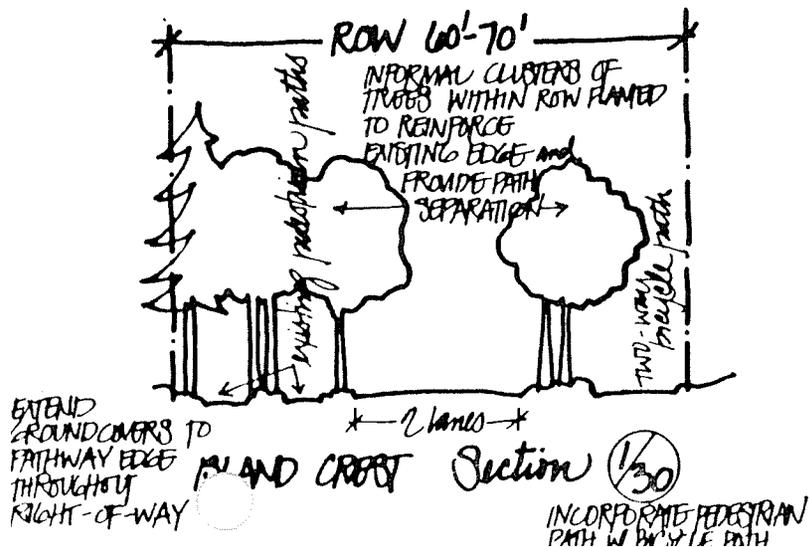
Pedestrian lanes or pedestrian use of the separated bicycle facility should be considered, particularly along those portions of the Mercer Ways where school traffic or access to public open space trails must be accommodated.

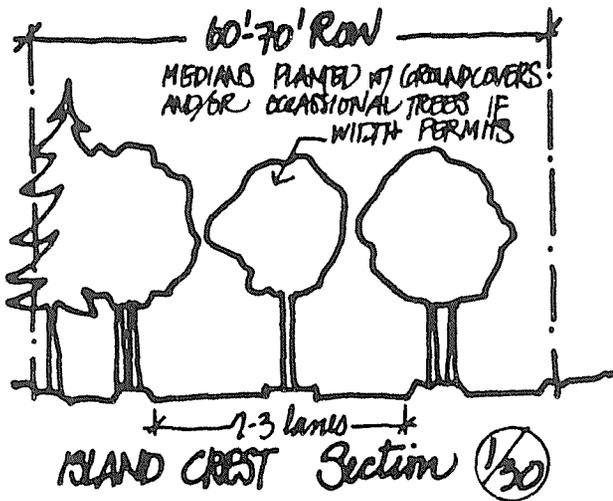
- b. Island Crest: Section 1/30.

A bicycle path could readily be implemented along the east side of Island Crest where a sufficient width of cleared right-of-way now exists to easily accommodate a two-way bicycle path. The setback from the roadway to the path should be planted with native trees and groundcovers similar to those that exist on the west side of the right-of-way.

The pedestrian path that now exists along Island Crest Park should be maintained because it is of a scale that is appropriate to the natural setting of the Island. Special care should be taken in maintaining and reinforcing the existing trees and groundcovers within this portion of the right-of-way to insure that the character of the path, which is largely dependent upon its narrow and meandering nature, is maintained.

Pedestrian paths south of SE 63rd are recommended for the east side of the right-of-way adjoining the proposed bicycle path, with the Pioneer Park edge left undisturbed.





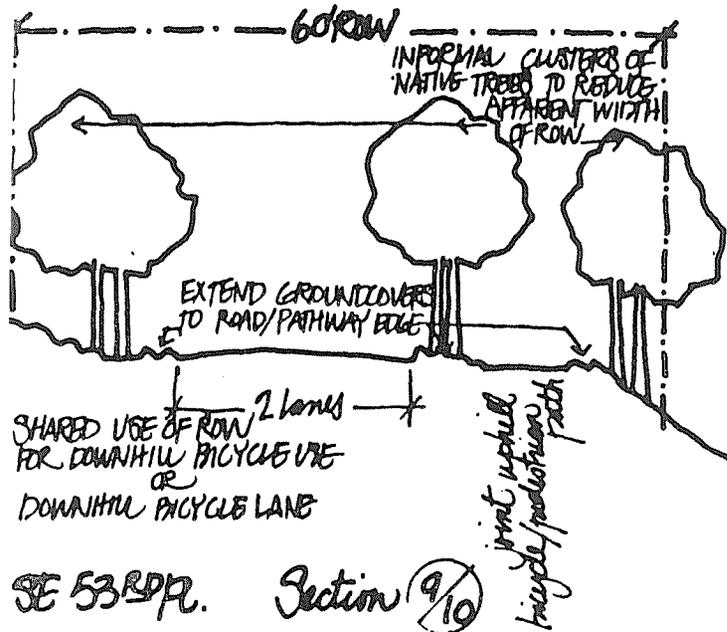
If portions of this section of Island Crest are widened to accommodate a turning lane to cross streets, extreme care should be taken to preserve the character of the right-of-way by retaining the existing vegetation edge along Island Crest and Pioneer Parks. The roadway pavement should be kept at a minimum width and medians resulting from the turning lanes should be planted with groundcovers and perhaps occasional trees that are in keeping with the existing native materials along the western edge of the right-of-way.

c. SE 53rd Place: Route 9 except for the western portion of section 9/20.

That portion of SE 53rd Pl. east of Island Crest, section 9/10 could easily accommodate downhill bicycle traffic by means of a shared right-of-way or a bicycle lane. To insure user safety due to the relatively steep grades, a separate bicycle facility to accommodate uphill traffic should be implemented. A unique opportunity exists for such a facility along the south side of the right-of-way which adjoins one of the major Island ravines and is uninterrupted by private driveways. The uphill bicycle facility could be implemented as a joint bicycle/pedestrian path, particularly appropriate for joint use due to the slow uphill bicycle speeds.

A bicycle facility along SE 53rd Pl. due west of Island Crest, section 9/20 should be implemented to facilitate cross Island travel when this arterial is completed. Every effort should be made to retain the rural character of the upper portion of section 9/20. This should be the major consideration and for this reason a shared right-of-way along this portion of the roadway is recommended.

A minimal pedestrian lane or path is recommended along this portion of SE 53rd Pl. as a means of accommodating pedestrian school traffic to the adjoining elementary school.



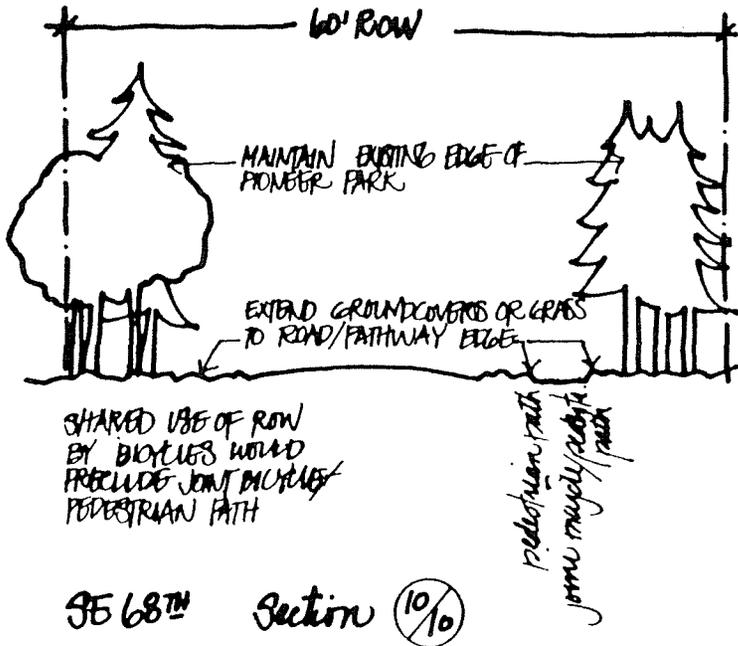
Informal clusters of native trees are recommended along this right-of-way, particularly along section 9/10 which should receive substantial tree planting in order to reduce the excessive width of the right-of-way and extend the adjoining ravine vegetation within closer proximity of the roadway. Clusters of trees should also be utilized to separate the roadway from the bicycle/pedestrian path. Groundcovers should be extended to the road and pathway edge.

With substantial planting, SE 53rd Pl. could visually become an integral part of the ravine, instead of merely skirting its edge.

d. SE 68th and SE 70th Place: The western two-thirds of section 10/10, route 10.

In order to keep the paved roadway to a minimum through this section of SE 68th adjoining Pioneer Park, a minimal bicycle path and a shared right-of-way should be adequate to serve both uphill and downhill traffic. The potential use of the easement along 92nd SE should be considered as a bicycle connection to East Mercer Way, by-passing the lower portion of SE 70th Pl.

A combination of a pedestrian lane and path along one side of the roadway or a joint use of the bicycle path should be adequate to handle pedestrian traffic, since the network of trails within Pioneer Park can be expected to carry a substantial number of trail users along this section of SE 68th. The existing forest edge of Pioneer Park should be maintained. Groundcovers or grass should be extended to the road and pathway edge.



e. Gallagher Hill Rd.: Route 3 sections 3/30 and 3/40.

Due to the fairly high volume of vehicular traffic anticipated for Gallagher Hill Rd. as a collector/distributor to the I-90 interchange, special consideration is recommended for this right-of-way in order to maintain its present rural character.

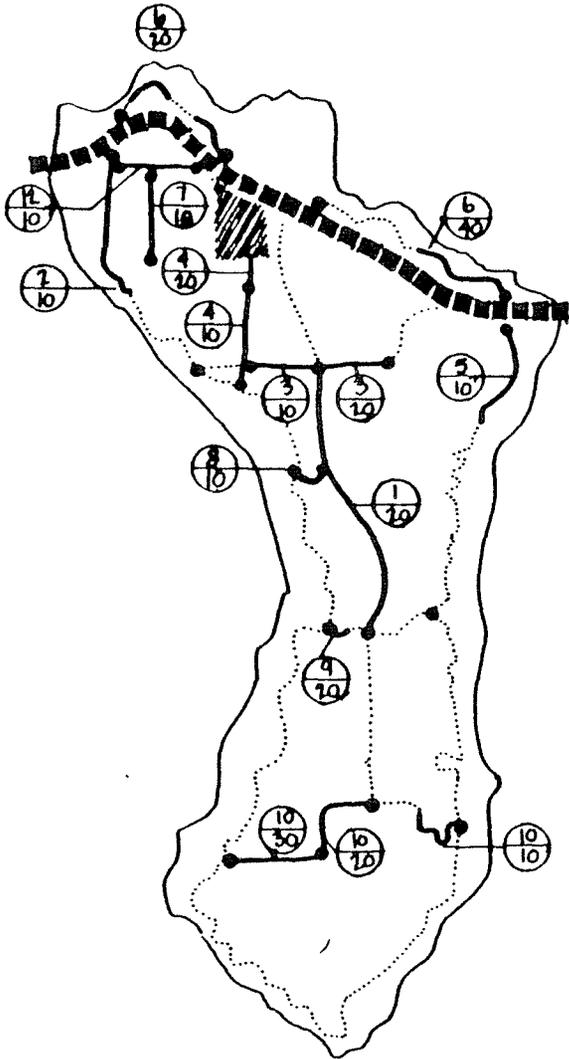
It would appear that the extension of the bicycle facility along SE 40th would be better accommodated along Mercerwood Dr., for to safely implement a facility along Gallagher Hill Rd. would mean a substantial widening of the roadway pavement, particularly in view of its steep grades.

A pedestrian pathway could easily be implemented along the western side of the right-of-way, either along its full length or only the upper portions, as a means of providing pedestrian access to potential future public easements within the adjoining ravine.

- GOAL: Minimize disruption of the natural processes within the right-of-way.
- INTENT:
1. Maintain and preserve natural drainage patterns that contribute to the ravine system and its vegetation.
 2. Maintain and restore the visual continuity of the ravine physiography.
 3. Control runoff, siltation and erosion.
- CRITERIA:
- 1a. Within a period of one year, restore all scarred, retained and severely cut and/or filled areas that interfere with the natural drainage patterns.
 - 1b. Daylight culverts with extra attention given to area to be drained, groundcover type, rainfall intensity, and slope.
 - 1c-2. Plant native groundcovers on all cuts and slopes and secure with hemp matting as necessary to establish growth. Particular attention is directed to East Mercer Way. (See arterial landscape master plan.)

3a. Limit expansion and extent of paved surfaces by maintaining minimum road widths and using pervious surfacing materials for all turnouts and viewpoints or preferably leaving these unsurfaced wherever possible.

SUBURBAN RIGHT-OF-WAYS: (a) SE 40th, (b) SE 24th, (c) 72nd SE, (d) 78th SE, (e) Island Crest from SE 53rd Pl. to SE 40th, (f) SE 53rd Pl, (g) 84th SE, SE 68th and SE 72nd, (h) SE 70th Pl., (i) Merrimount Dr., (j) portions of Mercer Ways.



GOAL:

Enhance and develop the roadway as an extension of the adjoining properties within the context of the overall Island character.

INTENT:

1. Minimize disruption of adjoining residential community.
2. Provide for pedestrian and bicycle safety.
3. Delineate the right-of-way corridor to enhance the roadway and adjoining community.
4. Reduce the apparent width of the roadway.
5. Maintain continuity with adjoining landforms and topography.

CRITERIA:

1a. Maintain minimum safe road widths. With the exception of Island Crest and portions of SE 40th and 24th SE, the two lane arterial should be maintained as the standard for all suburban right-of-ways.

1b. Wherever possible sufficient planting should separate the roadway from the adjoining residential community to maintain the continuity of the road and provide a degree of privacy to the adjoining housing.

1c-3a. Lighting should be of an intensity to provide general illumination to the right-of-way corridor in order to delineate the roadway, enhance its landscape treatment, and provide for user safety without disrupting the adjoining community or causing an excessive area-wide lighting effect.

 BUSINESS DISTRICT
 I-90
 SUBURBAN RIGHT-OF-WAYS IDENTIFIED BY SECTION NUMBER
 ROUTE 10 RESTRICTION

Lighting standards should preferably be of wood or other materials with an unobtrusive finish. Standards should not exceed 22 feet in height. Additional lighting may be mounted at intersections, preferably by doubling the source on a single standard. (Also see Public Signage, Lighting and Other Street Furniture).

2a. Open drainage ditches should be converted to storm drains due to the need for bicycle and pedestrian provisions, particularly in light of the dense, single family communities adjoining the majority of these right-of-ways.

2b-3b. Obtain easements as necessary to allow for pedestrian, bicycle and vehicular separation as well as planting buffers.

3c. Private path or slope easements should be developed by the City, planted and maintained for a period of one year.

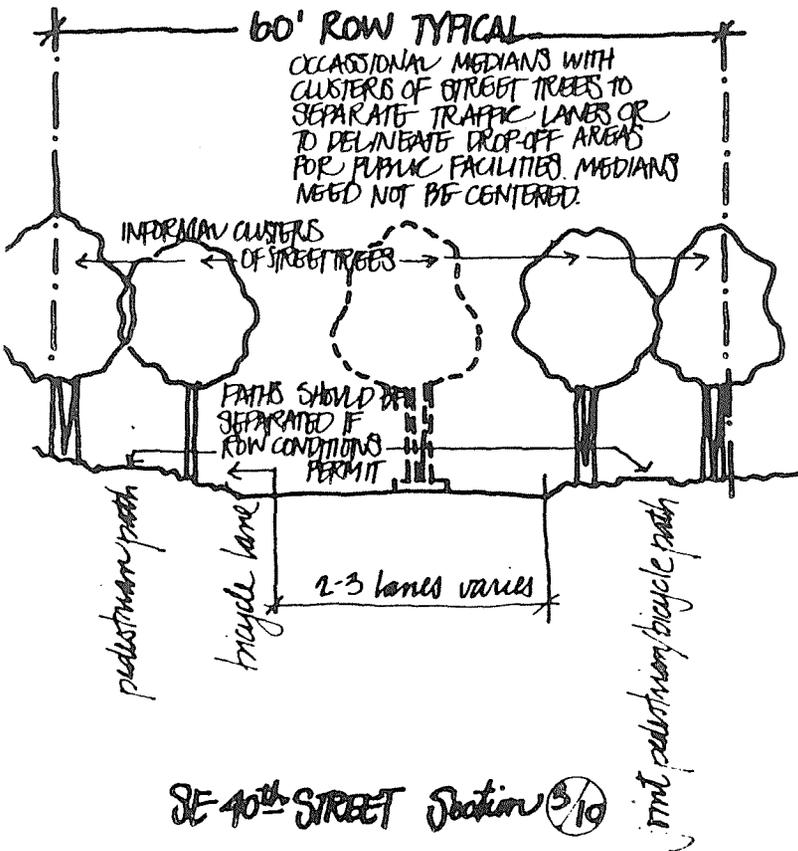
3d-4. Consider the use of street trees to delineate the roadway and reduce its apparent width, to shield the utility poles and wiring until eventual undergrounding, and to integrate the right-of-way with the adjoining community, with attention given to road visibility, particularly at intersections.

5. Repair all bank cuts and restore to near natural state, all cut and fill areas by replanting with materials that will help establish and retain slopes, are in keeping with the adjoining residential community and the natural landscape character of the Island.

RIGHT-OF-WAY DEVELOPMENT:

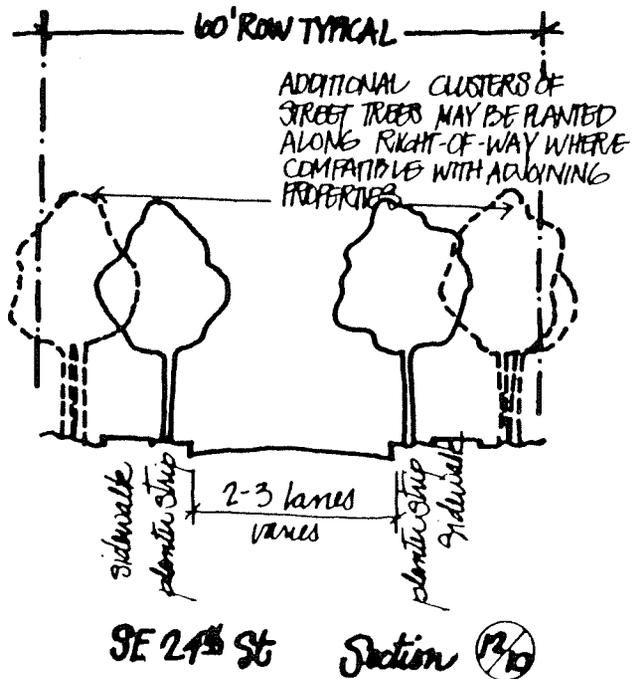
a. SE 40th Street: Route 3, from West Mercer Way to Gallagher Hill Rd., including sections 3/10 and 3/20.

A combination of a bicycle lane and a joint bicycle/pedestrian path or lane with maximum separation from the roadway as permitted within the existing right-of-way should be adequate to accommodate two-way bicycle travel along SE 40th from 92nd SE to 78th or 76th SE, depending upon which route is used as an access to the Business District. Private easements should be considered as a means to provide more generous facility separation and planting buffers. The unimproved portion of SE 40th should be developed in a similar manner if and when the arterial connection is extended to West Mercer Way.



Wherever right-of-way conditions or easements permit the implementation of a pedestrian path, such a facility should be considered. Where a path is not feasible a lane or a joint bicycle/pedestrian path may be implemented, with special attention given to the separation of pedestrian and downhill bicycle traffic where high bicycle speeds may be a danger to the pedestrian.

There is an opportunity along SE 40th to introduce occasional street medians which should be planted as a further means of dividing the roadway. Occasional street trees in informal cluster patterns are suggested for this right-of-way both within the median and the planting buffers between the roadway, the pedestrian and bicycle facilities, and the adjoining property. Plant materials should be of a type common to the Island, but may be contrasted with occasional groupings of flowering or ornamental trees. Special recognition should be given to the plant materials of the adjoining properties and a pleasing transition achieved from the private to the public sector wherever this is appropriate.



b. SE 24th Street: Route 12 from West Mercer Way to 76th SE.

Due to steep grades and relatively high traffic volumes, bicycle facilities are not recommended for this arterial. Pedestrian sidewalks which are suggested for both sides of the arterial may accommodate uphill bicycle traffic. An alternate bicycle route bypassing SE 24th may be implemented along 72nd SE as a means of tying into North Mercer Way.

Street trees are recommended at approximately 30 feet on center along both sides of SE 24th. Plant material should be of the standard street tree variety, such as red maple, sycamore, oak, linden, etc.

The pavement width from 71st SE to West Mercer Way is excessive for a two lane arterial. It is recommended that the current width is maintained only to accommodate a left turn lane onto West Mercer Way with the remainder of the right-of-way devoted to planting and pedestrian facilities.

c. 72nd Ave. SE: Route 7, section 7/10.

Since closely adjoining residential properties make a separated bicycle facility along this arterial unrealistic, a shared right-of-way is recommended.

When the remaining open drainage ditches are covered, the pedestrian lanes that now adjoin the roadway are suggested for conversion to paths that are setback from the roadway by a planting buffer wherever feasible.

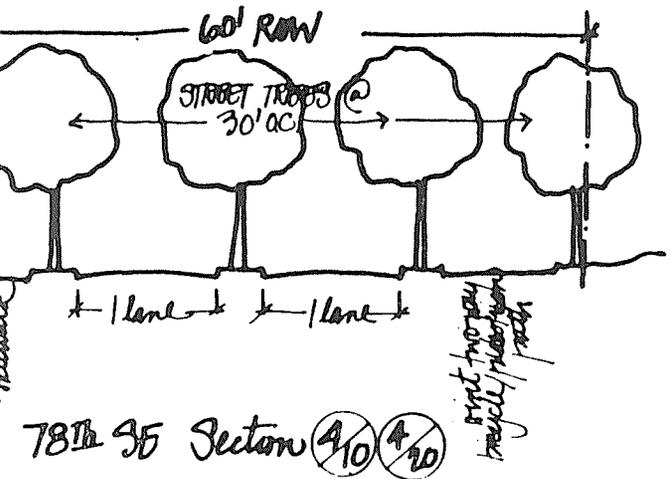
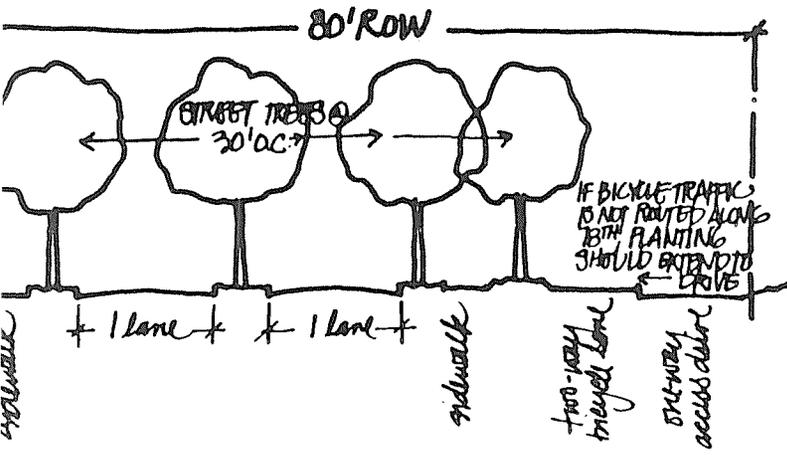
Informal cluster planting should be implemented within the right-of-way or easements secured for planting purposes, particularly along sections where the cover has been removed, in order to delineate the roadway and provide a measure of screening for the adjoining housing. Wherever possible cluster planting should be introduced between the roadway and the path to further enhance the walkers experience.

Special attention should be given to the use of informal cluster planting as a means of breaking up the extensive gravelled shoulders that extend from the right-of-way onto private property and are used for parking purposes by adjoining residents. Private easements should be obtained wherever additional planting would aid the streetscape, and planted by the City in conjunction with the overall right-of-way development.

d. 78th Ave. SE: Route 4, section 4/10 and that portion of section 4/20 south of SE 32nd.

Separate bicycle provision may not be necessary for 78th SE since 76th SE and SE 34th may easily be utilized as a designated shared right-of-way from SE 40th to the Business District. That portion of 78th SE from SE 34th to the Business District could be designated as a shared right-of-way or a bicycle facility could be implemented as part of the development of the Mercerdale site to provide access to the Business District from SE 34th.

If bicycle traffic is to be routed along 78th SE, it is recommended that a joint two-way bicycle/pedestrian path be implemented along the east side of the right-of-way. A separated sidewalk and bicycle lane could easily be implemented along the 80 foot portion of the right-of-way by limiting the adjoining local access drive to one-way traffic. This joint bicycle/pedestrian facility could also be implemented to accommodate a one-way bicycle route north, with use of 77th Pl. SE as a shared right-of-way to accommodate a bicycle route south.



Sidewalks along both sides of the arterial are the recommended pedestrian facilities.

That portion of SE 78th south of SE 40th could easily be utilized as a shared right-of-way to accommodate bicycle traffic from West Mercer Way to the Business District. Pedestrian lanes and planting are recommended as in c. above. An alternate facility may be a joint bicycle/pedestrian path along one side of the right-of-way.

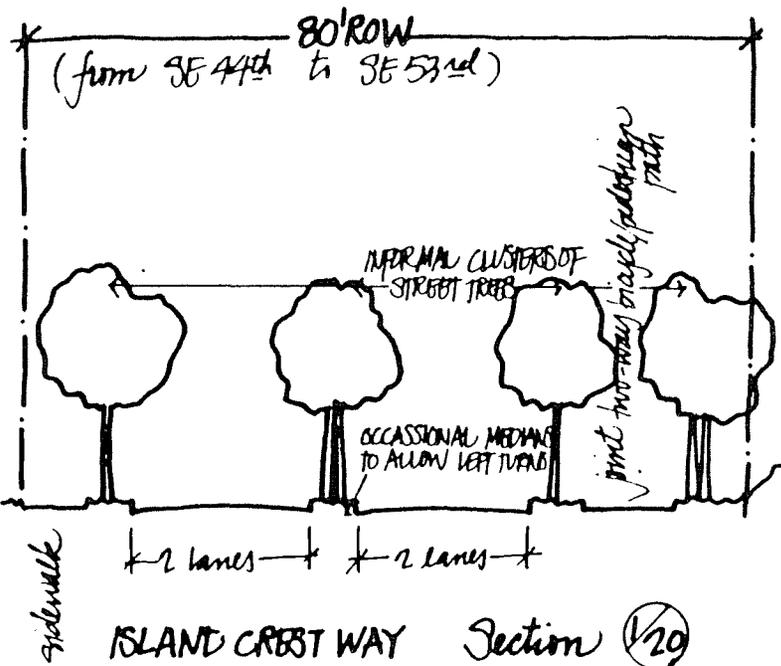
SE 78th north of SE 40th is recommended for street trees and median trees at approximately 30 feet on center. Plant materials should be an extension of the sycamores, red maples and ivy used on SE 78th within the Business District.

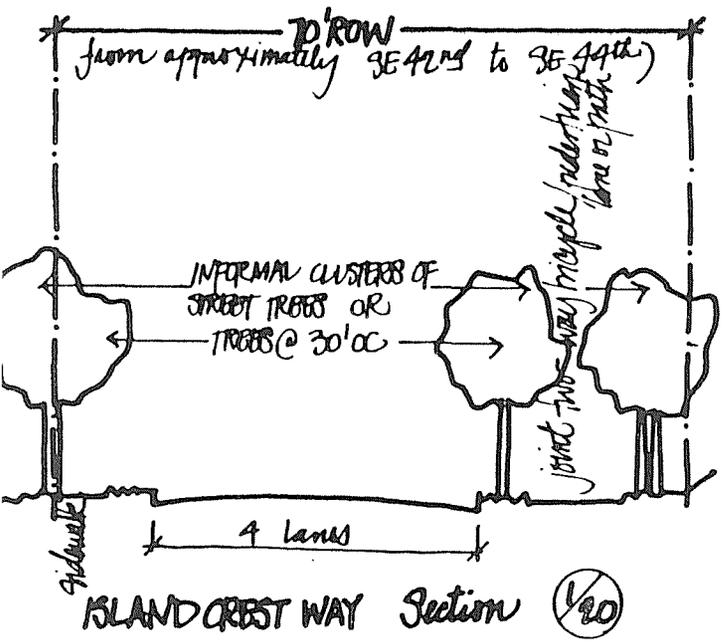
e. Island Crest Way: Route 1, section 1/20.

Due to the high traffic volume and speeds along Island Crest, a bicycle lane or path, or a joint bicycle/pedestrian lane or path is recommended. In both cases, these facilities are recommended for consolidated two-way traffic in order to minimize the pavement expanse and provide optimum right-of-way landscaping.

Present use patterns suggest that a sidewalk along the west side in combination with a two-way joint bicycle/pedestrian lane or path along the east side of the right-of-way may be sufficient to accommodate the traffic along this portion of Island Crest. This joint bicycle/pedestrian facility may not be possible north of approximately SE 42nd unless additional easements are obtained due to the existing 60 foot right-of-way. By routing the bicycle traffic along 86th SE where a joint two-way bicycle lane can be quite easily accommodated, this northern portion of the Island Crest right-of-way could be generously landscaped. The joint two-way bicycle/pedestrian facility along the east side could be developed into an informal meandering lane to accommodate not only bicycle/pedestrian traffic, but also bus stops, seating and occasional turnouts for bicycle rest stops with generous planting buffers from the roadway.

Uninterrupted median street trees are recommended along Island Crest at approximately 30 feet on center from SE 40th to approximately SE 42nd of a type mentioned in b. above, providing left turn traffic can be accommodated.





Occasional medians to allow left turns to cross-streets are feasible from Merrimount Dr. south to SE 53rd Pl. Planting is recommended to be informal clusters of trees common to the Island and complementary to the natural forest edge on the west side of the arterial.

Informal cluster planting in the planting strips is recommended for both sides of the right-of-way, with occasional groupings of ornamental or flowering trees. Plant material should be located so as to best delineate the roadway, buffer adjoining housing, and reinforce the existing vegetation.

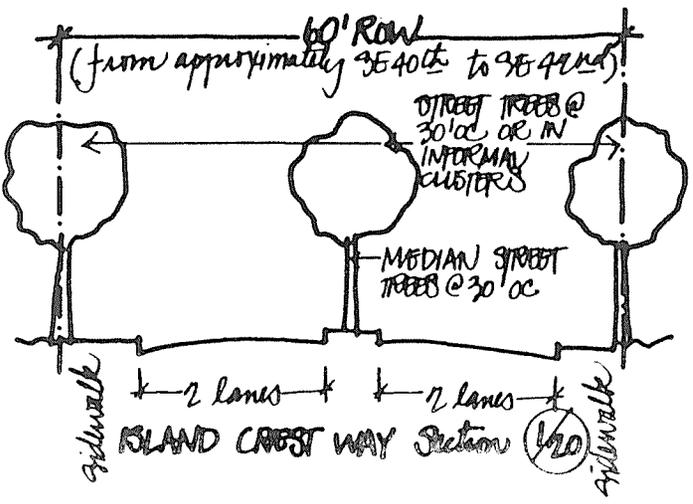
An alternate of street trees at approximately 30 feet on center should be considered from SE 40th to Merrimount Dr., in order to define the roadway along this stretch which is significantly devoid of trees, particularly along the east side. In this case, the informal cluster median planting would commence just south of Merrimount Dr.

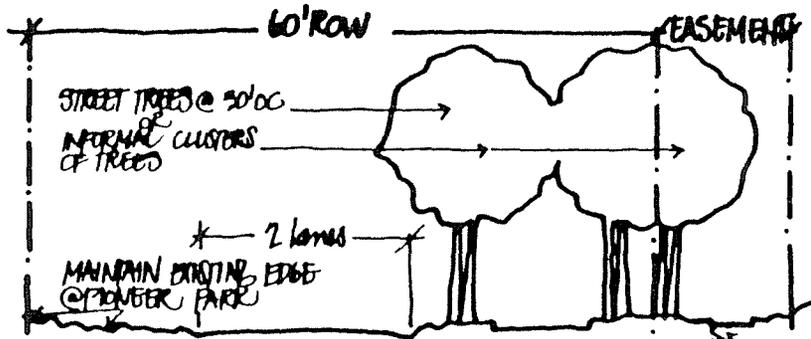
Particular attention should be given to the selection of plant material along the west edge of the right-of-way for it should reinforce the remaining natural forest edge, i.e., big leaf maple, Douglas fir, western red cedar, and bitter cherry.

Groundcovers should be native to the Island and relatively maintenance free, such as ivy, salal, and red fescue field grass. Wherever right-of-way groundcover areas adjoin private property, effort should be made to achieve a pleasing transition by the use of compatible materials or if appropriate, by the extension of the adjoining groundcover areas within the right-of-way.

f. SE 53rd Place: Route 9, western portion of section 9/20 only.

This western portion of SE 53rd Pl. should be developed in keeping with upper 53rd Pl. as a shared right-of-way or it may be developed to accommodate a bicycle path or lane. Pedestrian lanes or paths should be extended to West Mercer Way.





Particular care should be taken to insure that vegetation cover is restored along this right-of-way and all bank cuts properly replanted. It is recommended that informal cluster planting be utilized within the right-of-way as well as any easements obtained for planting purposes. Attention should be given to maximum screening of residential driveways in order to maintain continuity with the rural portions of 53rd Pl. to the east. Natural groundovers in keeping with adjoining properties should be extended to the edge of the pavement and pedestrian pathway or lane.

g. SE 68th Street, 84th Ave. SE and SE 72nd Street: Route 10, sections 10/20 and 10/30.

A joint bicycle /pedestrian path or separated bicycle and pedestrian paths are recommended for the south side of SE 68th, adjoining the shopping center. The former could very easily be accommodated within the right-of-way without relocation of existing roadway, whereas an easement would be necessary to implement the latter under the same conditions. The separate pathway system is recommended for consideration since it would leave the natural edge of Pioneer Park undisturbed which may in time develop into a pedestrian pathway network similar to that now existing along Island Crest Park, and it would concentrate the pedestrian/bicycle activity adjacent to the shopping center.

A joint bicycle/pedestrian lane is recommended along the east side of 84th SE, to facilitate access to the shopping center and to serve the Junior High School. This may be extended as a path or lane along the south side of SE 72nd to West Mercer Way, or an alternate may be used of an uphill bicycle/pedestrian lane with shared use of the right-of-way for downhill bicycle traffic.

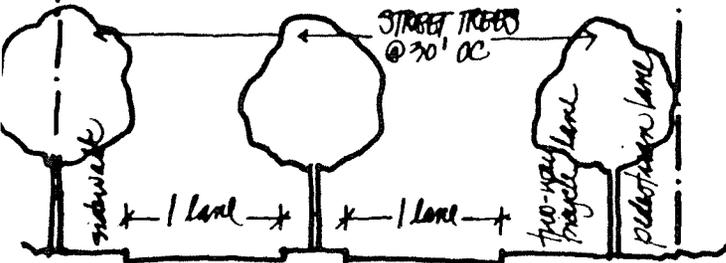
Street trees are recommended for the south side of SE 68th. Trees may be at approximately 30 feet on center and of the standard street tree types as mentioned in b. above, or may be informally planted in the planting strips separating the roadway and the bicycle and pedestrian facilities in keeping with Pioneer Park. Special care should be taken to maintain and reinforce the tree cover along Pioneer Park.

IF EASEMENT IS NOT FEASIBLE, CONSIDER PEDESTRIAN PATH W/ TWO-WAY BICYCLE PATH

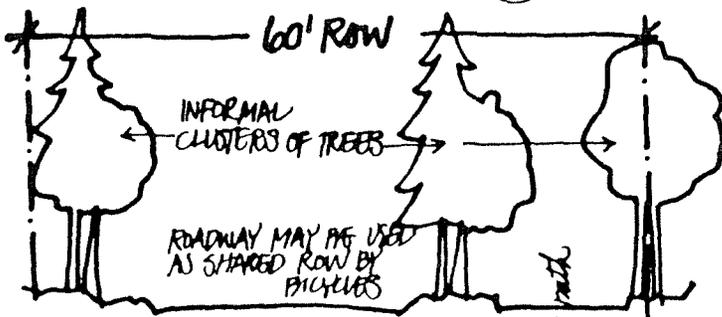
SE 68th Section 10/10

two-way bicycle path

pedestrian path



84th SE Section 10/20



SE 72nd Section 10/30

Median street trees and planter strip trees are suggested along both sides of 84th SE at approximately 30 feet on center from the eastern driveway of the school to SE 68th, with ivy or native grass suggested for use as groundcover. Street trees may be planted on the property line bordering the sidewalk along the west side of 84th SE without disrupting the existing sidewalk.

SE 72nd is suggested for informal cluster planting along the strip separating the roadway and the pedestrian or bicycle/pedestrian lane along the south side. Groundcovers should be in keeping with adjoining properties as in e. above.

h. SE 70th Place: Route 10, eastern portion of section 10/10.

Along SE 70th Pl. the bicycle/pedestrian facilities should be treated as an extension of upper SE 68th, that is a shared right-of-way or a minimal bicycle path along the south side, or the alternate use of the right-of-way along 92nd SE as a means of connecting to East Mercer Way.

Pedestrian paths or lanes are suggested for lower SE 70th PL.

Special attention is directed to lower SE 70th Pl. where much of the tree cover has been recently lost. Informal cluster planting of native trees is suggested along this portion as a means of partially screening the adjoining housing and delineating the roadway. Native groundcovers should be extended to the edge of the roadway and adjoining pedestrian paths and lanes.

i. Merrimount Drive: Route 8

A shared right-of-way, or an alternate of a bicycle lane, to accommodate downhill traffic is recommended for Merrimount Dr. A combination of pedestrian paths or lanes could be implemented along one side of the right-of-way.

Use of native materials such as big leaf maple, western red cedar, bitter cherry, etc., is recommended along this right-of-way as a means of extending the natural forest edge which now dominates at the northwest intersection with Island Crest.

Planting of native groundcovers within the right-of-way is suggested as a means of further delineating the road and pathways. These should be planted to the roadway edge.

j. Portions of Mercer Ways: Route 2, northern half of section 2/10; portions of route 6, sections 6/20 and 6/40; route 5 segment of section 5/10.

Bicycle/pedestrian facilities should be developed in keeping with the adjoining rural portions of the right-of-way with particular attention given to the need for pedestrian and bicycle paths in areas where school traffic must be accommodated.

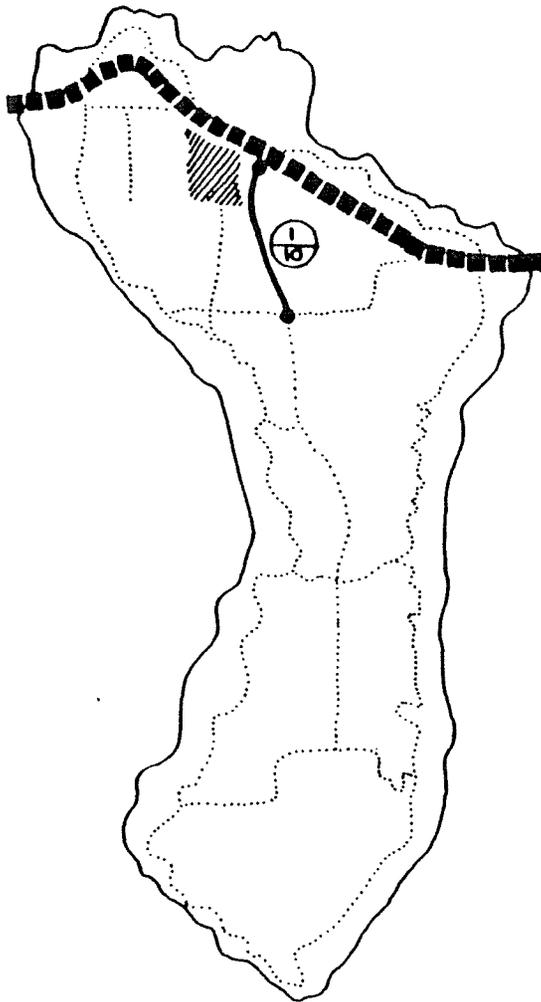
The segments of Mercer Ways classified as suburban are lacking tree cover enclosure and are very apparent disruptions to the continuity of the rural roadway experience. Planting is of particular necessity along these segments. It should reinforce the remaining forest edge where this is appropriate and in the more developed areas such as section 2/10, informal cluster planting of native materials is recommended as in c. above.

Of particular concern is the lack of landscaping in that portion of the East Mercer right-of-way directly adjoining the Mercerwood Shore Club, which is currently entirely paved and in need of a generous planting buffer in order to screen the pavement expanse of the Club's tennis courts directly below the right-of-way.

URBAN RIGHT-OF-WAYS: Island Crest from SE 40th to I-90, route 1, section 1/10. All other urban arterials are covered in the Business Section.

GOAL: Soften and breakdown the apparent scale of the roadway in order to make it more compatible with the natural Island environment.

- INTENT:
1. Retain and reinforce the natural wooded hillside perimeter as part of the bowl-like enclosure for the Business District.
 2. Treat Island Crest as the major gateway to the Island.
 3. Facilitate pedestrian movement to the Business District from the surrounding apartment community.



// Business District
 I-90
 ~ Urban Right-of-Way
 IDENTIFIED BY SECTION NUMBER
 ROUTE

CRITERIA:

1a. Consider the use of median and planter strip trees along Island Crest at approximately 30 feet on center from SE 40th to the I-90 interchange with particular care given to the appearance of the roadway from the adjoining apartment community as well as the preservation of the existing views to Lake Washington both from the roadway and the adjoining apartments.

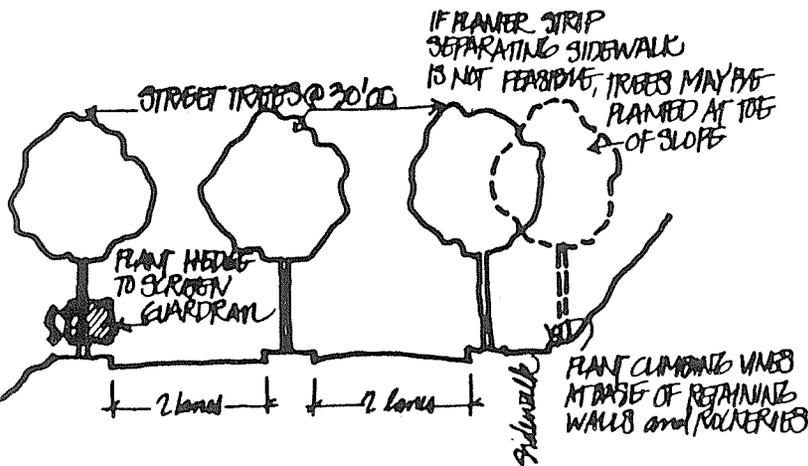
2a. Consider screening the existing guardrail along the western edge of Island Crest by plant material hedging such as laurel, holly, yew, etc.

2b. Generous plant material buffers are recommended along the I-90/Island Crest interchange just north of SE 34th, as a means of buffering the adjoining Business District and apartment community and providing a greenbelt transition zone to the street through planting proposed above.

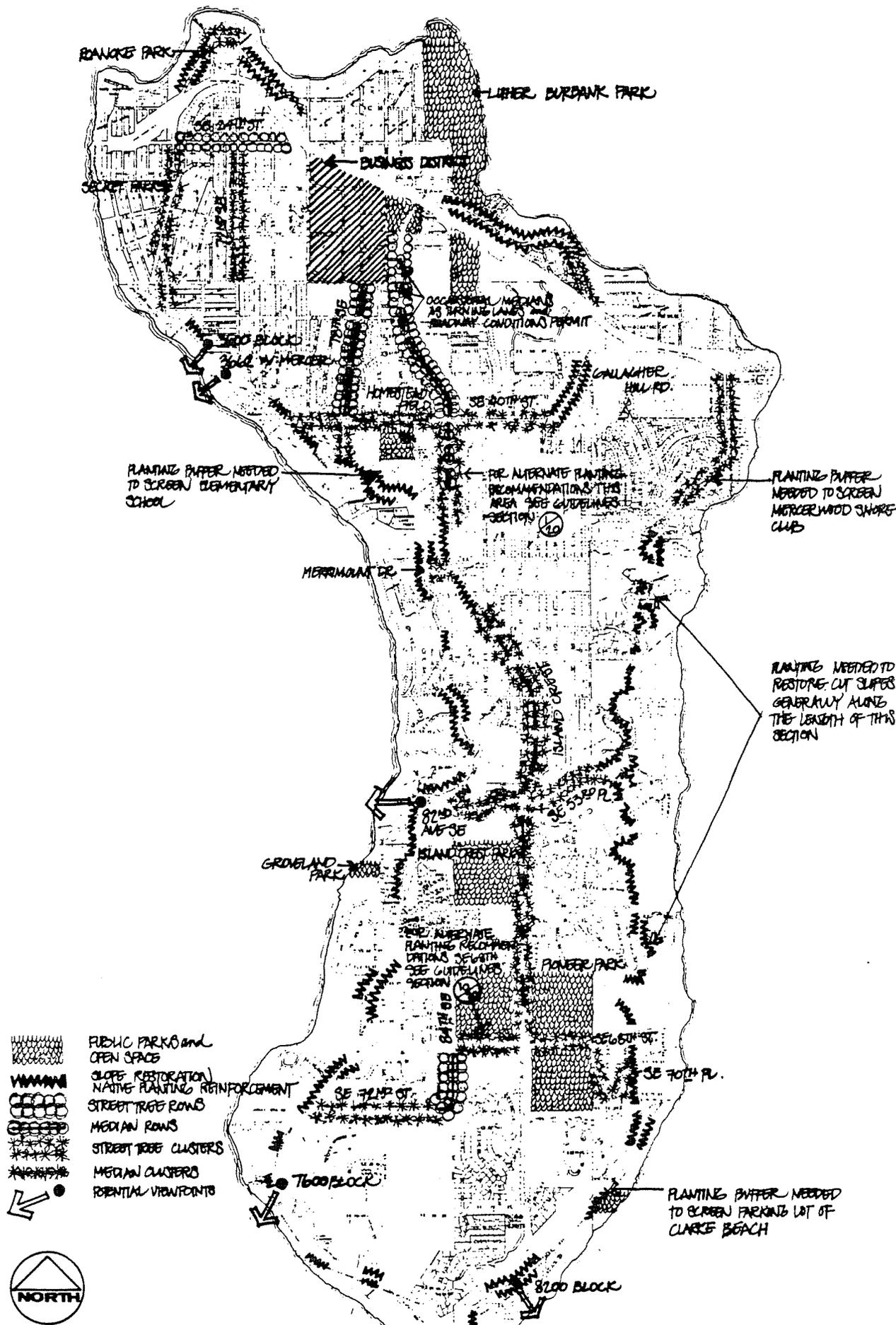
2c-3a. Maintain a narrow planter strip east of the existing sidewalk along the east side of Island Crest in order to provide a uniform planting buffer of ivy or similar vines along the rockery and retaining walls adjoining the sidewalk. Consider increasing the width of this sidewalk to 6 feet to facilitate pedestrian access to the Business District.

3b. Encourage a pedestrian crossing at SE 30th or SE 32nd as a means of providing pedestrian access to the Business District in keeping with the sidewalk-street tree concepts outlined in that section.

3c. Lighting should provide general illumination to the right-of-way corridor, be pleasing to the pedestrian, and of such intensity as to prevent area-wide lighting or disruption of the general view from the adjoining apartment community. Lighting standards should not exceed 24 feet in height and should be the same type of standard used in the Business District or compatible with it. (Also see Public Signing, Lighting and Other Street Furniture).



ISLAND CREST WAY Section 1/10



ROWLES PARK

LUTHER BURBANK PARK

BUSINESS DISTRICT

500 BLOCK

700 BLOCK

MERRIMAN DR.

SB 40TH ST

GALLAGHER HILL RD.

PLANTING BUFFER NEEDED TO SCREEN ELEMENTARY SCHOOL

PER ALTERNATE PLANTING RECOMMENDATIONS THIS AREA SEE GUIDELINES SECTION

PLANTING BUFFER NEEDED TO SCREEN MERCERWOOD SHORE CLUB

PLANTING NEEDED TO RESTORE CUT SLOPES GENERALLY ALONG THE LENGTH OF THIS SECTION

GROVELAND PARK

ISLAND PARK

PIONEER PARK

PER ALTERNATE PLANTING RECOMMENDATIONS SEE GUIDELINES SECTION

700 BLOCK

SB 60TH ST

SB 70TH PL.

PLANTING BUFFER NEEDED TO SCREEN PARKING LOT OF CLARKE BEACH

800 BLOCK

-  PUBLIC PARKS and OPEN SPACE
-  SLOPE RESTORATION NATIVE PLANTING REINFORCEMENT
-  STREET TREE ROWS
-  MEDIAN ROWS
-  STREET TREE CLUSTERS
-  MEDIAN CLUSTERS
-  POTENTIAL VIEWPOINTS

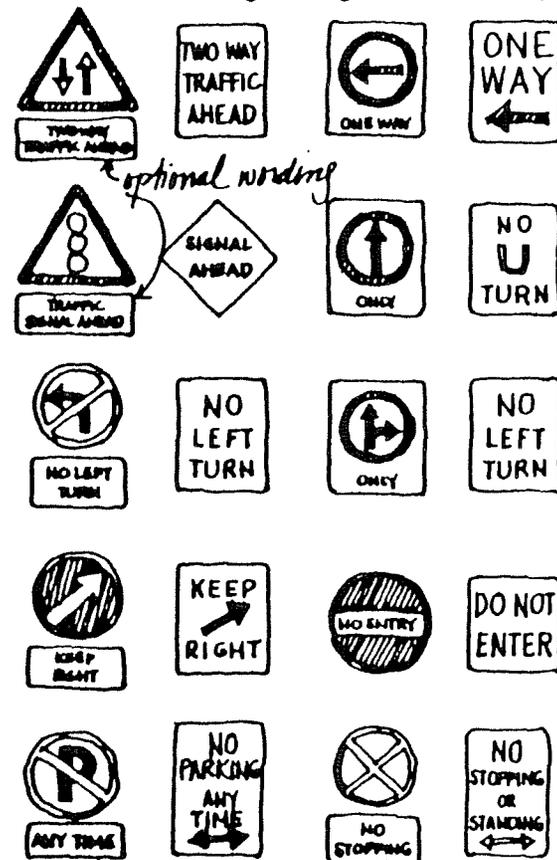


Arterial Landscape Master Plan

PUBLIC SIGNING, LIGHTING
AND OTHER STREET FURNITURE

SYMBOLIC SIGNING

Symbolic Existing Symbolic Existing



optional wording

PUBLIC SIGNING, LIGHTING AND OTHER STREET FURNITURE

CONCEPTS

Public signing, street furniture and lighting elements should reinforce and clarify the predominantly natural, informal, residential character of the Island instead of dominating or detracting from it. Appropriate street furnishings can do much to make the Island environment more legible, expressive, pleasant and engaging, as well as establish a "sense of place" about the Island as a whole or a particular area within it. Public signing can more effectively and uniformly reveal the function, form and activities of the Island and clarify its overall environment. "Out-of-control" signing, lighting and furnishings---ones that are in conflict with the surroundings---obscure the meaning of the environment as often as they clarify it.

Public signing, street furniture and lighting should be evaluated on the basis of 1) does it detract from the overall environment and 2) does it provide the type of information which clarifies and reinforces the environment of Mercer Island and provides the necessary guidance and orientation to the user.

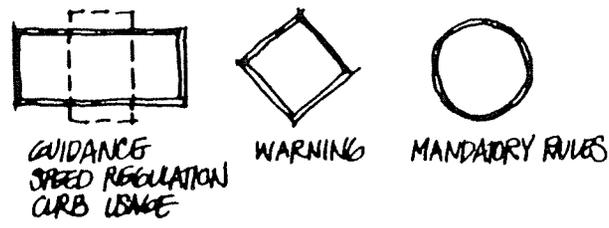
GUIDELINES

Public Signing

Shape and color are the primary means of distinguishing the type of message for the driver in motion. The basic shapes are 1) the circle: mandatory rules; 2) the rectangle: guidance, speed regulations, and curb usage; and 3) the diamond: warning. Two nonconforming signs are the octagonal "stop" sign and the triangular "yield" sign.

Shape combined with color indicate a specific class of message. The red circle is used for prohibiting signs, i.e., no entry, no parking, etc. The green circle is used for permitted turning rules. The yellow diamond indicates warning. Blue rectangles give local guidance and green rectangles are used for distant guidance.

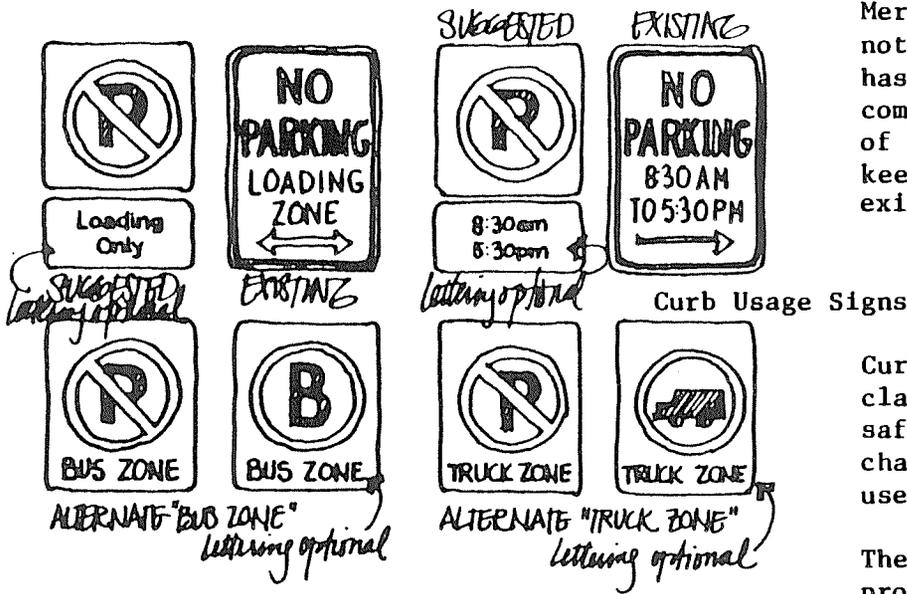
The use of symbolic signs as patterned after the international traffic symbols is gaining acceptance in this country. The 1971 Manual on Uniform Traffic Control Devices shows increased reliance on symbols with minimal word use as a transition toward a more uniform and better understood system of symbolic signing. There is no doubt



STANDARD SHAPES

that symbols, once accepted by the general public, offer greater clarity and legibility than the current, lengthy verbal directives in use. Because properly designed symbolic signing is more readily perceived and comprehended than its verbal counterpart, the number of necessary signs may be significantly reduced.

Mercer Island is, in a sense, a fairly remote community that does not receive a great deal of outside traffic, and for this reason has the need for relatively few public signs as compared to a community such as Burien or Renton which cater to a great number of outside visitors. This has a distinct advantage not only in keeping signs to a minimum, but also in introducing changes to an existing signing system.



Curb usage signs (no parking, bus stop, loading, etc.) although classified as Regulatory Signs, are not as important to traffic safety as other regulatory and warning signs, and thus offer a chance to introduce purely symbolic signing without compromising user safety.

The diagonally slashed red circle is an internationally accepted prohibitive symbol and is included in the Manual as acceptable signing for prohibiting truck and bicycle entry. The slashed circle, in conjunction with perhaps limited wording, may be used as the basis for most of the curbside signing needed within the Business District. (See diagrams.)

Warning Signs

Warning signs are primarily placed for the protection of the driver who may not be acquainted with the road conditions which may be potentially dangerous. Warning signs indicate crossings, curves, impending signals, slippery conditions etc. The majority of warning signs are diamond shaped with a black legend and yellow background. They are often used in conjunction with a rectangular verbal guidance sign.

EXAMPLES OF CURB USAGE SIGNS

Other Regulatory Signs

Other than the curb usage signs previously discussed, the major regulatory signs applicable to the Island are the stop, yield, speed limit, and turning signs. (See diagrams.) The signing for I-90 is not addressed by these guidelines.

Guide Signs

Guide signs are used to inform the motorist of interesting routes, destination, parks, trails, historic sites, etc. Because of the great familiarity of most users with the Island and its facilities, most standard guide signs are not needed on the Island and their use should be discouraged in order to maintain roadside signs to a minimum.

GUIDELINES

GOAL: Encourage the development and use of an overall, uniform signing system in keeping with national safety standards and representative of the Island Community that will:

- INTENT:**
1. Emphasize symbols as opposed to the worded message.
 2. Lend itself to combined or joint mounting so that the overall numbers of separate parts and separate signs may be reduced.
 3. Lend itself to a uniform system of mounting.
 4. Utilize light standards as supports for signing and light signalization where appropriate.
 5. Be legible at the speed and distance at which it is placed to be seen.
 6. Employ minimum sizes as determined by safety requirements.

CRITERIA: Curb Usage Signs: Curb usage signs pertain mostly to the Business District. There are various other locations on the Island where "no parking" signs are used, but they are relatively few. Bus zone symbols may be used Island wide. Stopping or standing regulations may be particularly applicable at schools and other public facilities.

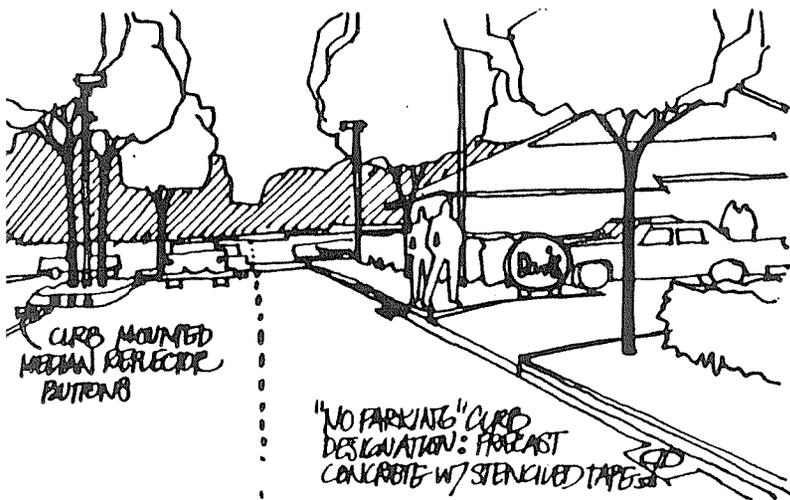
The spacing of "no parking" signs should not exceed 150 feet, and should in all cases be governed by what is a reasonable sight distance in each particular situation. "No parking" signs should be placed so that they are readily apparent from cross streets that enter in mid-block. Signs may occur at random spacing as determined by visibility and available mounting. Within the Business District, two signs per block may suffice.

Parking and other curb usage signs should be incorporated as part of the signing mounted on light standards within the Business District and in all other locations where possible in order to keep the number of upright posts at a minimum. The "no parking" sign/symbol may be the dominant element on all curb usage signs, with other uses such as truck load, bus zone, taxis only, etc., indicated by word message as part of the "no parking" sign. Symbols may be used to specifically indicate the permitted usage for a bus zone, taxi zone, etc., that are based on the open green circle which is the standard symbol signifying permitted use.

An alternative approach to posting "no parking" areas within the Business District would be to post only those limited areas where parking is allowed, providing a general "no on-street parking" sign/symbol is adequately displayed or incorporated as part of the gateway signing at key entry points to the Business District. In this case the positive green circle would be the basic symbol employed.

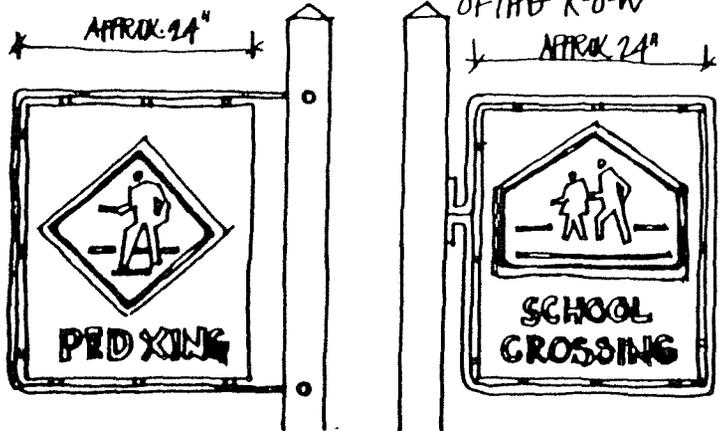
"No parking" designations within the Business District may also be incorporated by means of curb markings, striping, or by the use of the slashed red circle symbol as part of the curb shoulder. In this case the "no parking" designation should be used at approximately 40-50 foot intervals.

Reflector buttons for medians should be made a part of the curb. Use of upright reflector mounts should be discouraged.



"NO PARKING" CURB DESIGNATION and MEDIAN REFLECTORS

WHEREVER SAFETY CONSIDERATIONS PERMIT, SIGNING SHOULD BE TWO-WAY POINTING TO SERVE BOTH SIDES OF THE R-O-W



Warning Signs: The use of warning signs should be kept to a minimum because their unnecessary use tends to lessen their impact. This is particularly true in the case of Mercer Island where the majority of motorists are very familiar with existing conditions. Low speeds, as well as a uniform, consistent, uncomplicated backdrop, such as that along the majority of the right-of-ways, present additional reasons for further reducing warning sign usage and sign size.

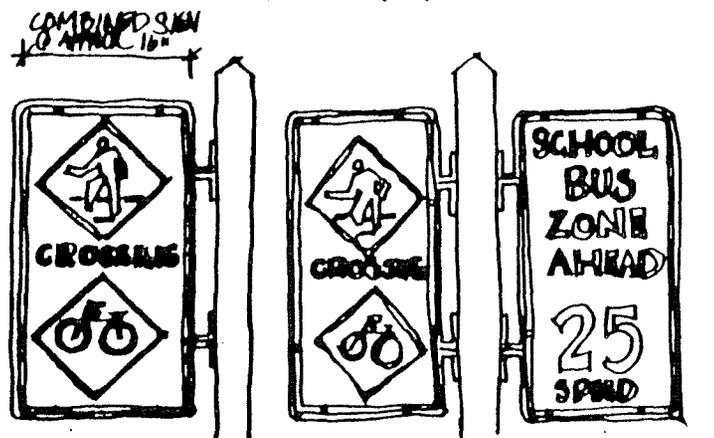
The color coding and diamond outline are of particular importance for easy identification of these signs, while the image in this case is of secondary importance.

Wherever safety considerations permit, the size of all signs and accompanying verbal guidance should be reduced in size as permitted by the Manual on Uniform Traffic Control. Use of symbols that offer greater legibility along with smaller size should be employed. Warning signs for trail crossings should be combined with actual trail signs wherever possible, particularly along the rural right-of-ways. The incorporation of the diamond warning symbol and verbal guidance message as a part of a rectangular background should be considered for it has distinct advantages for establishing a uniform mounting system and for the incorporation of additional signs.

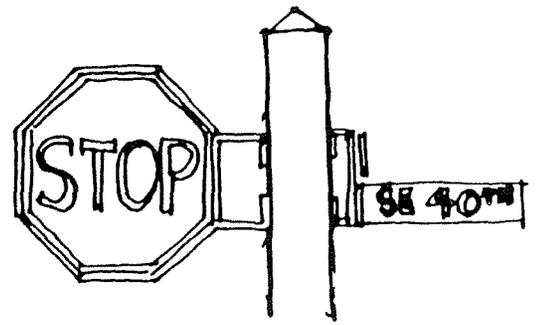
Regulatory Signs: The majority of regulatory signs are rectangular with the long axis being vertical. Two notable exceptions are the octagonal "stop" sign and the triangular "yield" sign. Minimum size standards have been established for both "stop" and "yield" signs which are permitted on low volume local streets and secondary roads. These should be employed throughout the Island.

Where their use is necessary, turning signs should employ the green circle with arrow symbol as opposed to the purely verbal black and white signs. Turn prohibition signs should employ the red circle.

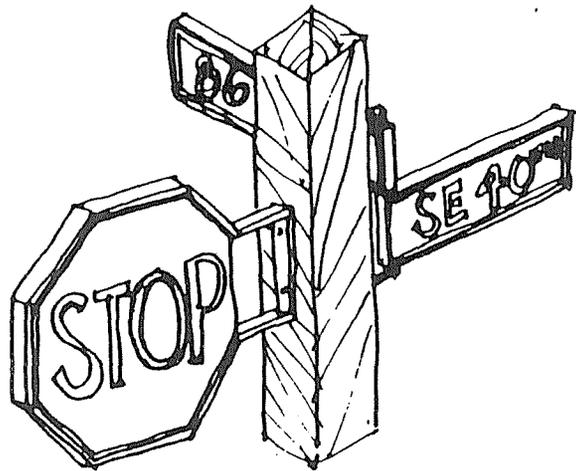
Speed limit signs should be kept at minimum permitted sizes, and where permissible they should be combined with other roadside signing.



EXAMPLES OF COMBINED WARNING SIGNS



COMBINED STOP and STREET SIGNING



COMBINED STOP and STREET SIGNING

Guide Signs: The only guide sign currently in use is the bicycle route sign marking an officially designated bicycle trail. The use of these signs will most likely increase as new bicycle trails and types of facilities are developed. New symbolic signing may be developed for bicycle route markers as well as designated viewpoints or trailheads. Signing should be kept at minimum sizes, used only where essential to differentiate the facility or identify its location, and mounted jointly with other signing wherever possible.

Mounting: All signing should be uniformly mounted. Signs should be mounted in conjunction with lighting standards and should be integrated with other signing wherever possible. Signs should be mounted in conformity with height and setback requirements. Upright posts should be of wood, stained in dark or neutral colors. The back sides of all one-face reading signs and metal mounting frames should be anodized or painted to closely match the color of the wood.

Street Name Signs: A distinct, well designed system of street name signing could do much to give Mercer Island special identity. The mounting and upright post should be compatible with that used for other public signing. The letter type should be picked for legibility and clarity. Value contrast as opposed to color should be emphasized to facilitate readability. Another alternative would be to incorporate the message "dead end" or an appropriate symbol as part of the street name sign with no change in color. A graphic symbol that is representative of the Island could be incorporated into all street name signs and used consistently to graphically convey "Mercer Island" in other locations, such as the gateway signing to the Business District.

An alternate to the use of the diamond "dead end" signs could be the color coding of street name signs for those streets that terminate as dead ends. For example, all through street name signs could be dark brown with white lettering; all "dead end" name signs could be signal yellow with black lettering.

Crosswalks: The major pedestrian crosswalks within the Business District should be indicated by a differentiation of pavement as opposed to striping. The pavement should be complementary to that used for adjoining sidewalks as well as pavement within the future town square which the majority of these crossings adjoin. It is the intent that paving within the town square as well as other pedestrian precincts, be of a unit type material such as concrete pavers, brick, tile, etc.

Lighting

GOAL: Provide safety for vehicular traffic and pedestrians.

INTENT: Provide the amount and quality of light as recommended by recognized standards while satisfying the other goals included here. Within the Business District an average of 1.2 f.c. may be used, which is the IES Handbook recommendation for "major" roadways in business districts not classified as downtowns. An average rating is not significant. The minimum level and contrast between minimum and maximum as perceived over time is more important, particularly along the rural right-of-ways. Incident light along commercial streets is a significant contributor to the amount of light perceived by the driver or pedestrian and should be considered as part of the overall light level.

CRITERIA: a. Light Levels: The minimum light level provided by street lights within the Business District at a point furthest away from the light source should not be less than .2 f.c. and the maximum should not exceed about 5 f.c., the average level of light should be approximately 1.2 f.c. to 2 f.c. including a maintenance factor of 60 percent.

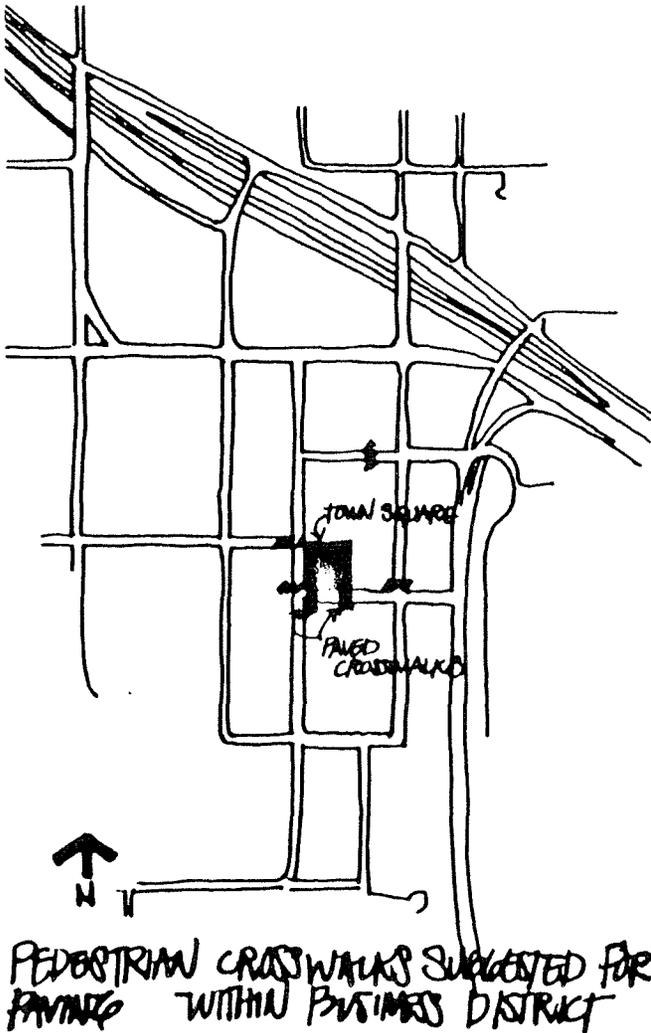
b. Increase lighting levels at intersections, crosswalks and driveways to 2 times minimum, that of the remainder of the street or about 4 f.c. average at intersections within the Business District. Light should be uniform at intersections and of a contrasting color to mid-block areas.

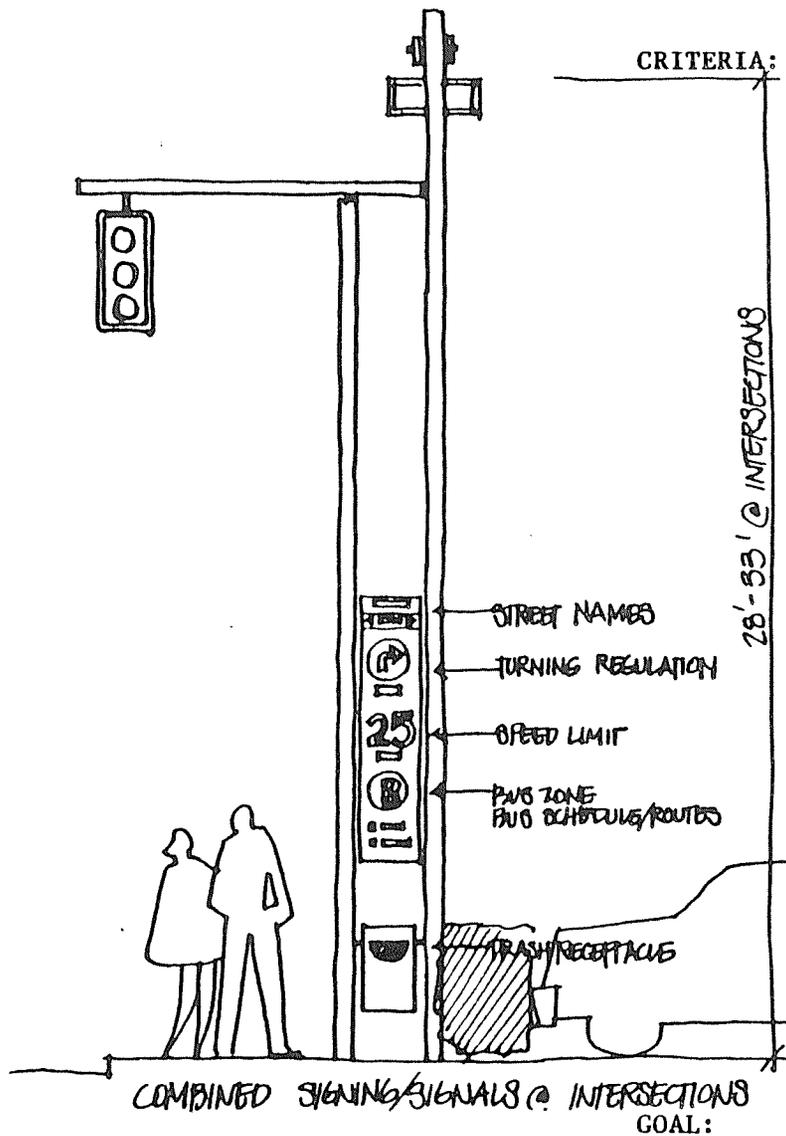
GOAL: Enhance the directional quality of the street.

INTENT: 1. Give character and scale to the street and emphasize the street corridor's directional quality through lighting pattern, scale of the light standards, and increased light levels at points of increased decision making for the driver.

2. Reduce area wide lighting and restrict it to the corridor.

3. Focus on the enhancement of the landscape and reinforce one's perception of the streetscape as a continuum of related elements building a total image.





CRITERIA:

- 1a. Emphasize the street as a corridor by focusing the lighting totally on the street and pedestrian ways. Minimize spilling-over light onto adjacent properties, except at driveways.
- 1b. At intersections and along major pedestrian routes in the Business District add pedestrian lighting integrated with the street lighting system. Light fixtures should be at a comfortable height to the pedestrian, approximately 10-15 feet high.
- 1c. Emphasize the lighting at intersections by changing the color of the light to warmer tones either by changing the type of lamp or the color of the lense.
2. Lighting standards should be not more than 20-24 feet high between intersections and 28-33 feet high at intersections in the Business District and along urban right-of-ways. Rural right-of-way standards should not exceed 16 feet; suburban right-of-ways should not exceed 22 feet. The lighting fixtures and standards are elements of a continuum of parts constituting the streetscape including trees, signs, roadway, automobile and people, which together form a spatial territory. Subjectively, not measurably, if the lights are raised above their critical heights they go beyond the bounds of the territory, break the tension formed between parts, and dis-associate themselves from the other elements. The road user at this point no longer perceives the lights as a cooperative part of the total streetscape.

3a. Placement of lights should complement street tree spacing.

3b. Light underneath portions of the trees with approximately 10 percent up-light of the street lighting system. (This portion may be increased as the trees mature).

Relate lighting to other public elements of the street.

INTENT:

Reduce the number of competing elements in the streetscape and through integrated design, relate, in terms of common or complementary materials, systems and scale, the lighting system to traffic signals, signing and street furniture.

- CRITERIA;
- a. Combine the traffic signals on the same standard or standard system as the general intersection lighting.
 - b. Integrate signing, street signing and directional signals with the lighting standards throughout the Business District, at major intersections and at other locations if appropriate.
 - c. All light standards should be of the same material, preferably wood.
 - d. Overhead traffic signalization should be kept at a minimum.

Street Furniture

GOAL: Develop furnishings that are compatible and consistent with the surrounding "streetscape" and the overall Island environment.

- INTENT:
1. Provide appropriate street furnishings where needed.
 2. Encourage pedestrian use of the right-of-way.
 3. Enhance the street scene.

CRITERIA: The street furniture elements addressed by these guidelines are bus shelters, seating, guardrails, bollards, fire hydrants, signal control boxes, and trash receptacles.

Bus Shelters: Bus shelters should be installed at major collecting points where sufficient use justifies their location or at locations that are served by several transit routes. Joint use between public and school transit stops should be encouraged. Bus shelters should not occur on highly developed residential streets or restricted right-of-ways where they may infringe on adjoining private development. Shelters should be sited to give easy access and visibility of the right-of-way, protection from prevailing weather, rain, and sun. Seating should be incorporated as part of the shelter. For the Business District or at other major locations, appropriate trash receptacles should be provided.

The existing bus shelter in the 4800 Block of East Mercer Way is an excellent example of a rural shelter in terms of materials, scale, color, and orientation. It is of a sufficient size to provide adequate protection from the weather. It incorporates seating. Its roof form is pleasing and in keeping with residential housing, and it has a sense of overhead structure that implies "shelter". The scale and color of the structure are good due to the use of natural unit materials. The above criteria should be applied to the development of future bus shelters or a prototype shelter for the Island.

Bus stop locations within the Business District should be located to take advantage of the existing shelter and seating provided by adjoining buildings, such as the National Bank of Commerce. This particular type of pedestrian oriented street frontage development should be encouraged throughout the District, in which case the bus shelters would not be a necessity. The location of separate shelters within the Business District, as it exists, may only reinforce the preponderance of very small structures and very large parking lots.

Seating: Seating may be incorporated into the proposed joint pedestrian/bicycle paths proposed along arterials such as Island Crest Way to serve transit and school bus patrons, or as resting stops for bicyclists, pedestrians, etc. Care should be taken to locate seating sufficiently set back from the roadway and in areas where it does not conflict with adjoining development. Materials should be of wood, either natural or stained in dark or neutral colors.

Guardrails: Guardrails that are used for street ends, undeveloped right-of-ways, and other similar locations where their use is more symbolic than safety-oriented should be of wood, either natural or stained in dark or neutral colors. Reflector buttons may be incorporated as part of the guardrail for night-time visibility.

In locations where wood guardrails do not suffice because of safety requirements, a planting hedge may be employed as a visual screening device. Where screening is not feasible corten may be employed as the rail. If existing speed limits are maintained on the Island, the use of such guardrails should be limited to Island Crest Way and I-90.

Bollards: Bollards may be used for marking street ends, roadways, and undeveloped right-of-ways particularly where unimpeded pedestrian traffic is desirable. Bollards may be used as a means of separating bicycle and vehicular traffic where curbing is not appropriate, and may be employed at intersections that are crossed by bicycle paths/lanes as a means of preventing vehicle entry. Bollards should be of wood, either natural or stained in dark or neutral colors.

Bollards used for the protection of fire hydrants should be left as natural concrete with the use of reflector buttons for night-time visibility. The use of bollards to protect stop signs or other signage posts should be kept to a minimum; where bollards are absolutely essential for safety purposes, they should be treated as above.

Fire Hydrants: Hydrants should be uniformly painted. Hydrants within the Business District should be undergrounded.

Signal Control Boxes: Control boxes should be located to allow screening by planting buffers.

Trash Receptacles: Trash receptacles should be incorporated as part of the overall streetscape elements. Their main use would be in the Business District, at bus stops and shelters, and other public facilities. Receptacles should be of a size that does not dominate the streetscape elements, and should conform to the State Litter Control Law. They should be attached to existing light standards or other appropriate elements, and should be free of the ground. Metal, perforated metal, or wire mesh may be used. Color may be chosen to blend with existing street elements or used as a contrast to them.

GENERAL GUIDELINES
FOR PUBLIC, QUASI-PUBLIC,
AND MULTI-FAMILY DWELLINGS

GENERAL GUIDELINES FOR PUBLIC, QUASI-PUBLIC, AND MULTI-FAMILY DWELLINGS

CONCEPTS

The guidelines relevant to the development of public and quasi-public properties, and multi-family dwellings are an outgrowth and further extension of the Design Commission Ordinance and the general criteria covered by this ordinance. Goals group into three general categories:
The Site: landscape and site treatment and the relationship of the building to the site.
The Surroundings: relationship of building to adjoining area.
The Building: building design.

GUIDELINES

GOAL:

Conserve the existing amenities of the site and preserve its indigenous character.

INTENT:

1. Conserve the existing landforms and topographic features.
2. Maintain existing natural drainage ways.
3. Preserve, restore and reinforce natural vegetation and significant clusters of trees, shrubs, and groundcover.
4. Insure orderly development of future building sites.

CRITERIA:

- 1a. The existing topographic features of the site should be conserved and utilized in a manner that will contribute to the overall appearance and utility of the site development.
- 1b. Building development should generally occur on the least steep portions of the site in order to conserve the more fragile areas for outdoor development, landscaping or general open space use.
- 1c. The allowable percentage of the site to be developed should be determined on the basis of drainage ways and their support areas included within the site, with special consideration given to the inherent site capacity and its relationship to the natural Island drainage patterns.

1d. Parking lots, terraces, walkways and other paved areas should be graded to provide a stable appearance with clearly articulated grade changes that enhance the natural setting and site development. Paved areas such as courtyards, terraces, and parking lots should be relatively level. The extension of the paved surface as a means of bank stabilization or grade change should be discouraged. Paved areas should be sufficiently set back from the top of banks, slopes, and cuts to provide visual continuity with particular attention given to setback of parking lots to avoid the unsightly appearance of overhanging parked vehicles which may be visible from lower elevations.

Walkways should be graded to provide an inviting appearance. In walkways that serve as major access facilities, abrupt grade changes and excessive warping should be avoided in favor of clearly articulated grade changes such as stairs or ramps.

1e. All driveways should follow the natural terrain wherever possible, avoiding excessive cut and fill and maintaining the existing topographic features of the site.

1f-2a. Limit cut and fill areas and minimize the use of retaining walls and rockeries.

2b. Control the extent of paved surfaces by limiting allowable continuous parking lots to a maximum of 20 cars and encourage the use of pervious surfacing materials such as tan bark and gravel wherever appropriate. The parking lot configuration should complement and conform to the existing topography and those areas in excess of the 20 car-count should be separated into units and buffered by a landscaped planting buffer of not less than 10 feet. This condition does not, of course, apply to the circulation drive.

2c. Mandatory soils review should be made a part of the review process for all proposed developments with special consideration given to potential drainage and erosion hazards.

The following soils and geology summary has been compiled from the Mercer Island Environmental Factors Study and is intended to serve as a preliminary means of identifying site limitations and potential hazards.

SURFICIAL GEOLOGY CRITERIA

GEOLOGIC UNIT: VASHON TILL (Qt): Concrete-like mixture of clay, sand, silt, and gravel.

Characteristics

Compact, dense
Low permeability
Poorly drained depressions
common
No settling
Water table varies with
topography

Concerns/Hazards

Drainage: Standing water
Runoff: Excessive
Slopes: Generally stable
Vashon Till on Vashon
Outwash, potentially
unstable
Filtration: Low yield of
ground water

The following soil series overlaying Vashon Till present additional constraints:

Alderwood series:

Drainage and erosion control

Kitsap silty loam:

Preferably controlled and highly limited development in areas with slopes above 16% due to slide and erosion control.

Bellingham silty loam:

Modified development due to high water table and poor permeability

Puget muck:

No development.

ALLUVIUM (Qa): Unconsolidated silt, sand and gravel with occasional localized peat and muck.

Characteristics

Generally poor runoff due to inherent low slopes
Water table near surface
Permeability varies
High saturation

Concerns/Hazards

Drainage: Prone to flooding along creeks
Runoff: Generally poor due to inherent low slopes
Slopes: Unstable due to high degree of saturation
Foundations: Check for presence of organic material layers which may cause irregular settling

VASHON OUTWASH (Qo): Advanced and recessional outwash composed primarily of silt, sand, gravel, and some clay.

Characteristics

Poorly sorted, uncemented
Water table near surface
High permeability
Stability generally good, but varies with slope
Minimal settling

Concern/Hazards

Drainage: Springs common at base of slope
Runoff: Poor particularly on cleared slopes
Slopes: Unstable above 30%; must have vegetation cover to absorb runoff
Erosion: Likely, due to springs at base of slope particularly if Qo overlays impermeable material

These soil series overlaying Vashon Outwash present the following constraints:

Alderwood silty loam:

Drainage and erosion control

Kitsap silty loam:

Controlled and highly limited development above slopes of 16% due to slide and erosion hazards

PRE-VASHON DEPOSITS UNDIFFERENTIATED (Q): Till, outwash, associated interglacial deposits with sorted/unsorted gravels, sand, silt and clay.

Characteristics

Concerns/Hazards

Due to the variation in composition other characteristics vary accordingly.

Drainage: Springs and seeps common
Slopes: Stability highly variable and dependent on local conditions
Groundwater: Generally under hydrostatic head

The following overlaying soil series present these additional constraints:

Kitsap silty loam:

Prone to slides and erosion; slopes above 16% should not be developed

Alderwood-Kitsap loam:

Prone to erosion and drainage hazards particularly on slopes in excess of 25%

Alderwood series:

Drainage and erosion control

2d. Maintain minimum setbacks from watercourses to adjoining improvements as per Watercourse Ordinance No. 332.

2e. Consider the use of dry wells and/or holding basins where building construction or paved areas cause excessive runoff, velocity, siltation, or potential hazards of erosion.

3a. Buildings and adjoining site development should be sited to preserve significant trees, shrubs and groundcover areas.

3b. In locations where plants are prone to damage by vehicular traffic adequate protection should be given by curbing, guard rails, posts, or tree guards appropriate to the character of the site development.

3c. Cut and fill areas should not exceed 2:1 slopes. Slopes should be planted with native groundcovers using hemp matting, if necessary, to establish growth.

4a. In considering all proposed developments it should be required that the applicant provide a description of the programmatic future site and building development as well as a delineation of areas where such development or incremental development may occur.

GOAL: Minimize impact on and maintain continuity with the surrounding neighborhood.

INTENT: 1. The proposed development should be consistent with the neighborhood.

2. The proposed development should be considered in terms of its potential for enhancing the image of the neighborhood and providing amenities such as usable open space, vegetation, and off-hours parking.

3. Provide various transportation modes as means of access to the site and as an alternate to the use of the private automobile.

4. Locate all parking and service areas so as not to detract from the neighborhood or adjoining development.

CRITERIA: 1a. Site development should be planned to provide a pleasing transition from the development to the street and to adjoining properties.

1b. Buildings should be sited to preserve the maximum vegetation buffer along the public right-of-way.

Particular care should be taken to minimize the visibility of buildings, roads, and other appurtenances from ravine bottoms, slopes, trails or open space easements.

1c. Buildings should be sited to reduce potential noise disruption of adjoining neighbors by proper orientation, setbacks and planting buffers.

2a. Encourage the maximum amount of usable open space and consider its availability for compatible neighborhood use, particularly in quasi-public facilities that may not be in daily use, e.g. churches with recreational facilities, tot lots or other amenities that could be enjoyed by the neighborhood.

Recreation open space should be provided for resident use within all multi-family residential developments and wherever appropriate, pedestrian linkages should be provided as a means of joining compatible facilities by other than right-of-way connections.

2c. Outdoor congregating areas, tennis courts, play lots, swimming pools, barbecue pits, etc., should be sited so as not to infringe on adjoining properties and must be adequately screened by planting buffers, fencing or walls if they present a potential noise problem.

2d. Encourage sharing or after-hours use of the required on-site parking facilities to alleviate parking shortages where they exist, while retaining maximum open space and vegetation.

2e. Encourage phased parking wherever appropriate to serve initial site development. Reduce the extent of the paved surface by encouraging use of adjoining areas such as lawns, fields, etc., for spill-over parking facilities wherever such demand is occasional and permits this type of use.

2f. Consider lowering on-site parking requirements where access by public transportation and bicycle routes is feasible, particularly where parking requirements seriously compromise other site amenities.

2g. Consider lowering on-site parking requirements where additional usable open space is provided for recreational or passive activity, pedestrian walkways, public easements, or landscaping. Particular consideration should be given to open space that may serve as an amenity to the neighborhood as well as the immediate site.

2h. Encourage easements for public use as a means of extending the Island open space and trail system.

3a. Encourage vehicular access to all facilities of a non-single family nature from connector arterials with minimum traffic through adjoining residential streets.

3b. Increased traffic due to proposed development may not unduly disrupt the neighborhood nor increase traffic levels of the surrounding streets beyond that deemed acceptable by the Department of Public Works.

3c. Special attention and effort by the developing agency should be encouraged in order to secure public transportation as a means of access to all facilities of a non-single family nature.

4a. Screen all service areas from view either by year around planting buffers, fencing or walls and locate in areas where service activities (loading, garbage storage, etc.) will not disrupt neighbors.

4b. Screen all parking lots from view of adjoining neighbors and maintain a minimum 10 foot planting buffer on private property adjacent to all public right-of-ways.

4c. All access driveways should be limited to a maximum 10 feet for one-way and 18 feet for two-way traffic in order to avoid excessive pavement widths, provide maximum planting buffers at the right-of-way and maintain the continuity of the street.

4d. Private or public parking lots adjacent to or serving major public open space such as parks, playgrounds etc., should be sited and treated with extreme care so as not to infringe upon the open space nor detract from its quality.

4e. Parking lots should not be sited adjoining trail easements and drainage ways unless the lots directly serve the trail system.

GOAL: Develop structures that are compatible and consistent with the natural Island environment.

- INTENT:**
1. Encourage use of natural as opposed to synthetic building materials that complement the existing environment.
 2. Provide compatibility with the landscape and adjoining buildings.
 3. Assure that structures are in scale with the Island landscape.

A design statement should be submitted to the Design Commission by the applicant that provides justification for the proposed building design in terms of the following criteria with particular emphasis placed on height, scale, material and color selection.

CRITERIA: 1-3. The height and scale of each building should be consistent with the adjoining buildings and compatible with the site. Particular care must be taken to insure scale compatibility between buildings that may serve different functions and may have varied height requirements. Of particular importance are relationships and spacing of openings, extent of continuous wall planes, and roof forms. Compatibility of style, materials and colors between adjoining buildings should be maintained wherever appropriate to the function of the building and complementary to the natural setting.

Encourage use of building materials such as wood or masonry, dark grey or neutral colors and sloping as opposed to flat roof forms in keeping with surrounding building heights. Dissuade the use of bright reflective metal trim, bright colors other than for trim, and bright plastics.

The proposed building should be expressive of the function it serves and complementary to and in scale with the site and the proposed landscape development. A pleasing balance should be obtained between the natural and developed portions of the landscape and the structure itself.

Mechanical equipment not incorporated as part of the overall design of the structure must be screened or adequately concealed with special attention given to screening from view of adjoining hillsides.

Use of chain link fencing should be discouraged. It should only be considered where planting along its base with ivy or similar climbing vines can be assured to provide complete fence coverage without introducing a visibility hazard to the motorist.

Building and night lighting should be consistent with the building function and the site development. Lighting levels should not exceed levels of adjoining developed properties.

One-Way Traffic - Standard Size Stall (8.5' x 18.5')

Single Loaded Aisle

Double Loaded Aisle

Parking
Angle

| | A | B | C | D | E | F |
|----|------|------|------|------|------|------|
| 0 | 8.5 | 15 | 23.5 | 8.5 | 15 | 32 |
| 30 | 9.5 | 15 | 24.5 | 9.5 | 15 | 34 |
| 35 | 10.0 | 15 | 25.0 | 10.0 | 15 | 35 |
| 40 | 11.0 | 15 | 26.0 | 11.0 | 15 | 37 |
| 45 | 12.0 | 15 | 27.0 | 12.0 | 15 | 39 |
| 50 | 13.0 | 15 | 28.0 | 13.0 | 15 | 41 |
| 55 | 14.0 | 15 | 29.0 | 14.0 | 15 | 43 |
| 60 | 15.0 | 15 | 30.0 | 15.0 | 15 | 45 |
| 65 | 16.0 | 16 | 32.0 | 16.0 | 16 | 48 |
| 70 | 16.5 | 16.5 | 33.0 | 16.5 | 16.5 | 49.5 |
| 75 | 17.0 | 17.0 | 34.0 | 17.0 | 17 | 51 |
| 80 | 17.5 | 17.5 | 35.0 | 17.5 | 17.5 | 52.5 |
| 85 | 18.0 | 18.0 | 36.0 | 18.0 | 18.0 | 54 |
| 90 | 18.5 | 18.5 | 37.0 | 18.5 | 18.5 | 55.5 |

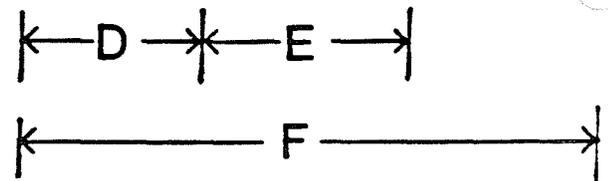
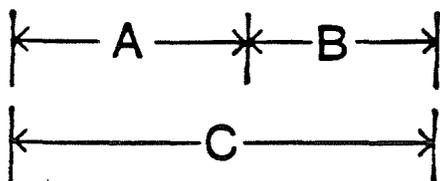
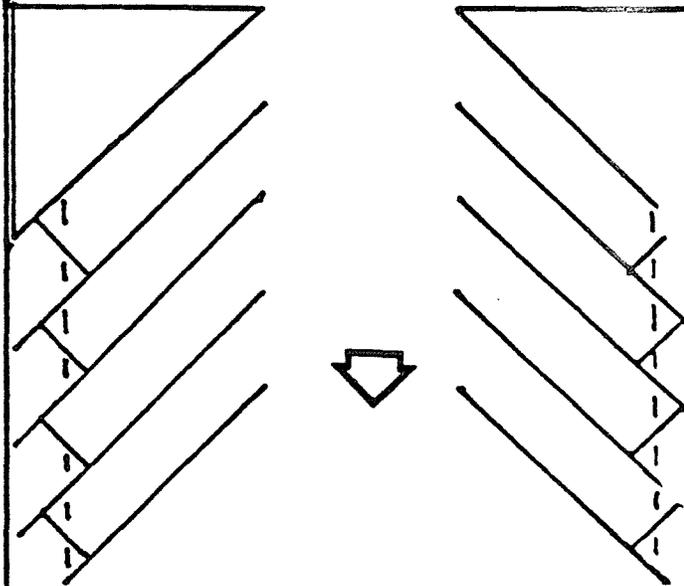
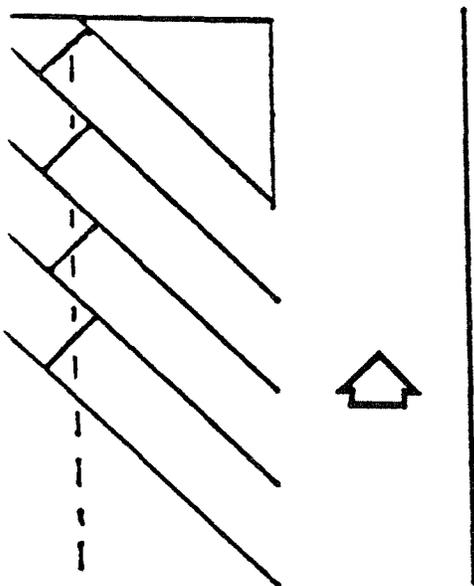
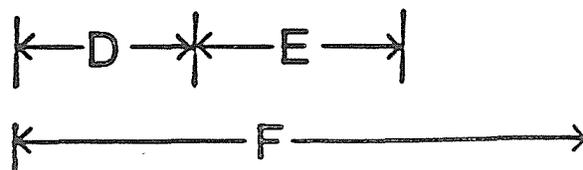
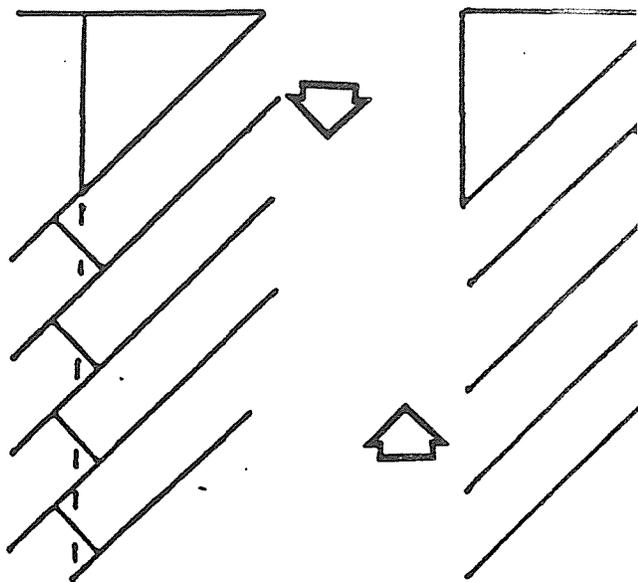
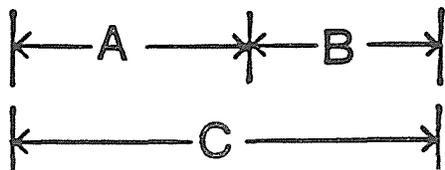
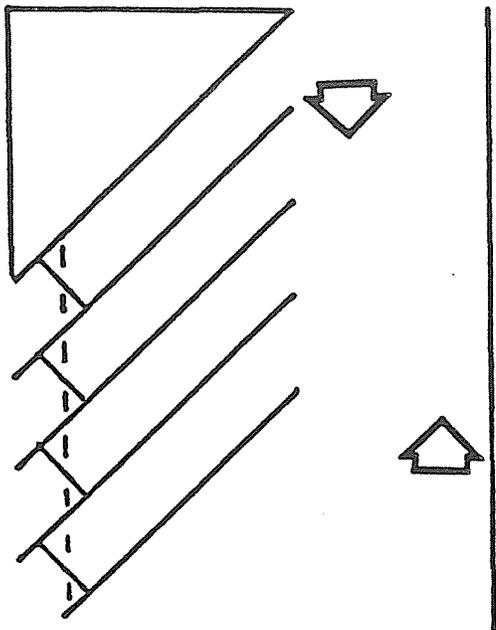


PLATE 2

- Two-Way Traffic - Standard Size Stall (8.5' x 18.5')

| Parking Angle | Single Loaded Aisle | | | Double Loaded Aisle | | |
|---------------|---------------------|----|------|---------------------|------|------|
| | A | B | C | D | E | F |
| 0 | 8.5 | 20 | 28.5 | 8.5 | 20 | 37.0 |
| 30 | 9.5 | 20 | 29.5 | 9.5 | 20 | 39.0 |
| 35 | 10.0 | 20 | 30.0 | 10.0 | 20 | 40.0 |
| 40 | 11.0 | 20 | 31.0 | 11.0 | 20 | 42.0 |
| 45 | 12.0 | 20 | 32.0 | 12.0 | 20 | 44.0 |
| 50 | 13.0 | 20 | 33.0 | 13.0 | 20 | 46.0 |
| 55 | 14.0 | 20 | 34.0 | 14.0 <td 20 | 48.0 | |
| 60 | 15.0 | 20 | 35.0 | 15.0 | 20 | 50.0 |
| 65 | 16.0 | 20 | 36.0 | 16.0 | 20 | 52.0 |
| 70 | 16.5 | 20 | 36.5 | 16.5 | 20 | 53.0 |
| 75 | 17.0 | 20 | 37.0 | 17.0 | 20 | 54.0 |
| 80 | 17.5 | 20 | 37.5 | 17.5 | 20 | 55.0 |
| 85 | 18 | 20 | 38.0 | 18.0 | 20 | 56.0 |
| 90 | 18.5 | 20 | 38.5 | 18.5 | 20 | 57.0 |



One-Way Traffic - Compact Stall (8' x 16')

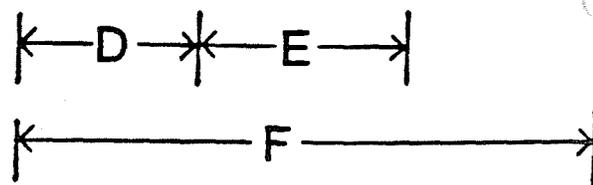
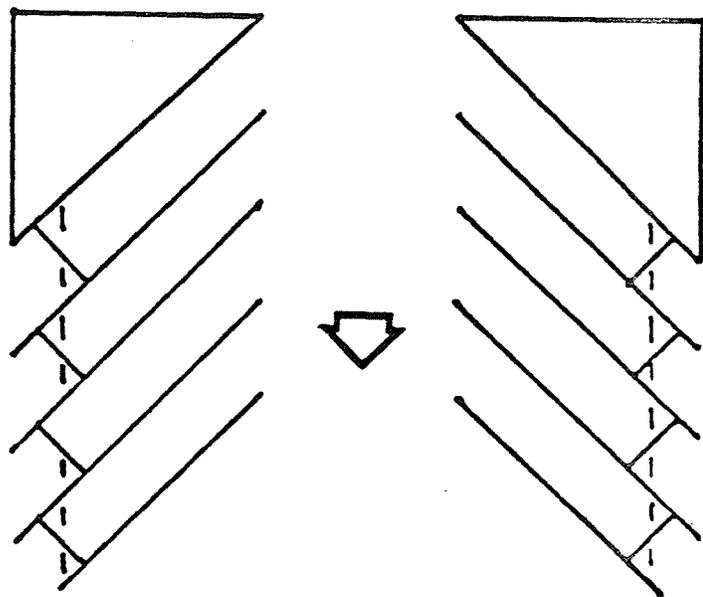
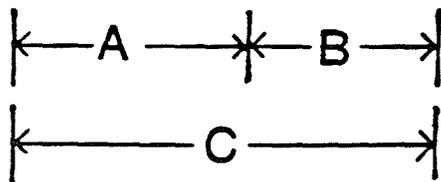
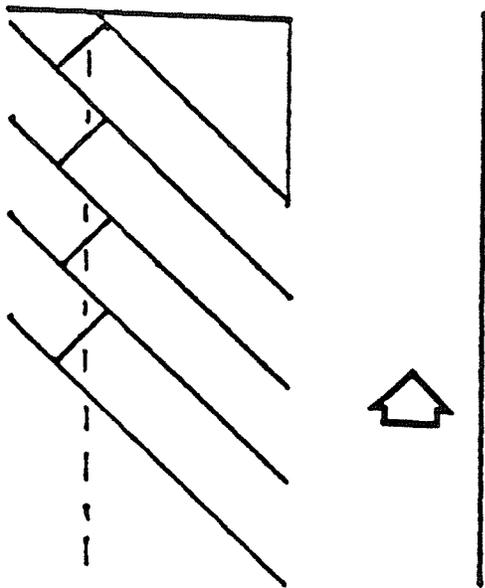
Single Loaded Aisle

Parking
Angle

| | A | B | C |
|----|----|----|----|
| 0 | 8 | 15 | 23 |
| 30 | 8 | 15 | 23 |
| 35 | 9 | 15 | 24 |
| 40 | 10 | 15 | 25 |
| 45 | 11 | 15 | 26 |
| 50 | 12 | 15 | 27 |
| 55 | 13 | 15 | 28 |
| 60 | 13 | 15 | 28 |
| 65 | 14 | 15 | 29 |
| 70 | 15 | 15 | 30 |
| 75 | 15 | 15 | 30 |
| 80 | 16 | 16 | 32 |
| 85 | 16 | 16 | 32 |
| 90 | 16 | 16 | 32 |

Double Loaded Aisle

| | D | E | F |
|----|----|----|----|
| 0 | 8 | 15 | 31 |
| 30 | 8 | 15 | 31 |
| 35 | 9 | 15 | 33 |
| 40 | 10 | 15 | 35 |
| 45 | 11 | 15 | 37 |
| 50 | 12 | 15 | 39 |
| 55 | 13 | 15 | 41 |
| 60 | 13 | 15 | 41 |
| 65 | 14 | 15 | 43 |
| 70 | 15 | 15 | 45 |
| 75 | 15 | 15 | 45 |
| 80 | 16 | 16 | 48 |
| 85 | 16 | 16 | 48 |
| 90 | 16 | 16 | 48 |



Two-Way Traffic - Compact Stall (8' x 16')

Single Loaded Aisle

Double Loaded Aisle

Parking Angle

0
30
35
40
45
50
55
60
65
70
75
80
85
90

| A | B | C |
|----|----|----|
| 8 | 20 | 28 |
| 8 | 20 | 28 |
| 9 | 20 | 29 |
| 10 | 20 | 30 |
| 11 | 20 | 31 |
| 12 | 20 | 32 |
| 13 | 20 | 33 |
| 13 | 20 | 33 |
| 14 | 20 | 34 |
| 15 | 20 | 35 |
| 15 | 20 | 35 |
| 16 | 20 | 36 |
| 16 | 20 | 36 |
| 16 | 20 | 36 |

| D | E | F |
|----|----|----|
| 8 | 20 | 36 |
| 8 | 20 | 36 |
| 9 | 20 | 38 |
| 10 | 20 | 40 |
| 11 | 20 | 42 |
| 12 | 20 | 44 |
| 13 | 20 | 46 |
| 13 | 20 | 46 |
| 14 | 20 | 48 |
| 15 | 20 | 50 |
| 15 | 20 | 50 |
| 16 | 20 | 52 |
| 16 | 20 | 52 |
| 16 | 20 | 52 |

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