



PLANNING COMMISSION REGULAR MEETING AGENDA

Wednesday, June 20, 2018
Mercer Island City Hall

CALL TO ORDER & ROLL CALL

6:00 PM

MINUTES

May 30, 2018
June 6, 2018

APPEARANCES

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

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

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

PUBLIC HEARING

Agenda Item #1: ZTR18-004 - Code Compliance Ordinance

Public Hearing for the proposed Code Compliance Ordinance. Followed by Planning Commission recommendation to City Council.

REGULAR BUSINESS

Agenda Item #2: CPA18-002 / ZTR18-005 – Town Center Commuter Parking

Introduction to Comprehensive Plan Amendment and Rezone for the “Parcel 12 / WSDOT” property, for commuter parking in Town Center.

Agenda Item #3: CPA18-001 – Transportation Element Comprehensive Plan Amendment

Second meeting to review and discuss proposed Comprehensive Plan amendments updating the Transportation Element of the Comprehensive Plan.

Agenda Item #4: CPA18-001 – 2018 Comprehensive Plan Amendment

Review of draft comprehensive plan amendments supporting the development of regulatory tools that would provide flexibility and facilitate the creation of less expensive housing options.

OTHER BUSINESS

Planned Absences for Future Meetings
Next Regularly Scheduled Meeting: July 18, 2018 at 6:00PM

ADJOURN

PLANNING COMMISSIONERS

Carolyn Boatsman
Bryan Cairns
Tiffin Goodman, Vice-Chair
Daniel Hubbell, Chair
Jennifer Mechem
Lucia Pirzio-Biroli
Ted Weinberg

PHONE: 206-275-7729
WEB: www.mercergov.org

AGENDA TIMES ARE APPROXIMATE

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



PLANNING COMMISSION MEETING MINUTES MAY 30, 2018

CALL TO ORDER:

The Planning Commission was called to order by Chair Daniel Hubbell at 6:05 PM in the Council Chambers at 9611 SE 36th Street, Mercer Island, Washington.

ROLL CALL:

Chair Daniel Hubbell, Vice Chair Tiffin Goodman, Commissioners Ted Weinberg, Lucia Pirzio-Biroli, Bryan Cairns, Carolyn Boatsman and Jennifer Mechem were present.

City staff was represented by Evan Maxim, Planning Manager, Andrea Larson, Administrative Assistant, Bio Park, Assistant City Attorney.

Commissioner Weinberg moved to approve the May 16, 2018 minutes, Commissioner Cairns seconded the motion. The minutes were approved as amended 7-0-0.

APPEARANCES:

Bob Medved 7238 SE 32nd St, Mr. Medved commented on the Town Center Comprehensive Plan amendment related to building height. Mr. Medved expressed his concerns about this amendment and not to re-write the Town Center code without any input or guidelines. Mr. Medved encourages the PC to do their due diligence.

Dan Thompson, 7265 N Mercer Wy, Mr. Thomason thanked the Commission on keeping in the notice requirements in the Procedural Code Amendment. Mr. Thompson expressed his concerns on Comprehensive Plan Amendment No. 13, related to the Town Center. Mr. Thompson stated that height is not the answer to the Town Center. Mr. Thompson expressed his belief that this amendment is a backdoor way to change the Town Center code to increase the building height. Mr. Thompson recommended that the Planning Commission not recommend approval.

Lloyd Gilman, 7217 82nd Ave Se, Mr. Gilman commented on the Town Center Comprehensive Plan amendment related to building height. Mr. Gilman expressed his concerns regarding this amendment. Mr. Gilman commented on Comprehensive Plan Amendment No. 14 and indicated it should not be approved.

REGULAR BUSINESS:

Agenda Item #1: CPA18-001 – Town Center Comprehensive Plan Amendment

Evan Maxim, Planning Manager, gave a staff presentation introducing the proposed amendment identified on the Comprehensive Plan docket as item No. 13 related to the Town Center. Allowing additional height in some Town Center subareas, in return for additional public amenities.

The Commission discussed the initial draft of the comprehensive plan amendment.

Commissioner Pirzio-Birola indicated that what should be considered is clarifying the amenities that are currently required.

Commissioner Weinberg stated that there does not appear to be any public interest in adding additional height added to the buildings in the Town Center.

The Commission expressed that at this time there was no interest in continuing this amendment and that the Commission would recommend that the Council not approve the docketed amendment.

Agenda Item #2:

CPA18-001 – Disaster Preparedness Comprehensive Plan Amendment

Evan Maxim, Planning Manager, gave a staff presentation on the draft language for Comprehensive Plan amendment No. 9 related to disaster preparedness.

The Commission discussed the draft language of the disaster preparedness comprehensive plan amendment.

The Commission stated that the goal statement should include “And provide for long term recovery and renewal.”

Vice Chair Goodman indicated that express permitting should be stated as a part of this process for residents rebuilding after a disaster.

Commissioner Boatsman requested clarifying language on item 22.6, to clarify what was intended by “mid to long term development.”

Commissioner Cairns recommends changing the word “regularly” to “periodically” on item 22.1.

Commissioner Mechem indicated that the following language should be added to 22.3 & 22.4: “with attention to impacts on vulnerable populations.”

CPA18-001 – Disaster Preparedness Comprehensive Plan Amendment

Evan Maxim, Planning Manager, gave a staff presentation on the draft language for Comprehensive Plan amendment No. 12, creating support for the use of the STAR framework.

The Commission discussed the draft language of the STAR comprehensive plan amendment.

Commissioner Cairns indicated that in 21.2, the word "or" should be replaced with the word "and."

The Commission discussed the intent of the STAR Community Rating System and the phrasing of the draft goals and policies.

The Commission recessed at 8:10pm.

The Commission reconvened 8:21pm

The Commission agreed to have staff come back with some edited text for another review on the proposed goal and policy statement.

OTHER BUSINESS:

Evan Maxim, Planning Manager, provided a Planning Manger report on upcoming meetings and appointments of Commissioners for the next term.

Commissioner Cairns announced that he will be resigning his position on the Commission at the end of June.

PLANNED ABSENCES

None.

NEXT MEETING:

The next regularly scheduled Planning Commission meeting will be June 6, 2018 at 6:00PM at Mercer Island City Hall.

ADJOURNMENT:

Chair Daniel Hubbell adjourned the meeting at 9:42pm



PLANNING COMMISSION MEETING MINUTES JUNE 6, 2018

CALL TO ORDER:

The Planning Commission was called to order by Chair Daniel Hubbell at 6:23 PM in the Council Chambers at 9611 SE 36th Street, Mercer Island, Washington.

ROLL CALL:

Chair Daniel Hubbell, Vice Chair Tiffin Goodman, Commissioners Ted Weinberg, Bryan Cairns, Carolyn Boatsman and Jennifer Mechem were present. Lucia Pirzio-Biroli arrived at 8:33pm. Commissioner Mechem left at 10:00pm

City staff was represented by Evan Maxim, Interim Director, Nicole Gaudette, Senior Planner, Robin Probesting, Senior Planner, Kelsey Salvo, Administrative Assistant, Bio Park, Assistant City Attorney.

SPECIAL BUSINESS

Agenda Item #1: Election of Chair and Vice-Chair

Election of Planning Commission Chair and Vice-Chair, Pro Tem for the next 2 meetings
Commissioner Cairns nominated Commissioner Hubble for Chair. The vote passed 6-0
Commissioner Cairns nominated Commissioner Goodman for Vice chair. The vote passed 6-0

Agenda Item #2: Planning Commission Bylaws

Review and adopted amendments to the Planning Commission Bylaws.
Commissioner Goodman motioned, Commissioner Boatsman seconded.
Commissioner Weinstein motioned to strike out the second quasi-judicial matters (paragraph 1),
Commissioner Boatsman seconded the motion.
Commissioner Hubbell motioned to strike 5.2.2
Motion to strike 5.2.2 approved and the bylaws passed 6-0

APPEARANCES:

Ira Appelman at 9039 Shorewood Dr, expressed opposition to agenda item 4 (Arts & Culural). Concerned with putting arts in the Land Use Element because of the negative public comments when MICA was potentially going to be at Mercerdale park.

Amy Lavin at 7835 Southeast 22nd PL, supports of comprehensive plan amendment 3 (SJCC, FASPS, Herzl-Ner Tamid amendment). The FASPS/JCC school help bring in valuable diversity and offers a communal gardening space.

Eric Thau at 18945 Northeast 20th Court is the head of FASPS school and is for the comprehensive plan amendment. Staff shop on the island and support local business. Try to mitigate traffic as best they can if the plan moves forward.

Susan Griesse at 4717 89th Ave SE, supports agenda item 3 (SJCC, FASPS, Herzl-Ner Tamid amendment). They chose to live on the island because of FASPS. Promotes multi-cultural diversity. Brings in monetary funds from off island.

David Fain at 4895 Forest Ave SE, moved here because of the community and supports agenda item 3 (SJCC, FASPS, Herzl-Ner Tamid amendment). He supports trying to find a reasonable plan that works for the island.

John O'Rourke at 4043 97th Ave SE. Wants the discussion to happen with the citizens and the City about the

changes. Wants to make sure the dialogue happens, and we don't rush into it. Worries about the traffic this may cause, on the island and to get off the island, and wonders if there should be a traffic impact study done.

Joel Espelien at 9920 se 40th ST. Has 3 students, they go to FASPS, moved to the island because of the school. Thinks the property is suboptimal. Likes the process, but wants the commission to hear all the comments and that FASPS is important

Meg Lippert at 4052 94st Ave SE. Is against agenda item 4 (Arts & Culture Plan). Could be at odds with other parts of the plan. It has unwieldy goals, seeks to provide guidance, but the goals are not land use, should be cultural. The language is vague and may allow art structures in parks.

Paul Shoemaker at 4240 Forest Ave SE. Supports putting the Arts in the Comprehensive Plan.

Suzanne Zahr at 8110 SE 70th ST. In support of agenda items 3 and 4. Has children at FASPS. Great program for children to be in, and agenda item 3 ties into to promoting the arts (agenda item 4).

Sabina Chang at 9726 SE 40th ST. They live very close to the school location. They utilize the camps at the SJCC, FASPS, and Herzl-Ner Tamid, wants dialogue for the residents to have inputs into the plan. Clarified realizes they are only talking about comprehensive plan process, wants the public to have time to understand this as well as be able to give input.

Matthew Goldbach at 9980 SE 40th ST. In support the JCC, but wants residents to have input for the comprehensive plan before the construction happens. Would like more time to do outreach and potentially make a presentation to the commission.

Cheryl D'Ambrosio at 3712 EMW. Stated they live very close to the FASPS and JCC property. Wants more outreach. Is against the rezoning. Wants the commission to think through it before making the master plan to do this. Make sure to take in the comments of the residents who live close to the property.

Genevie Morton at 7654 79th Ave SE. In support of the arts on the island, but the infrastructure doesn't help support it. Wants a place where children and others can preform and watch the arts, wants a dedicated space.

Winky Lai at 3716 EMW. Wants transparency in the process and wants more outreach to the neighbors.

Julie Garwood at 9772 SE 41st ST. Would like more outreach. Wants the public to give input and wants more time for residents to discuss.

Liz Friedman at 2035 80th Ave se. In support of the comprehensive plan amendments. Chair for the board for the SJCC. Wants us to promote the services that help benefit the community. Keep up the open dialogue.

Jackie Dunbar at 7116 82nd Ave SE. 3 – wants the commission and arts to have a discussion with citizens, as well as how are we creating a space for the arts with the deficit the city is in.

Bryce Taylor at 5204 WMW. In support 3 and 4. Member of the JCC for years with his family. Happy with all the information given and how the plan will benefit the community and the plans that have been shown. Great success for all. Need to maintain arts on the island.

Sharon Perez at 3404 79th Ave SE. 4 – Happy we have an Arts Council and lots of arts activities. Adds value to the community and we need to have it and supported adding it to the comprehensive plan.

Manuel Coally, YTNW director. Arts are a huge benefit to the community, and should be part of the plan, they generate lots of money on the island, if given a place could generate more.

Dan Thompson at 7265 NMW. Happy the Commission rejected the comprehensive plan to up zone the Town

Center. Need to be more transparent. Would also like the City to revisit the design regulations for the Town Center. Tired of design regulations without development regulations. For MICA for the arts. Comprehensive plan to move site specific rezone, doesn't want this is residential zones. Opposed to the FASPS / SJCC / Herzl-Ner Tamid Comprehensive Plan amendment.

John Hall at 9970 SE 40th ST. Residents need more time to review the FASPS / SJCC / Herzl-Ner Tamid Comprehensive Plan amendment and understand what is being proposed.

Donna Tomlinson at 9729 se 40th ST. Values these organizations, upset they were not informed. The community is not designed for high volumes of people to come onto the island. Make sure this is designed with everyone in mind (residents and special interest groups).

Don Robinson at 9715 SE 40th ST. Residents do not understand and have not had enough time. What are the consequences across the community? Could impact the community building and the residents.

The Commission recessed at 7:51PM
The Commission reconvened at 8:01PM

REGULAR BUSINESS:

Agenda Item #3: CPA17-002 – SJCC / FASPS / Herzl-Ner Tamid

Nicole Gaudette, Senior Planner provided a staff presentation on the purposed Comprehensive Plan and code amendments.

Second meeting to review proposed amendments to the Comprehensive Plan and Code.

Commissioner Boatsman indicated that the City reword the first policy in Land Use 8 to state “the community should accommodate community facilities”.

The Commission proposed that the City come up with an encompassing term for social and cultural wellbeing and traffic mitigation in the policy. The Commission indicated that it should include pedestrian and non-vehicular elements.

Commission asked the City to define the word community.

Commission wanted to make sure that the community facilities co location make sense on each property, work force housing supports the primary uses in the zone. The Commission wanted to prevent the policy to allow multifamily housing, and to make sure that the community gets to respond and have input for these onsite facilities. The Commission indicated there should be a policy to require applicants to have a master plan for the community facility.

The commission proposed that the City add a policy that included community design dialogue element. Commissioner Cairns proposed to add “existing” community facilities in the policy.

Agenda Item #4: CPA18-001 – Arts & Culture Comprehensive Plan Amendment

Evan Maxim, Interim Director of Development Services, provided a brief staff presentation on the Arts and Culture Comprehensive Plan amendment.

Second meeting to review and discuss proposed Comprehensive Plan amendments prepared by the Arts Council, supporting the cultural arts.

Vice-Chair Goodman requested that staff cleanup the language in these policies to make it easier to evaluate.

Commissioner Pirzio-Biroli suggested including a creative district and accountability strategy – such as replacing lost art spaces.

Chair Hubbell asked that the Arts Council/City define public and privately-owned art.

Commissioner Pirzio-Biroli indicated that the Mercer Island's schools arts program and marching band should be added to 23.1 by providing educational arts with the FAAC through school and the Parks and Recreation.

Staff will prepare amendments for Planning Commission following the August 29th public hearing.

The Commission recessed at 9:51PM

The Commission reconvened at 10:00PM

Agenda Item #5: ZTR18-001 – Procedural Code Amendment

Nicole Gaudette, Senior Planner provided a staff presentation on the Procedural Code Amendment.

Review and deliberation followed by recommendation to City Council on proposed Procedural Code amendments.

Commissioner Boatsman would like tree removal permits and ROW permits to be the new type 2, requiring public notification.

Vice-Chair Goodman motioned to approve the proposed amendments, including the correction of a typographical error on page 43. Commissioner Weinberg seconded the motion.

Commissioner Boatsman made a motion to include ROW use permits and Tree permits in the type 2 process. Commissioner Weinberg seconded the motion. The motion failed 2-4-0.

The code amendment is approved 6-0-0.

Agenda Item #6: CPA18-001 – Critical Areas Comprehensive Plan Amendment

Robin Proebsting, Senior Planner, provided a staff presentation on the Critical Areas Comprehensive Plan amendment.

Introduction and discussion of docketed Comprehensive Plan Amendment No. 7, a place holder for possible critical areas goals and policies.

The Planning Commission discusses possible amendments.

Commissioner Pirzio-Biroli would like the City to have a goal in the comprehensive plan that encompasses sustainability and preserving future generations to meet their own needs.

Commissioner Boatsman asks that the City add language about protecting species of local concern, such as bald eagles.

OTHER BUSINESS:

No other business.

PLANNED ABSENCES

Chair Dan Hubbell will be absent June 20, 2018.

NEXT MEETING:

The next regularly scheduled Planning Commission meeting will be June 20, 2018 at 6:00PM at Mercer Island City Hall.

ADJOURNMENT:

Chair Daniel Hubbell adjourned the meeting at 11:28PM



**CITY OF MERCER ISLAND
PLANNING COMMISSION**

**AGENDA ITEM NO. 1
DATE: June 14, 2018**

File No.:	ZTR18-004
Description:	This is a proposal to amend the code compliance regulations. This proposal creates a new Chapter 6.10 and amends portions of several chapters of the MICC including Chapters 1.16, 8.24, 15.06, 15.14, 17.14 and 19.15.
Sponsor:	City of Mercer Island, Development Services Group
Attachments:	1. Proposed Code Amendments
Staff Contact:	Alison Van Gorp, Administrative Services Manager

I. SUMMARY

The City of Mercer Island is proposing amendments to Mercer Island City Code (MICC) Titles 1, 8, 15, 17 and 19, see Attachment 1. The proposed amendments would create a new Chapter 6.10 related to code compliance and amend Chapters 1.16, 8.24, 15.06, 15.14, 17.14 and 19.15.

A code amendment is designated as a legislative action, as set forth in MICC 19.15.010(E). Applicable procedural requirements for a legislative action are contained within MICC 19.15.020, including the provision that the Planning Commission conduct an open record public hearing for all legislative actions. On June 20, 2018, the Planning Commission will hold an open record public hearing on this matter to obtain comments from the public and deliberate on the proposed amendment. The Planning Commission will forward a recommendation on the proposed amendments to the City Council for consideration and action. As the final decision-making authority for legislative actions, the City Council will consider the matter in a public meeting prior to taking final action.

The City issued a Public Notice of Application and Open Record Hearing which was published in the Mercer Island Reporter on May 16, 2018 and in the City's weekly permit bulletin on May 21, 2018. The public comment period ran from May 21, 2017 through June 20, 2018. Through June 14, 2018, the City did not receive any written comments concerning the proposed zoning text amendment.

The application is exempt from review under the State Environmental Policy Act (SEPA), WAC 197-11-800(19).

II. STAFF FINDINGS, ANALYSIS AND CRITERIA FOR REVIEW

Background

During the process to update the Residential Development Standards in 2017, the City began hearing from the community that there is a desire to increase the effectiveness and timely resolution of code compliance cases. Anecdotal comments received by the City Council and staff indicate frustration from residents around enforcement of codes and the time it takes to achieve compliance. These complaints span a wide range of issues, including both active construction sites and residential or commercial properties that are not under construction.

Currently, the City's code compliance staff struggle with a large caseload, with some cases being very difficult and time-consuming to bring into compliance. Limited staff time (1.0 FTE dedicated to code compliance) is prioritized on life safety and environmental protection, with a queue of lower priority issues being addressed as time allows. Overtime, a backlog of cases has built up, made up of lower priority cases as well as higher priority issues that are taking a longer time to resolve.

The existing city code contains code compliance regulations in several sections. Cross-referencing these code sections can be confusing, particularly when violations cross multiple categories. In addition, many of these sections have not been updated since they were originally adopted in the 1970s and 80s. Each of these code sections has its own provisions for penalties, all of which are inconsistent. Penalties range from misdemeanor charges for nuisance violations to potentially large monetary fines for tree violations. There are several issues with these provisions. First, the limited number of tools are not flexible enough to fit all situations. For example, nuisance violations can only be charged as misdemeanors, a criminal violation. This may be somewhat out of scale for many of the nuisance violations in Mercer Island. Secondly, the penalty structure in the development code is impractical, with fines based on a per day structure that requires citations to be delivered daily. Finally, based on the interpretation of the code by past city attorneys, staff practice has not included issuing civil penalties or citations. Without strong "teeth" in the code, the City's practice to-date has been focused on gaining voluntary compliance through working with property owners, which is often time consuming. It is rare that the City will levy fines or penalties, except in extreme cases.

A code amendment is proposed to provide a clear and simple process as well as additional regulatory tools to aid in achieving compliance efficiently and effectively. The goal with code compliance cases is always to attain voluntary compliance and close the case. However, when a responsible party is resistant to compliance, additional tools will enable staff to spur action more quickly and bring cases to resolution. Achieving compliance in a timely manner is important for giving residents surety that city regulations will be upheld to maintain safety, environmental protection and community character.

Over the last several months, staff have reviewed code language from several peer cities, interviewed staff from two cities with code provisions that may be appropriate for Mercer Island, and explored potential policy tools with the City Attorney's office. Based on this research and conversations with peer cities, staff believe that strategic code updates could provide additional tools to assist staff in attaining compliance more quickly in many of the lower priority cases, which would substantially decrease the amount of time spent on "tough" cases with property owners that are resistant to coming into compliance. On March 21, 2018 the Planning Commission began a process to develop recommendations for a proposed code amendment. Since then, the Commission has analyzed lessons learned from other cities, given direction on policy options and reviewed a draft code amendment.

Proposed Amendment

The proposed amendments to MICC Titles 1, 8, 15, 17 and 19 related to code compliance are shown in Attachment 1. Please note that the code amendment has been updated from the version provided previously, dated May 21. That version omitted the amendments to Titles 8 and 17, which are now included.

A new code section, Chapter 6.10 MICCC, is proposed to consolidate the code compliance provisions and establish a suite of enforcement tools that are broadly applicable to violations of the nuisance, construction, land development and water, sewer and public utility codes.

- It creates broadly applicable enforcement tools including misdemeanors, civil violations, civil infractions, voluntary compliance agreements, stop work orders and abatement.
- It includes new monetary penalties intended to spur compliance from people that are responsible for violations. Also included are additional penalties for priority violations, repeat and deliberate violations.
- It provides a description of the process for each of the enforcement tools, as well as provisions for appeals and recovery of penalties and costs.
- Finally, it includes a set of definitions for clarity and ease of use, providing definitions for repeat offenders, excessive or frivolous complaints and broadens the definition of person responsible to include developers, builders, contractors and other companies doing work on a property.

The amendments to Chapters 1.16, 8.24, 15.06, 15.14, 17.14 and 19.15 create and/or update references to the code compliance provisions that have been consolidated within the new Chapter 6.10. Existing enforcement provisions in these code sections are repealed.

Criteria for Review

There are no specific criteria listed in the Mercer Island City Code for a code amendment. However, in accordance with RCW 36.70A.040, the proposed amendments shall be consistent with and implement the City's Comprehensive Plan.

Staff Findings

The proposed amendments are contained within Attachment 1. The proposed new language is underlined, and language proposed for repeal is shown in strike through.

The proposed amendments would:

1. Re-organize and consolidate code compliance-related code language;
2. Clarify the code compliance process and penalties;
3. Simplify the regulations for readability and ease of use;
4. Add regulatory tools to aid staff in effectively and efficiently gaining compliance.

The proposed amendments are consistent with and implement the Comprehensive Plan.

III. STAFF RECOMMENDATION

Based on the analysis and findings included herein, staff recommends that the Planning Commission pass the recommended motion below:

Recommended Motion: Move to recommend that the City Council approve the request for an amendment to Mercer Island City Code (MICC) Titles 1, 8, 15, 17 and 19, as detailed in Attachment 1.

First Alternative Motion: Move to recommend that the City Council approve the request for an amendment to Mercer Island City Code (MICC) Titles 1, 8, 15, 17 and 19, as detailed in Attachment 1, provided that the proposal shall be modified as follows: *[describe modifications]*.

Second Alternative Motion: Move to recommend that the City Council deny the request for an amendment to Mercer Island City Code (MICC) Titles 1, 8, 15, 17 and 19, as detailed in Attachment 1.

Staff Contact: Alison Van Gorp, Administrative Services Manager

1 PLANNING COMMISSION – PUBLIC HEARING DRAFT
2 Draft Code Compliance Amendment
3 June 14, 2018
4

5
6 Chapter 1.16
7 ENFORCEMENT PROVISIONS

8 ...

9 **1.16.020 Violation of ordinance provision – A misdemeanor, gross misdemeanor or traffic**
10 **infraction.**

11 A. The violation of any provision of any ordinance or code provision is a misdemeanor unless specifically
12 designated as a gross misdemeanor, civil violation, ~~or~~ traffic infraction, or civil infraction. Each violation
13 may be prosecuted by the city in the name of the people of the state or the city, or may be redressed by
14 civil action at the option of the city, or both.

15 B. The maximum penalty for a violation designated as a misdemeanor or as a gross misdemeanor is the
16 maximum penalty set forth in RCW 35A.11.020, or as amended.

17 C. The maximum penalty for a violation designated as a traffic infraction is a fine not to exceed \$500
18 except where another penalty is provided for by state statute or city code provision.

19 D. Each day a violation is committed or permitted to continue shall constitute a separate offense and shall
20 be punishable as such. (Ord. A-87 § 2, 1991; added during 1980 codification).

21 ...

22 [Chapter 6.10](#)

23 [CODE COMPLIANCE](#)

24
25 [Sections:](#)

26 [6.10.010 Purpose and Scope](#)

27 [6.10.020 General Provisions](#)

28 [6.10.030 Right of Entry](#)

29 [6.10.040 Service of Written Notice](#)

30 [6.10.050 Enforcement Provisions](#)

31 [6.10.060 Voluntary Compliance Agreements](#)

32 [6.10.070 Stop Work Orders](#)

1 [6.10.080 Abatement](#)

2 [6.10.090 Appeals](#)

3 [6.10.100 Recovery of Penalties and Costs](#)

4 [6.10.110 Definitions](#)

6 **[6.10.010](#)**

7 **[A. Purpose and Intent](#)**

8 [The purpose of this title is to ensure compliance with the City's adopted building, land development,](#)
 9 [land use, nuisance and related codes as specified in subsection B, enabling the City to fulfil its duty to](#)
 10 [protect the health, safety and welfare of the public. These regulations establish procedures and](#)
 11 [mechanisms to resolve violations of the City's adopted building, land development, land use, nuisance,](#)
 12 [and related codes. Chapter 6.10 MICC establishes penalties for violations, provides an opportunity for a](#)
 13 [prompt hearing, decision, and appeal as to alleged code violations, provides for abatement when](#)
 14 [necessary, and provides a mechanism to recover the City's costs. This chapter shall be enforced for the](#)
 15 [benefit of the general public, not for the benefit of any particular person or class of persons.](#)

16 [It is the intent of this title to place the obligation for code compliance on the person responsible for a](#)
 17 [violation, within the scope of this title, and not to impose any duty upon the City or any of its officers,](#)
 18 [officials or employees, which would subject them to damages in a civil action.](#)

19 **[B. Scope](#)**

20 [This chapter may be applied for the purposes of enforcing the Mercer Island City Code \(MICC\) Chapter](#)
 21 [8.24 Nuisance Control Code, Title 15 Water, Sewers and Public Utilities, Title 17 Construction Codes,](#)
 22 [Title 19 Unified Land Development Code, and other codes, ordinances, resolutions, permit conditions, or](#)
 23 [public rules that promote or protect the public health, safety or welfare and the environment. The](#)
 24 [provisions of this chapter are not exclusive and may be used, to the fullest extent permitted by law, in](#)
 25 [addition to other applicable provisions of the Mercer Island City Code or other applicable law or](#)
 26 [regulation.](#)

28 **[6.10.020 GENERAL PROVISIONS](#)**

29 **[A. Declaration of Public Nuisance](#)**

30 [All code violations are determined to be detrimental to the public health, safety, welfare and](#)
 31 [environment, and are declared to be public nuisances. All conditions determined to be code violations](#)
 32 [may be subject to and enforced pursuant to the provisions of this title, except where specifically](#)
 33 [excluded by law or regulation.](#)

35 **[B. Authority and Approach](#)**

36 [The director is authorized to enforce the provisions of the MICC Chapter 8.24 Nuisance Control Code,](#)
 37 [Title 15 Water, Sewers and Public Utilities, Title 17 Construction Codes, Title 19 Unified Land](#)
 38 [Development Code, and other codes, ordinances, resolutions, or public rules that promote or protect](#)

1 the public health, safety or welfare and the environment. The violation of any regulation is unlawful,
 2 and the director may take reasonable action to bring about compliance through the use of the
 3 provisions of this chapter and any other applicable provisions of the Mercer Island City Code, including
 4 but not limited to the revocation or modification of permits, and/or through the enforcement, penalty
 5 and abatement provisions described in this chapter.

6 Code compliance actions will be pursued at the discretion of the director primarily in a complaint driven
 7 manner. Responses to complaints or evidence of a civil violation shall be prioritized based on
 8 significance and severity, with potential violations concerning health, safety and welfare of the public or
 9 damage to the environment receiving highest priority.

10
 11 After a complaint has been investigated, the director will determine the course of action. If a violation is
 12 present, the City may pursue compliance with City codes through the provisions of this chapter. The
 13 director shall have discretion to follow an incremental approach to securing compliance. This means
 14 starting by contacting the person responsible, explaining the violation and requesting voluntary
 15 correction. The director has the authority to reasonably determine the level of compliance, mitigation or
 16 remediation that is required as well as a reasonable timeline for completing the required actions. When
 17 appropriate, the director may secure compliance by proceeding incrementally to higher penalty levels
 18 by using the techniques and options in this title. Likewise, the director has the authority to offer
 19 reasonable extensions of timelines or other measures as appropriate when extenuating circumstances
 20 are present.

21
 22 Alternatively, in the course of the investigation, the director may determine: a) no violation exists; or b)
 23 the basis of the issue is private in nature; or c) the violation is *de minimus*. In which case, the director
 24 may decide to take no further action. Further, the director may find that a complaint or series of
 25 complaints between two or more individuals are frivolous, excessive and/or a form of harassment. In
 26 this case, the director may work with the complainant(s) to identify alternative means of dispute
 27 resolution (e.g. mediation), and may, under consultation with the City Attorney, choose to limit
 28 communication with complainants and responses to complaints that are frivolous or excessive. The City
 29 does not intend to ignore complaints and will continue to investigate subsequent, unrelated complaints
 30 from the complainant.

31
 32 Nothing in this section shall preclude the director from taking other appropriate enforcement action to
 33 preclude harm to the health, safety or welfare of the public or the environment.

34 **C. Duty to Comply**

35
 36 It shall be the responsibility of any responsible person to cure the violation, and if property is involved,
 37 to bring the property into compliance. Payment of fines, applications for permits, acknowledgment of
 38 stop work orders, and compliance with other remedies does not substitute for performing the corrective
 39 work required and having the property brought into compliance to the maximum extent reasonably
 40 possible under the circumstances. The date set for compliance in the notice of violation takes
 41 precedence over any date established for the expiration of any required permit(s) and will be
 42 subordinate only if modified by a supplemental notice of violation.
 43

1 [The responsible person has a duty to notify the director of any actions taken to achieve compliance. A](#)
 2 [violation shall be considered ongoing until the responsible person has come into compliance and has](#)
 3 [notified the director of this compliance, and an official inspection has verified compliance and all](#)
 4 [assessed penalties and costs have been paid to the City.](#)

5
 6 **[D. Additional Enforcement Provisions](#)**

7 [The procedures set forth in this chapter are not exclusive. These procedures shall not in any manner](#)
 8 [limit or restrict the City from remedying or abating code violations in any other manner authorized by](#)
 9 [law.](#)

10
 11 **[6.10.030 RIGHT OF ENTRY](#)**

12 [The director is authorized to enter any property or premises at any reasonable time to determine](#)
 13 [whether a civil violation has occurred or is occurring, or to enforce any provision of the Mercer Island](#)
 14 [City Code or any City ordinance, violation of which is a civil violation under this title and could be a](#)
 15 [criminal violation under the Mercer Island City Code, or to perform follow up inspections related to such](#)
 16 [a violation. The director may make examinations, surveys, and studies as may be necessary in the](#)
 17 [performance of his or her duties. These may include, but are not limited to, the taking of photographs,](#)
 18 [digital images, videotapes, video images, audio recordings, samples, or other physical evidence. If the](#)
 19 [property or premises is occupied, the director shall first present credentials and request entry. If an](#)
 20 [owner, occupant, or agent refuses entry, the City may apply to a court of competent jurisdiction for a](#)
 21 [search warrant authorizing access.](#)

22 **[6.10.040 SERVICE OF WRITTEN NOTICE](#)**

23 [Service of a notice of violation, stop work order, infraction or other official written notice of violation](#)
 24 [issued by the director shall be made by one of the following methods:](#)

25 [\(a\) Personal service. By personal service to the person responsible for the code violation, or by leaving a](#)
 26 [copy of the written notice at such person's place of residence with a person of suitable age and](#)
 27 [discretion who resides therein, or by leaving it at such person's place of employment with a person in](#)
 28 [charge.](#)

29 [\(b\) Service by posting. By posting the written notice in a conspicuous place on the property where the](#)
 30 [violation occurred and concurrently sending a notice either by electronic mail or by first class mail.](#)

31 [\(c\) Service by mail. By mailing the written notice by regular first class mail, to the person responsible for](#)
 32 [the code violation at his, her or its last known address, at the address of the violation, or at the address](#)
 33 [of the place of business of the person responsible for the code violation. The taxpayer's address as](#)
 34 [shown on the tax records of the county shall be deemed to be the proper address for the purpose of](#)
 35 [mailing such notice to the landowner of the property where the violation occurred. Service by mail shall](#)
 36 [be presumed effective upon the third business day following the day upon which the official written](#)
 37 [notice of violation was placed in the mail.](#)

38 [\(d\) Service by publication. For notice of violation only, when the address of the person responsible for](#)
 39 [the code violation cannot reasonably be determined, service may be made by publishing the abstract of](#)
 40 [the notice of violation substantially in the manner as set forth in RCW 4.28.110, as currently enacted or](#)
 41 [hereafter amended.](#)

1 The failure of the director to make or attempt service of written notice shall not invalidate any
 2 proceedings as to any other person duly served.

4 **6.10.050 ENFORCEMENT PROVISIONS**

5 Violations may be enforced by issuing one or more civil infractions or one or more notices of violation or
 6 any combination thereof. The City shall have discretionary authority to enforce a violation by issuing a
 7 civil infraction or a notice of violation pursuant to this chapter, or prosecuting it as a criminal matter.

8 Each day during which a code violation is committed, occurs or continues shall be considered a separate
 9 offense for purposes of civil infractions or notices of violation.

10 **A. Misdemeanors**

11 Any person who willfully or knowingly causes, aids or abets a code violation by any act of commission or
 12 omission is guilty of a misdemeanor, unless specifically designated as a gross misdemeanor, where such
 13 code violation results, or is likely to result, in a threat to public health, life, or safety or in significant
 14 harm to the environment. Upon conviction, the person shall be punished by a fine not to exceed \$1,000
 15 and/or imprisonment in the County jail for a term not to exceed 90 days.

16 **B. Code Violations**

17 Whenever the director has reason to determine that a code violation occurred or is occurring, or that
 18 the code violations cited in an infraction have not been corrected, or that the terms of a Voluntary
 19 Correction Agreement have not been met, the director is authorized to issue a notice of violation to any
 20 person responsible for the code violation.

21 Subsequent violations shall be treated as new violations for purposes of this section.

22 **1. Notice of Violation**

23 A notice of violation shall be completed in a form approved by the director and the City Attorney, and
 24 shall be served consistent with MICC 6.10.040 and shall, at minimum, include the following:

25 (a) The tax parcel number(s), address, when available, or description sufficient for identification of the
 26 building, structure, premises or land upon which or within which the violation has occurred or is
 27 occurring;

28 (b) A statement of each ordinance, regulation, code provision or permit requirement violated, and the
 29 facts to support that the violation(s) occurred or is occurring;

30 (c) The name of the City official issuing the notice and order and the name(s), if known, of the
 31 responsible party(ies) to whom the notice and order is being issued;

32 (d) An order requiring corrective action to be taken; description of corrective action that is necessary to
 33 achieve compliance; and a date by which the correction must be completed;

34 (e) A statement that if the violation is not corrected and the notice is not appealed, the determination is
 35 final and monetary penalties shall be due;

36 (f) The amount of penalty that will be assessed; and

1 [\(g\) A statement advising of the right to appeal the notice of violation to the hearing examiner,](#)
 2 [instructions on how to file an appeal, and the date by which it must be filed.](#)

3 **[2. Supplementation, revocation or modification](#)**

4 [Whenever there is new information or a change in circumstances, the director may add to, rescind in](#)
 5 [whole or in part or otherwise modify a notice of violation by issuing a supplemental notice of violation.](#)
 6 [The supplemental notice shall be governed by the same procedures applicable to all notices of violation](#)
 7 [contained in this title, including the right to appeal to the hearing examiner. In addition, the director is](#)
 8 [authorized to issue penalties accrued as a part of the supplemental notice of violation. If the deadline to](#)
 9 [appeal the notice of violation has expired, only portions from the notice of violation that are modified in](#)
 10 [the supplemental notice of violation are subject to appeal to the hearing examiner.](#)

11 **[3. Failure to correct](#)**

12 [Failure to correct the code violation in the manner prescribed in the notice of violation subjects the](#)
 13 [person responsible to any of the following compliance remedies:](#)

- 14 [a. civil penalties and costs;](#)
- 15 [b. continued responsibility for abatement, remediation and/or mitigation;](#)
- 16 [c. permit suspension, revocation, modification and/or denial;](#)
- 17 [d. costs of abatement incurred by the City; and/or](#)
- 18 [e. other remedies that may be available to the City.](#)

19 **[4. Time Limits](#)**

20 [\(a\) Persons receiving a notice of violation shall rectify the code violations identified within the time](#)
 21 [period specified by the director in the notice of violation issued pursuant to this chapter.](#)

22 [\(b\) Unless an appeal is filed with the City for a hearing before the hearing examiner in accordance with](#)
 23 [the provisions of this chapter, the notice of violation shall become the final administrative order of the](#)
 24 [director, and the civil penalties assessed and accrued shall be immediately due and subject to](#)
 25 [collection.](#)

26 **[5. Appeals](#)**

27 [Any person identified in a notice of violation \(or supplemental notice of violation\) as a person](#)
 28 [responsible for a violation may appeal the same within 14 days of service, according to the procedures](#)
 29 [described in MICC 6.10.090. Failure to appeal the notice within 14 days shall render the notice a final](#)
 30 [determination that the conditions described therein existed and constitutes a code violation, assessed](#)
 31 [and accrued civil penalties are due, and that the named party is liable as a person responsible.](#)

32 **[6. Recording](#)**

33 [\(1\) Whenever a code violation is related to a condition on real property, and a notice of violation is](#)
 34 [served on a responsible party who owns said property, the City may record a copy of the notice with the](#)
 35 [King County recorder's office, or its successor agency.](#)

(2) [When all violations specified in the notice of violation have been corrected or abated, the director shall record within a reasonable time a release of notice with the King County recorder’s office, or its successor agency, if the underlying notice was recorded.](#)

C. Civil Infractions

[Whenever the director has reason to determine that a civil code violation occurred or is occurring, the director is authorized to issue a civil infraction in accordance with chapter 7.80 RCW, which is incorporated herein by this reference, upon the person responsible for the condition and or who committed the civil code violation. First offenses shall be class 2 civil infractions, for which the maximum penalty and the default amount shall be \\$125 for each infraction, and second or subsequent violations shall be class 1 civil infractions, for which the maximum penalty and the default amount shall be \\$250 for each infraction, not including fees, costs, and assessments. The Mercer Island Municipal Court shall have jurisdiction over all infractions issued under this chapter.](#)

D. Civil Penalties

1. Civil Penalties

[A civil penalty for violation of the terms and conditions of a notice of violation, stop work order or voluntary correction agreement shall be imposed at the rate of \\$100 per day for each violation, accruing for every day after the compliance date listed in the notice of violation. Thirty days after the compliance date, the penalty will increase to a rate of \\$250 per day for each violation. Sixty days after the compliance date, the penalty will increase to a rate of \\$500 per day for each violation, up to a maximum total penalty of \\$50,000 for each violation.](#)

2. Priority Violations

[In addition to the penalties described above in Section A, any person that is responsible for a violation of the provisions of the following regulations will be subject to additional penalties. These penalties for priority violations will be assessed one time, will not accrue daily and are not subject to any maximum, as described below:](#)

Violation	Penalty
Damage or removal of trees in violation of chapter 19.10 MICC	Triple the value of the cut or damaged tree, plus the cost of remediation. See MICC 19.10.160 for details.
Ecological damage in violation of chapter 19.07 MICC	Up to \$25,000, plus the cost of remediation.
Failure to meet storm water, erosion control requirements in violation of chapter 15.09 MICC	Up to \$10,000, plus the cost of remediation.
Fat, oil, grease discharge in violation of chapter 15.06 MICC	Up to \$10,000, plus the cost of remediation.
Violation of stop work order or voluntary compliance agreement in violation of sections 6.10.060 or 6.10.070 MICC	Up to \$10,000

1 When the potential penalty amount is listed as a range, the director will set the penalty based on the
 2 following criteria:

- 3 a) The significance and severity of the violation and its impact on the public and the environment.
- 4 b) The difficulty and time involved in resolving the violation and mitigating or remediating the area
 5 impacted by the violation.
- 6 c) The resulting ill-gotten economic benefit and savings of construction costs realized by the
 7 person responsible for the violation.

9 3. Repeat Violations

10 A repeat violation is a violation that has occurred on the same property or that has been committed by
 11 the same person responsible elsewhere within the city, for which voluntary compliance previously has
 12 been agreed to or any enforcement action taken that was not timely appealed or if appealed, the appeal
 13 was dismissed, within the previous 36-month period. (For purposes of this subsection, repeat violation
 14 does not include each day in violation being counted as a separate violation.) To constitute a repeat
 15 violation, the violation need not be the same violation as the prior violation. Violation of a written order
 16 of the hearing examiner that has been served as provided in this chapter shall also constitute a repeat
 17 violation. Repeat violations will incur double the civil penalties set forth in Sections A and B, above. If
 18 violations are repeated a third or subsequent time within a 36-month period, the penalties will be five
 19 times those set forth above. The City also has authority to suspend or revoke a business license when a
 20 responsible party is repeatedly doing work in violation of city regulations (chapter 5.01 MICC).

21 4. Deliberate Violation

22 If a violation was deliberate, the result of blatant disregard for direction from the City or knowingly false
 23 information submitted by the property owner, agent or their contractor, civil penalties will be incurred
 24 at double those set forth above in Sections A, B and C.

25 5. Voluntary compliance

26 The director may reduce penalties at their discretion, if voluntary compliance is achieved. The remaining
 27 penalty should reflect the significance and severity of the violation, whether or not the violation was
 28 deliberate, and the costs incurred by the City in enforcing a notice of violation, stop work order, or
 29 voluntary compliance agreement.

31 E. Suspension, Revocation or Limitation of a Permit

32 The director may suspend, revoke or limit any permit issued whenever:

- 33 a. The permit holder has committed a code violation in the course of performing activities subject
 34 to that permit;
- 35 b. The permit holder has interfered with the director in the performance of his or her duties
 36 relating to that permit;
- 37 c. The permit was issued in error or on the basis of materially incorrect information supplied to
 38 the City by the permit holder; or

1 d. Permit fees or costs were paid to the City by check and returned from a financial institution
 2 marked nonsufficient funds (NSF) or cancelled.

3 Such suspension, revocation or modification shall be carried out through the civil violation provisions of
 4 this chapter and shall be effective upon the compliance date established by the notice of violation. Such
 5 revocation, suspension or cancellation may be appealed to the hearing examiner using the appeal
 6 provisions of this chapter. Notwithstanding any provision of this chapter, the director may immediately
 7 suspend operations under any permit by issuing a stop work order.

8 **F. Hold on Future Permits**

9 The director may place a hold on the issuance of future permits on a property if:

- 10 a. A notice of violation or stop work order has been issued, and
 11 b. The appeal period has passed, or an appeal was brought but it was dismissed, and
 12 c. The violation has not been corrected and/or penalties or fines have not been paid, and
 13 d. The permits relate to the violation.

14 A hold on future permits will prevent the issuance of any land use or building permit for the subject
 15 property, and for the person responsible on any other property within the City, until the violation is
 16 resolved, corrective actions are taken and penalties are paid. The director may use their discretion to
 17 issue exceptions to this subsection for emergencies or hazardous situations, or other situation they
 18 deem reasonable.

19 **G. Notice on Title**

20 The director may file a notice with the King County recorder's office, or its successor agency, if:

- 21 a. A notice of violation or stop work order has been issued, and
 22 b. The appeal period has passed, or an appeal was brought but it was dismissed, and
 23 c. The violation has not been corrected and/or penalties or fines have not been paid, and
 24 d. The violation relates to real property owned by the responsible party.

25 The notice shall inform the public of the presence of an unresolved notice of violation or stop work
 26 order on the subject property.

27 **6.10.060 VOLUNTARY COMPLIANCE AGREEMENTS**

28 **A. Timing**

29 A voluntary compliance agreement (VCA) may be used to resolve code compliance cases, and may be
 30 entered into at any time before an administrative appeal is decided.

31 **B. Contents**

32 A VCA is a written contract between the person responsible for the violation and the City, where such
 33 person agrees to abate the violation within a specified time and according to specified conditions. The
 34 VCA shall be completed on a form approved by the director and the City Attorney and shall, at
 35 minimum, include the following:

36 (1) The name and address of the person responsible;
 37

1 (2) The street address or other description sufficient for identification of the building, structure,
 2 premises, or land upon which the violation has occurred or is occurring;

3 (3) A description of the violation(s) and a reference to the code(s) which has been violated;

4 (4) The necessary corrective action to be taken, and the date by which the correction must be
 5 completed;

6 (5) An agreement by the person responsible that the City may inspect the premises as may be necessary
 7 to determine compliance with the VCA;

8 (6) The reduced amount of the civil penalty, if any, that the person responsible is agreeing to pay to the
 9 City for the violation;

10 (7) A statement that the person responsible acknowledges that the violation occurred as described in
 11 the VCA and waives the right to an administrative or judicial hearing for appeal purposes; and

12 (8) An agreement by the person responsible that if the City determines that such person does not meet
 13 his or her obligations specified in the VCA, the City may impose any remedy authorized by this chapter,
 14 including, but not limited to:

15 (a) Assessment of civil penalties;

16 (b) Abatement of the violation;

17 (c) Assessment of all costs and expenses incurred by the City to pursue code enforcement and to
 18 abate the violation, including legal and incidental expenses; and

19 (d) Suspension, revocation, or limitation of a permit.

20 **C. Waiver of Appeal**

21 In consideration of the City's agreement to enter into a VCA, the person responsible shall completely
 22 surrender and have no right to an administrative or judicial hearing, under this chapter or otherwise,
 23 regarding the matter of the violation and/or the required corrective action. The VCA is a final, binding
 24 agreement, it is not a settlement agreement, and its contents are not subject to appeal.

25 **D. Amendment**

26 The director may amend a VCA to grant an extension of the time limit for compliance, or a modification
 27 of the required corrective action, if the person responsible has shown due diligence and/or substantial
 28 progress in correcting the violation but unforeseen circumstances or circumstances beyond the control
 29 of the person responsible, render full and timely compliance under the original conditions unattainable.
 30 Such request shall be made in writing by the person responsible and clearly establish the need for such
 31 an amendment.

32 **6.10.070 STOP WORK ORDERS**

33 **A. Issuance**

34 The director shall issue a stop work order if the director finds that:

35 1. The work is not authorized by a valid permit or inaccurate information was used to obtain the
 36 permit; or
 37

- 1 [2. The permittee is not complying with the terms or conditions of the permit or approved plans,](#)
 2 [including storm water management and erosion control requirements, conditions of a seasonal](#)
 3 [development deviation, tree protection, construction impact mitigation plan; or](#)
- 4 [3. Previously unknown contamination of site soils from hazardous materials is encountered and poses](#)
 5 [a potential risk to human health and the environment; or](#)
- 6 [4. Adverse weather is causing significant problems on or off site; or](#)
- 7 [5. The work is adversely affecting the public health, safety, or welfare; or](#)
- 8 [6. The work is a hazard to property or is adversely affecting, or could adversely affect, adjacent](#)
 9 [property including: a right-of-way, a drainage way, a watercourse, an environmentally critical area, a](#)
 10 [storm water facility or a storm water treatment and flow control BMP; or](#)
- 11 [7. Otherwise materially impairs the director's ability to secure compliance with the Mercer Island City](#)
 12 [Code.](#)

13 [The stop work order shall state the reasons for the order, specify the violation\(s\) and prohibit any work](#)
 14 [or other activity at the site. The stop work order may be appended to, or incorporate by reference, a](#)
 15 [notice of violation. However, issuance of a notice of violation is not a condition precedent to the](#)
 16 [issuance of a stop work order. A stop work order shall be served consistent with MICC 6.10.040 and](#)
 17 [shall take effect immediately upon service.](#)

18 **[B. Effect](#)**

19 [When a stop work order has been issued, posted and/or served pursuant to this section, it is unlawful to](#)
 20 [conduct the activity or perform the work covered by the order, even if the order has been appealed,](#)
 21 [until the director has removed the copy of the order, if posted, and issued written authorization for the](#)
 22 [activity or work to be resumed. Any violation of a stop work order is hereby declared to be a nuisance](#)
 23 [and the director is authorized to enjoin or abate such nuisance by any legal or equitable means](#)
 24 [available. The costs, specifically including reasonable attorney and expert witness fees, for the injunction](#)
 25 [or abatement, shall be recovered by the City from the person responsible for the code violation in the](#)
 26 [manner provided by law. Failure to comply with the terms of a stop work order subjects the person](#)
 27 [responsible for the code violation to civil penalties and costs as set forth in this chapter, including a](#)
 28 [monetary penalty that shall accrue for each day that a violation of a stop work order occurs.](#)

29 **[C. Appeal](#)**

30 [A stop work order may be appealed according to the procedures prescribed by MICC 6.10.090. During](#)
 31 [any such appeal, the stop work order shall remain in effect. Failure to appeal the stop work order within](#)
 32 [the applicable time limits renders the stop work order a final determination that the civil code violation](#)
 33 [occurred and that work was properly ordered to cease.](#)

34 **[D. Removal of a Stop Work Order](#)**

35 [When a stop work order has been posted in conformity with the requirements of this chapter, removal](#)
 36 [of such order without the authorization of the City, or the hearing examiner if the matter has been](#)
 37 [heard by the hearing examiner, is unlawful and a violation. The director will remove the stop work](#)
 38 [order and write a letter of authorization to resume work only when the director finds that the reason for](#)
 39 [the order has been resolved or abated.](#)

6.10.080 ABATEMENT**A. Abatement**

Upon consultation with the City Attorney and prior approval by the City Manager, the City may abate a condition which was caused by or continues to be a code violation when:

(a) The terms of the Voluntary Correction Agreement pursuant to this chapter have not been met;
or

(b) A notice of violation or stop work order has been issued, the period for filing an appeal with the hearing examiner has expired, and the required correction has not been completed; or

(c) A notice of violation or stop work order has been issued, a timely appeal was filed, the appellant failed to appear at the scheduled hearing or a hearing was held as provided in this chapter and the required correction has not been completed by the date specified by an order of the hearing examiner; or

(d) The condition is subject to abatement as provided for in this chapter or other provisions of City or state law.

B. Summary Abatement

Other provisions in this chapter notwithstanding, when a code violation causes a condition, the continued existence of which constitutes an immediate and emergent threat to the public health, safety, or welfare or to the environment, the City may summarily, and without prior notice to the person responsible, abate the condition. Notice of such abatement, including the reason for it, shall be given to the person responsible for the violation as soon as reasonably possible after the abatement.

C. Authorized Action by the City

Using any lawful means, the City may enter upon the subject property and may remove or correct the condition which is subject to abatement. The City may seek judicial process as it deems necessary to effect the removal or correction of such condition.

D. No Cause of Action Against City

No cause of action shall lie against the City or its agents, officers, or employees for actions reasonably taken, or not taken, to prevent or cure any immediate threats.

6.10.090 APPEALS**A. Administrative Appeal – Filing Requirements**

Persons named in a notice of violation or stop work order, or any owner of the land where the violation for which such a notice or order is issued, may file with the City Clerk a notice of appeal within 14 days of the service of the notice or order. The notice of appeal shall be made in writing using the appropriate City form, clearly explaining the basis for the appeal, and shall include the applicable appeal fee as established in a fee schedule adopted by the Mercer Island City Council.

B. Administrative Appeal – Procedures

- 1 1. Upon receipt of the appeal, the City shall schedule an appeal hearing before the hearing examiner.
 2 The hearing shall be conducted in accordance with the procedures set forth in MICC 3.40 and the
 3 rules of procedure of the hearing examiner.
- 4 2. Enforcement of a notice of violation issued pursuant to this chapter shall be stayed as to the
 5 appealing party during the pendency of any administrative appeal under this section, except when
 6 the director determines that the violation poses a significant threat of immediate and/or irreparable
 7 harm and so states in any notice issued.
- 8 3. Enforcement of a stop work order issued pursuant to this chapter shall not be stayed during the
 9 pendency of any administrative appeal under this section.
- 10 4. When multiple stop work orders or notices of violation have been issued for any set of related facts
 11 constituting various violations, their appeals may be consolidated.

12 **C. Administrative Appeal – Final Order**

- 13 1. Following review of the evidence submitted, if the examiner finds that no violation has occurred, the
 14 hearing examiner shall uphold the appeal and reverse the notice of violation or stop order. If the
 15 hearing examiner finds that a violation has occurred, the hearing examiner shall issue an order to
 16 the person responsible for the violation which includes the following information:
- 17 (a) The decision regarding the alleged violation including findings of fact and conclusions based
 18 thereon in support of the decision;
- 19 (b) The required corrective action;
- 20 (c) The date by which the correction must be completed; and
- 21 (d) The civil penalties assessed based on the provisions of this chapter and the fee resolution;
- 22
- 23 2. If an owner of property where a violation has occurred has affirmatively demonstrated that the
 24 violation was caused by another person or entity not the agent of the property owner and without
 25 the property owner's knowledge or consent, such property owner shall be responsible only for
 26 abatement of the violation.

28 **D. Effect of Decision**

29 The decision of the hearing examiner shall constitute the final decision of the City, and the failure to
 30 comply with the decision of the hearing examiner, unless the decision is appealed to a court of
 31 competent jurisdiction, shall constitute a misdemeanor punishable by a fine of not more than \$1,000 or
 32 up to 90 days' imprisonment, or both. In addition to criminal punishment pursuant to this section, the
 33 City may pursue collection and abatement as authorized by law.

35 **6.10.100 RECOVERY OF PENALTIES AND COSTS**

36 **A. Payment**

37 Any monetary penalties or costs assessed pursuant to this chapter constitute a personal obligation of
 38 the person responsible for the violation. In addition, the monetary penalties or costs assessed pursuant

1 [to this chapter may be assessed against the property that is the subject of the enforcement action. The](#)
 2 [City Attorney is authorized to collect the monetary penalty or costs by use of appropriate legal](#)
 3 [remedies, the seeking or granting of which shall neither stay nor terminate the accrual of additional per](#)
 4 [diem monetary penalties so long as the violation continues.](#)

5 **B. Recovery of Costs**

6 [All reasonable expenses incurred by the City in abating a violation shall be billed to the person](#)
 7 [responsible for the violation and shall become due and payable to the City within 30 calendar days from](#)
 8 [the date of the bill. Such costs may include, but are not limited to, the following:](#)

9 1. [“Legal expenses,” which shall include, but are not limited to:](#)

10 [\(a\) Personnel costs, both direct and indirect, including attorney’s fees and all costs incurred by the](#)
 11 [City Attorney’s office or its designee;](#)

12 [\(b\) Actual and incidental expenses and costs incurred by the City in preparing notices, contracts,](#)
 13 [court pleadings, and all other necessary documents; and](#)

14 [\(c\) All costs associated with retention and use of expert witnesses or consultants.](#)

15 2. [“Abatement expenses,” which shall include, but are not limited to:](#)

16 [\(a\) Costs incurred by the City for preparation of notices, contracts, and related documents;](#)

17 [\(b\) All costs associated with inspection of the abated property and monitoring of said property](#)
 18 [consistent with orders of compliance issued by the City’s hearing examiner or a court of competent](#)
 19 [jurisdiction;](#)

20 [\(c\) All costs incurred by the City for hauling, storage, disposal, or removal of vegetation, trash,](#)
 21 [debris, dangerous structures or structures unfit for occupancy, potential vermin habitat or fire](#)
 22 [hazards, junk vehicles, obstructions to public rights-of-way, and setback obstructions;](#)

23 [\(d\) All costs incurred by law enforcement or related enforcement agencies;](#)

24 [\(e\) All costs incurred by the City during abatement of nuisance and code violations may include](#)
 25 [interest in an amount as prescribed by law; and](#)

26 [The city manager or designee, or the hearing examiner, may in their discretion waive in whole or part](#)
 27 [the assessment of any costs upon a showing that abatement has occurred or is no longer necessary or](#)
 28 [that the costs would cause a significant financial hardship for the person responsible for the violation.](#)
 29 [Any challenge to the amount of the legal or abatement costs must be made within 14 days of issuance](#)
 30 [of the bill and shall be heard by the hearing examiner. The hearing examiner shall make a determination](#)
 31 [as to whether or not the city’s costs were accurate and necessary for correcting the violation.](#)

32 **C. Use of Collection Agency**

33 [Pursuant to RCW 19.16.500, as currently enacted or hereafter amended, the City may, at its discretion,](#)
 34 [use a collection agency for the purposes of collecting penalties and costs assessed pursuant to this](#)
 35 [chapter. The collection agency may add fees or interest charges to the original amount assigned to](#)
 36 [collections as allowed by law.](#)

37 **D. Continuing Duty to Abate Violations**

1 Payment of a monetary penalty or costs pursuant to this chapter does not relieve the person
 2 responsible for the violation of the duty to correct or abate the violation. Additional notices of violation
 3 may be issued and/or criminal charges filed for continuing failure to correct or abate a violation.

4 5 **6.10.110 DEFINITIONS**

6 Except where specifically defined in this section, all words used in this title shall carry their customary
 7 meanings. The word “shall” is always mandatory, and the word “may” denotes a use of discretion in
 8 making a decision. The following words and phrases used in this title shall have the following meanings:

9 “Abate” means to take whatever steps are deemed necessary in the interest of the general health,
 10 safety, and welfare of the City by the director to return a property to the condition in which it existed
 11 before a civil code violation occurred or to assure that the property complies with applicable code
 12 requirements. Abatement may include, but is not limited to, rehabilitation, demolition, removal,
 13 replacement or repair.

14 “Appeal hearing” means a hearing requested in response to a notice of violation, stop work order, or
 15 other official written notice of violation issued by the director to contest the finding that a violation
 16 occurred or to contest that the person cited for a violation is responsible for the violation.

17 “Civil penalty” or “monetary penalty,” means a fine or fee levied as a consequence for a civil violation,
 18 civil infraction or stop work order.

19 “Civil violation” or “code violation” or “violation” means and includes one or more of the following:

20 (1) Any act or omission contrary to any ordinance, resolution, regulation or public rule of the City
 21 that regulates or protects public health, the environment or the use and development of land or
 22 water, whether or not the ordinance, resolution or regulation is codified.

23 (2) Any act or omission contrary to the conditions of any permit, violation notice or stop work or
 24 other order issued pursuant to any such ordinance, resolution, regulation or public rule.

25 “Compliance” means the violation has been abated, remediated or otherwise resolved and any
 26 applicable penalties or costs have been paid.

27 “Complainant” means the person that makes a complaint to the City reporting a violation or potential
 28 violation.

29 “Costs” means, but is not limited to, contract expenses and City employee labor expenses incurred in
 30 abating a nuisance; a rental fee for City equipment used in abatement; costs of storage, disposal, or
 31 destruction; legal expenses and attorneys’ fees associated with civil judicial enforcement of abatement
 32 orders or in seeking abatement orders; and any other costs incurred by the City, excluding fees and
 33 expenses associated with appeals authorized by this code or by state law.

34 “De minimus” means a civil violation that is of very low impact and poses low risk to the health, safety
 35 and welfare of the public and to the environment.

1 “Development” means the erection, alteration, enlargement, demolition, maintenance or use of any
2 structure or the alteration or use of land above, at, or below ground or water level, and all acts
3 authorized by a City permit or regulation.

4 “Director” means the director of the development services group, or their designee.

5 “Excessive Complaint” means a complainant that repeatedly reports to the City the same or closely
6 related issues in a manner that may be intended to harass or antagonize the alleged responsible person.

7 “Found in violation” means that:

8 (1) A notice of violation, stop work order or infraction has been issued and not timely appealed; or

9 (2) The hearing examiner has determined that the violation has occurred and the hearing examiner’s
10 determination has not been stayed or reversed on appeal.

11 “Frivolous complaint” means a complaint that is based on an issue that is not a code violation or is a *de*
12 *minus* violation. The complaint may be an attempt to harass or antagonize the alleged responsible
13 person.

14 “Hearing examiner” means the City of Mercer Island hearing examiner, as provided in chapter 3.40
15 MICC.

16 “Infraction” or “civil infraction” means any code violation designated as an infraction or civil infraction
17 by the director pursuant to Chapter 7.80 RCW, incorporated herein by reference.

18 “Mortgagee” means a financial institution, including a bank, credit union or other commercial lender,
19 which holds mortgaged property as security for repayment of a loan.

20 “Notice of violation” means a written statement, issued by the director, that contains the information
21 required under MICC 6.10.050 (B)(1) notifying a person that they are responsible for one or more civil
22 violations of the Mercer Island City Code, orders the timely correction of the same, and/or assesses civil
23 penalty for failure to timely correct.

24 “Nuisance” (also referred to herein as “violation” or “nuisance violation”) means:

25 (1) A violation of any City of Mercer Island development, land use, or public health ordinance;

26 (2) Doing an act, omitting to perform any act or duty, or permitting or allowing any act or omission
27 that annoys, injures, or endangers the comfort, repose, health, or safety of others, is unreasonably
28 offensive to the senses, or that obstructs or interferes with the free use of property so as to
29 interfere with or disrupt the free use of that property by any lawful owner or occupant;

30 (3) Potential vermin habitat or fire hazard; or

1 (4) Junk Vehicles. A “junk vehicle” includes apparent inoperable, immobile, disassembled, or
2 extensively damaged vehicles. In addition, any wrecked inoperable, abandoned, or disassembled
3 trailer, house trailer, boat, tractor, automobile, other vehicle, or any parts thereof.

4 “Owner” means any owner, part owner, joint owner, tenant in common, tenant in partnership, joint
5 tenant, or tenant by the entirety, of the whole or of a part of a building or land.

6 “Permit” means any form of certificate, approval, registration, license or any other written permission
7 issued by the City of Mercer Island. All conditions of approval, and all easements and use limitations
8 shown on the face of an approved final plat which are intended to serve or protect the general public
9 are deemed conditions applicable to all subsequent plat property owners and their tenants and agents
10 as permit requirements enforceable under this chapter.

11 “Person responsible for the violation” or “person responsible” or “violation” means any of the following:
12 the person doing the work, a person who has titled ownership or legal control of the property or
13 structure that is subject to the violation; an occupant or other person in control of the property or
14 structure that is subject to the violation; a developer, builder, business operator, or owner who is
15 developing, building, or operating a business on the property or in a structure that is subject to the
16 violation; a mortgagee that has filed an action in foreclosure on the property that is subject to the
17 violation, based on breach or default of the mortgage agreement, until title to the property is
18 transferred to a third party; a mortgagee of property that is subject to the violation and has not been
19 occupied by the owner, the owner’s tenant, or a person having the owner’s permission to occupy the
20 premises for a period of at least 90 days; or any person who created, caused, participated in, or has
21 allowed a violation to occur.

22 “Public nuisance” means a nuisance that affects equally the rights of an entire community or
23 neighborhood, although the extent of the damage may be unequal.

24 “Resolution” means any resolution adopted by the Mercer Island City Council.

25 “Repeat violation” means a violation that has occurred on the same property or that has been
26 committed by the same person responsible elsewhere within the city, for which voluntary compliance
27 previously has been agreed to or any enforcement action taken that was not timely appealed or if
28 appealed, the appeal was dismissed, within the previous 36-month period. (For purposes of this
29 subsection, repeat violation does not include each day in violation being counted as a separate
30 violation.) To constitute a repeat violation, the violation need not be the same violation as the prior
31 violation. Violation of a written order of the hearing examiner that has been served as provided in this
32 chapter shall also constitute a repeat violation.

33 “Stop work order” means a written order specifying code violations and prohibiting any work or other
34 activity at a particular site.

35 “Voluntary compliance agreement” or “VCA” means a written contract between the person responsible
36 for the violation and the City, under which such person agrees to abate the violation within a specified
37 time and according to specified conditions.

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Chapter 8.24
NUISANCE CONTROL CODE

8.24.050 Enforcement notice.

Any person who violates any provision of this chapter may be issued a civil infraction, civil violation and order correct, or other penalties as authorized by Chapter 6.10 MICC

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An enforcement officer appointed by the city manager, having knowledge of any public nuisance, shall cause any owner or other responsible person to be notified of the existence of a public nuisance on any premises and shall direct the owner or other responsible person to abate the condition within 10 days after notice or other reasonable period. The notice shall be substantially in the following form:

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NOTICE TO ABATE UNSAFE OR UNLAWFUL CONDITION

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(Name and address of person notified)

As owner, agent, lessee or other person occupying or having charge or control of the building, lot or premises at _____ you are hereby notified that the undersigned pursuant to Chapter 8.24 of Mercer Island city code has determined that there exists upon or adjoining said premises the following condition contrary to the provisions of subsection ____ of 8.24.020:

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You are hereby notified to abate said condition to the satisfaction of the undersigned within 10 days of the date of this notice. If you do not abate such condition within ____ days the city will abate the condition at your expense.

Abatement is to be accomplished in the following manner:

Dated: _____ (Name of enforcement officer)

by _____

(Ord. 486 § 1, 1979).

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1 **8.24.060 Abatement by city.**

2 ~~In all cases where the enforcement officer has determined to proceed with abatement, 10 days~~
3 ~~after giving notice, the city shall acquire jurisdiction to abate the condition at the person's~~
4 ~~expense as provided in this chapter. Upon the abatement of the condition or any portion thereof~~
5 ~~by the city, all the expenses thereof shall constitute a civil debt owing to the city jointly and~~
6 ~~severally by such of the persons who have been given notice as provided in this chapter. The debt~~
7 ~~shall be collectable in the same manner as any other civil debt owing to the city. (Ord. 486 § 1,~~
8 ~~1979).~~

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9 **8.24.070 Abatement by owner or other responsible person.**

10 ~~If and when an owner or other responsible person undertakes to abate any condition described in~~
11 ~~this chapter, whether by order of the enforcement officer or otherwise, all needful and legal~~
12 ~~conditions pertinent to the abatement may be imposed by the enforcement officer. It is unlawful~~
13 ~~for the owner or other responsible person to fail to comply with such conditions. Nothing in this~~
14 ~~chapter shall relieve any owner or other responsible person of the obligation of obtaining any~~
15 ~~required permit to do any work incidental to the abatement. (Ord. 486 § 1, 1979).~~

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16 **8.24.080 Immediate danger – Summary abatement.**

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17 ~~Whenever any condition on, or use of, property causes or constitutes or reasonably appears to~~
18 ~~cause or constitute an imminent or immediate danger to the health or safety of the public, or a~~
19 ~~significant portion thereof, the enforcement officer shall have the authority to summarily and~~
20 ~~without notice abate the same. The expenses of such abatement shall become a civil debt against~~
21 ~~the owner or other responsible party and be collected as provided in MICC 8.24.060. (Ord. 486 § 1,~~
22 ~~1979).~~

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23 **8.24.090 Violation a misdemeanor.**

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24 ~~Any person violating any of the provisions of this chapter is guilty of a misdemeanor. (Ord. 486 § 1, 1979).~~

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Title 15
WATER, SEWERS AND PUBLIC UTILITIES

...

15.06.180 Enforcement.

Failure to comply with any applicable provisions under this chapter shall be deemed a violation. Each day that any violation or failure to comply exists may be construed as a separate offense. Enforcement proceeds under this chapter shall follow the processes and procedures set forth in [Chapter 6.10 MICC Title 6-19.15.030\(C\), \(D\), \(E\), \(F\), \(G\) and \(H\)](#). ~~(Ord. 14C-03 § 2).~~

...

15.14.080 Enforcement.

A. The city shall have the authority to terminate water service, take abatement action as set forth in MICC 15.14.090 and impose monetary penalties for violations of the inspection, testing and installation requirements in this chapter.

B. Water Service Termination and Monetary Penalties. In the event that the water purveyor, or his/her designee, determines that an unlawful cross-connection exists and/or that the consumer has failed to meet the inspection and testing requirements for backflow preventers, the consumer shall be subject to the following penalties:

1. Warning. Written notice shall be sent to the consumer or, alternatively, a copy of such written notice shall be posted on the premises involved. The notice shall provide that the unlawful cross-connection shall be corrected by testing or installation within 30 days of the date the notice is mailed or posted on the premises.

2. First Violation. If the consumer does not correct the violation by testing or installation within 30 days of the first written notice, the consumer shall ~~receive a \$100 penalty~~ [be issued an infraction as provided in MICC 6.10.050 \(C\) and a](#) ~~and~~ notice that water service to the premises may be terminated after 30 days.

3. Second Violation. If the consumer does not correct the violation by testing or installation within 30 days of the issuance of the first ~~penalty~~ [infraction](#), the consumer shall [be issued a second infraction as provided in MICC 6.10.050 \(C\)](#) ~~receive an additional \$150 penalty~~ and water service to the premises may be shut off immediately.

1 4. If the water purveyor determines that service should not be interrupted, the city may hire a
 2 contractor to abate the unlawful cross-connection as set forth in MICC 15.14.090. (Ord. 15C-09 § 1;
 3 Ord. A-38 § 1, 1985).

4
 5 ...

6 Chapter 17.14
 7 CONSTRUCTION ADMINISTRATIVE CODE

8 ...

9 SECTION 114

10 VIOLATIONS

11 114.1 Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter,
 12 extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by the
 13 construction codes and the Construction Administrative Code, or cause same to be done, in conflict
 14 with or in violation of any of the provisions of the construction codes or the Construction Administrative
 15 Code.

16 114.2 Enforcement. Enforcement of the construction codes and the Construction Administrative Code
 17 shall be in conformance with the procedures set forth in ~~MICC Chapter 6.10 MICC19.15.030~~; provided,
 18 that references to the development code shall be deemed to refer to the Construction Administrative
 19 Code and the Construction Codes.

20 114.3 Enforcement Authority.

21 1. Development Services Group. The development services group of the city of Mercer Island shall be
 22 responsible for enforcement of the construction codes, under the administrative and operational control
 23 of the building official, who shall be designated by the code official (as defined by MICC [19.16.010](#));
 24 provided, the fire code official or his or her designee shall be responsible for enforcement of the
 25 International Fire Code, IBC Chapter 9 – Fire Protection Systems and IRC Appendix Q related to
 26 residential fire sprinklers.

27 2. Building Official. The building official is responsible for administration and interpretation of the
 28 Construction Administrative Code and the construction codes; provided, the fire code official or his or

1 her designee shall be responsible for administration and interpretation of the fire code, IBC Chapter 9 –
2 Fire Protection Systems and IRC Appendix Q related to residential fire sprinklers.

3 Whenever the term or title “administrative authority,” “responsible official,” “building official,” “chief
4 inspector,” “code enforcement officer” or other similar designation is used in this title or in any of the
5 construction codes, it shall be construed to mean the building official designated by the code official;
6 provided, with regard to the International Fire Code, it shall mean the fire code official or his or her
7 designee.

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9 [...](#)

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Chapter 19.15
ADMINISTRATION

12 **19.15.030 Enforcement.**

13 A. Violations.

14 1. It is a violation of the development code, MICC Title 19, for any person to initiate or maintain or
15 cause to be initiated or maintained the use of any structure, land or real property within the city of
16 Mercer Island without first obtaining proper permits or authorizations required for the use by the
17 development code.

18 2. It is a violation of the development code for any person to use, construct, locate, demolish or
19 cause to be used, constructed, located, or demolished any structure, land or property within the city
20 of Mercer Island in any manner that is not permitted by the terms of any permit or authorization
21 issued pursuant to the development code or previous codes.

22 3. It is a violation of the development code to misrepresent any material fact in any application,
23 plans or other information submitted to obtain any land use authorization.

24 4. It is a violation of the development code for anyone to fail to comply with the requirements of the
25 development code, as set out in the specific sections of the code.

26 [5. Any person who violates any provision of this chapter may be issued a civil infraction, civil
27 violation and order correct, or other penalties as authorized by Chapter 6.10 MICC Title 6.](#)

28 [B. Duty to Enforce.](#)

1 ~~1. It shall be the duty of the director of the development services group to enforce the development~~
 2 ~~code. The director may call upon the police, fire, health or other appropriate city departments to~~
 3 ~~assist in enforcement.~~

4 ~~2. Upon presentation of proper credentials, the director or duly authorized representative of the~~
 5 ~~director may, with the consent of the owner or occupier of a building or premises, or pursuant to a~~
 6 ~~lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the~~
 7 ~~consent or warrant to perform the duties imposed by the development code.~~

8 ~~3. The development code shall be enforced for the benefit of the health, safety and welfare of the~~
 9 ~~general public, and not for the benefit of any particular person or class of persons.~~

10 ~~4. It is the intent of the development code to place the obligation of complying with its requirements~~
 11 ~~upon the owner, occupier or other person responsible for the condition of the land and buildings~~
 12 ~~within the scope of this code.~~

13 ~~5. No provisions or term used in this code is intended to impose any duty upon the city or any of its~~
 14 ~~officers or employees, which would subject them to damages in a civil action.~~

15 ~~C. Investigation.~~

16 ~~1. The director or his/her designee, shall investigate any structure or use which the director~~
 17 ~~reasonably believes does not comply with the standards and requirements of this development~~
 18 ~~code.~~

19 ~~2. If, after investigation, the director determines that the standards or requirements have been~~
 20 ~~violated, the director shall serve a notice of violation upon the owner, tenant or other person~~
 21 ~~responsible for the condition. The notice of violation shall state separately each standard or~~
 22 ~~requirement violated; shall state what corrective action, if any, is necessary to comply with the~~
 23 ~~standards or requirements; and shall set a reasonable time for compliance. The notice shall state~~
 24 ~~that any further violation may result in criminal prosecution and civil penalties.~~

25 ~~3. The notice shall be served upon the owner, tenant or other person responsible for the condition~~
 26 ~~by personal service, registered mail, or certified mail with return receipt requested addressed to the~~
 27 ~~last known address of such person. If, after a reasonable search and reasonable efforts are made~~
 28 ~~to obtain service, the whereabouts of the person or persons is unknown or service cannot be~~
 29 ~~accomplished and the director makes an affidavit to that effect, then service of the notice upon such~~
 30 ~~person or persons may be made by publication and mailing to the last known address.~~

1 ~~D. Stop Work/Emergency Orders.~~

2 ~~1. Stop Work Order. Whenever a continuing violation of the development code will materially impair~~
3 ~~the director's ability to secure compliance with this code, or when the continuing violation threatens~~
4 ~~the health or safety of the public, the director may issue a stop work order specifying the violation~~
5 ~~and prohibiting any work or other activity at the site. A failure to comply with a stop work order shall~~
6 ~~constitute a violation of this development code.~~

7 ~~2. Emergency Order. Whenever any use or activity in violation of this code threatens the health and~~
8 ~~safety of the occupants of the premises or any member of the public, the director may issue an~~
9 ~~emergency order directing that the use or activity be discontinued and the condition causing the~~
10 ~~threat to the public health and safety be corrected. The emergency order shall specify the time for~~
11 ~~compliance and shall be posted in a conspicuous place on the property, if posting is physically~~
12 ~~possible. A failure to comply with an emergency order shall constitute a violation of this~~
13 ~~development code.~~

14 ~~3. Any condition described in the emergency order which is not corrected within the time specified~~
15 ~~is hereby declared to be a public nuisance and the director is authorized to abate such nuisance~~
16 ~~summarily by such means as may be available. If the city declines to bring an abatement action,~~
17 ~~then such action may be brought by any person who owns or resides on property within 300 feet of~~
18 ~~the structure or whose use and enjoyment of property is impaired by the structure or use~~
19 ~~complained of.~~

20 ~~E. Extension of Compliance Date.~~

21 ~~1. The director may grant a reasonable extension of time for compliance with any notice or order,~~
22 ~~whether pending or final, upon the director's finding that substantial progress toward compliance~~
23 ~~has been made and that the public will not be adversely affected by the extension. Such extension~~
24 ~~of time shall not exceed 180 days.~~

25 ~~2. An extension of time may be revoked by the director if it is shown that the conditions at the time~~
26 ~~the extension was granted have changed, the director determines that a party is not performing~~
27 ~~corrective actions as agreed, or if the extension creates an adverse effect on the public. The date of~~
28 ~~revocation shall then be considered as the compliance date.~~

29 ~~F. Civil Penalty.~~

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~~1. In addition to any other sanction or remedial procedure which may be available, any person violating or failing to comply with any of the provisions of the development code, stop work order or emergency order shall be subject to a cumulative monetary penalty. Each separate day of noncompliance shall be a separate and distinct violation of the development code and shall be subject to a separate notice of civil infraction. The penalty shall be:~~

~~a. Fifty dollars (\$50) for the first day of noncompliance after the compliance date set in the notice.~~

~~b. Seventy-five dollars (\$75) for the second day of noncompliance after the compliance date set in the notice.~~

~~c. One hundred dollars (\$100) for the third and each following additional day of noncompliance after the compliance date set in the notice.~~

~~2. The penalty imposed by this section shall be collected by notice of civil infraction, as authorized by Chapter 7.80 RCW.~~

~~3. The director of development services, and his/her designees, are the authorized enforcement officers for purposes of issuing a notice of infraction for violation of the development code.~~

~~4. A notice of infraction issued under this section represents a determination that a civil infraction has been committed, and the determination is final unless contested.~~

~~5. The city's notice of infraction shall include the following:~~

~~a. A statement that the notice represents a determination that a civil infraction has been committed by the person named and the determination is final unless contested.~~

~~b. A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed.~~

~~c. A statement of the specific violation of the development code for which the notice is issued.~~

~~d. A statement of the monetary penalty for the violation.~~

~~e. A statement of the options available for responding to the notice of infraction and the procedures necessary to exercise those options.~~

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~~f. A statement that at the hearing to contest the notice the city has the burden of proving, by a preponderance of the evidence, that the civil infraction was committed and that the person may subpoena witnesses, including the enforcement officer issuing the notice.~~

~~g. A statement that at any hearing requested to explain mitigating circumstances surrounding the commission of the civil infraction, the person will be deemed to have committed the infraction and may not subpoena witnesses.~~

~~h. A statement that the person must respond to the notice within 14 days.~~

~~i. A statement that failure to respond to the notice or to appear at a hearing, if requested, will result in a default judgment in the amount of the penalty and may be referred for criminal prosecution for failure to appear.~~

~~j. A statement, which the person shall sign, that the person promises to respond to the notice of civil infraction in one of the ways set forth in this section.~~

~~6. Any person who receives a notice of infraction for violation of the development code shall respond to the notice as provided in this section within 14 days of the date of the notice.~~

~~a. If the person does not contest the determination, he/she shall respond by completing the appropriate portion of the notice and sending it, with a check or money order in the amount of the penalty, to the court specified on the notice.~~

~~b. If the person wishes to contest the civil infraction, the person shall complete the portion of the notice requesting a hearing and submit it to the court specified on the notice. The court shall notify the person of the time and place of the hearing.~~

~~c. If the person does not contest the violation but wishes to explain mitigating circumstances surrounding the violation, the person shall complete the portion of notice requesting a hearing for that purpose and submit it to the court specified on the notice. The court shall notify the person of the time and place of the hearing.~~

~~d. The court shall enter a default judgment for the amount of the penalty for the civil infraction if a person fails to respond within 15 days or to appear at the hearing.~~

~~7. The violator may show as full or partial mitigation of the infraction:~~

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~~a. That the violation giving rise to the action was caused by the willful act, or neglect, or abuse of another; or~~

~~b. That correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, inability to gain access to the subject structure, or other condition or circumstance beyond the control of the defendant.~~

~~8. Failure to respond to a civil citation within 14 days or to appear for a requested hearing is a misdemeanor, punishable by fine or imprisonment in jail.~~

~~G. Criminal Penalties. Any person violating or failing to comply with any of the provisions of this development code shall be subject to criminal prosecution and upon conviction shall be fined in a sum not exceeding \$1,000 or be imprisoned in the city jail for a term not exceeding 90 days or be both fined and imprisoned. Each day of noncompliance with any of the provisions of this development code shall constitute a separate offense. However, the aggregate penalty for all days of noncompliance shall not exceed \$5,000 or one year in the city jail.~~

~~H. Additional Relief. The director may seek legal or equitable relief to enjoin any actions or practices and abate any condition which constitutes or will constitute a violation of this development code when civil or criminal penalties are inadequate to effect compliance. (Ord. 99C-13 § 1).~~

PLANNING COMMISSION – ~~PUBLIC HEARING~~ REVIEW DRAFT
Draft Code Compliance Amendment
~~May 21~~ APRIL 26, 2018

Chapter 6.10

6

CODE COMPLIANCE

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Sections

Chapters:

- 6.10.010 Purpose and Scope
- 6.10.020 General Provisions
- 6.10.030 Right of Entry
- 6.10.040 Service of Written Notice
- 6.10.050 Enforcement Provisions
- 6.10.060 Voluntary Compliance Agreements
- 6.10.070 Stop Work Orders
- ~~6.80~~ Abatement
- 6.10.080 Abatement
- 6.10.090 Appeals
- 6.10.100 Recovery of Penalties and Costs
- 6.10.110 Definitions

6.10.010**A. Purpose and Intent**

The purpose of this title is to ensure compliance with the City's adopted building, land development, land use, nuisance and related codes as specified in subsection B section 6.10.020 Scope, enabling the City to fulfil its duty to protect the health, safety and welfare of the public. These regulations establish procedures and mechanisms to resolve violations of the City's adopted building, land development, land use, nuisance, and related codes. Chapter 6.10 MICC establishes penalties for violations, provides an opportunity for a prompt hearing, decision, and appeal as to alleged code violations, provides for abatement when necessary, and provides a mechanism to recover the City's costs. This chapter shall be enforced for the benefit of the general public, not for the benefit of any particular person or class of persons.

It is the intent of this title to place the obligation for code compliance on the person responsible for a violation, within the scope of this title, and not to impose any duty upon the City or any of its officers, officials or employees, which would subject them to damages in a civil action.

B. ~~6.10.020~~ Scope

This chapter may be applied for the purposes of enforcing the Mercer Island City Code (MICC) Chapter Title 8.24 Nuisance Control Code, Title 7 Animal code, Title 15, Water, Sewers and Public Utilities, Title 17, Construction Codes, ~~and~~ Title 19 Unified, Land Development Code, and other codes, ordinances, resolutions, permit conditions, or public rules that promote or protect the public health, safety or welfare and the environment. The provisions of this chapter ~~title~~ are not exclusive and may be used, to the fullest extent permitted by law, in addition to other applicable provisions of the Mercer Island City Code or other applicable law or regulation.

~~6.10.020~~ GENERAL PROVISIONS**A. ~~6.20.010~~ Declaration of Public Nuisance**

All code violations are determined to be detrimental to the public health, safety, welfare and environment, and are declared to be public nuisances. All conditions determined to be code violations may be subject to and enforced pursuant to the provisions of this title, except where specifically excluded by law or regulation.

B. ~~6.20.020~~ Authority and Approach

The director is authorized to enforce the provisions of the MICC Chapter Title 8.24, Nuisance Control Code, Title 15, Water, Sewers and Public Utilities, Title 17, Construction Codes, ~~and~~ Title 19 Unified, Land Development Code, and other codes, ordinances, resolutions, or public rules that promote or protect the public health, safety or welfare and the environment. The violation of any regulation is unlawful, and the director may take reasonable action to bring about compliance through the use of the provisions of this chapter and any other applicable provisions of the Mercer Island City Code, including but not limited to the revocation or modification of permits, and/or through the enforcement, penalty and abatement provisions described in this chapter.

1 Code compliance actions will be pursued at the discretion of the director primarily in a complaint driven
 2 manner. Responses to complaints or evidence of a civil violation shall be prioritized based on
 3 significance and severity, with potential violations concerning health, safety and welfare of the public or
 4 damage to the environment receiving highest priority.

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 6 After a complaint has been investigated, the director will determine the course of action. If a violation is
 7 present, the City may will pursue compliance with City codes through the provisions of this chapter. The
 8 director shall have discretion to follow an incremental approach to securing compliance. This means
 9 starting by contacting the person responsible, explaining the violation and requesting voluntary
 10 correction. The director has the authority to reasonably determine the level of compliance, mitigation or
 11 remediation that is required as well as a reasonable timeline for completing the required actions.-
 12 When appropriate, the director may secure compliance by proceeding incrementally to higher penalty
 13 levels by using the techniques and options in this title. Likewise, the director has the authority to offer
 14 reasonable extensions of timelines or other measures as appropriate when extenuating circumstances
 15 are present.

16
 17 Alternatively, in the course of the investigation, the director may determine: a) no violation exists; or b)
 18 the basis of the issue is private/civil in nature; or c) the violation is a low risk, de minimus violation. In
 19 which case, the director may decide to take no further action. Further, the director may find that a
 20 complaint or series of complaints between two or more individuals are frivolous, excessive and/or a
 21 form of harassment. In this case, the director may will work with the complainant(s) to identify
 22 alternative means of dispute resolution (e.g. mediation), and may, under consultation with the City
 23 Attorney/attorney, choose to limit communication with complainants and responses to complaints that
 24 are frivolous or excessive. The City does not intend to ignore complaints and will continue to investigate
 25 subsequent, unrelated complaints from the complainant.

26
 27 Nothing in this section shall preclude the director from taking other appropriate enforcement action to
 28 preclude harm to the health, safety or welfare of the public or the environment.

29 30 **C.6.20.030- Duty to Comply**

31 It shall be the responsibility of any responsible person to cure the violation, and if property is involved,
 32 to bring the property into compliance. Payment of fines, applications for permits, acknowledgment of
 33 stop work orders, and compliance with other remedies does not substitute for performing the corrective
 34 work required and having the property brought into compliance to the maximum extent reasonably
 35 possible under the circumstances. The date set for compliance in the notice of violation takes
 36 precedence over any date established for the expiration of any required permit(s) and will be
 37 subordinate only if modified by a supplemental to written extension of the notice of violation.

38
 39 The responsible person has a duty to notify the director/Director of any actions taken to achieve
 40 compliance. A violation shall be considered ongoing until the responsible person has come into
 41 compliance and has notified the director/Director of this compliance, and an official inspection has
 42 verified compliance and all assessed penalties and costs have been paid to the City.

43 44 **D. 6.20.040 Additional Enforcement Provisions**

1 The procedures set forth in this chapter are not exclusive. These procedures shall not in any manner
 2 limit or restrict the City from remedying or abating code violations in any other manner authorized by
 3 law.

4
 5 **6.10.03030 RIGHT OF ENTRY**

6 The director is authorized to enter any property or premises at any reasonable time to determine
 7 whether a civil violation has occurred or is occurring, or to enforce any provision of the Mercer Island
 8 City Code or any City ordinance, violation of which is a civil violation under this title and could be a
 9 criminal violation under the Mercer Island City Code, or to perform follow up inspections related to such
 10 a violation. The director may make examinations, surveys, and studies as may be necessary in the
 11 performance of his or her duties. These may include, but are not limited to, the taking of photographs,
 12 digital images, videotapes, video images, audio recordings, samples, or other physical evidence. If the
 13 property or premises is occupied, the director shall first present credentials and request entry. If an
 14 owner, occupant, or agent refuses entry, the City may apply to a court of competent jurisdiction for a
 15 search warrant authorizing access.

16 **6.10.04040 SERVICE OF WRITTEN NOTICE**

17 Service of a notice of violation, stop work order, infraction or other official written notice of violation
 18 issued by the director shall be made by one or more of the following methods:

19 (a) Personal service. By personal service to the person responsible for the code violation, or by leaving a
 20 copy of the written notice at such person's place of residence with a person of suitable age and
 21 discretion who resides thereinthere, or by leaving it at such person's place of employment with a person
 22 in charge. Personal service may also be accomplished by the hearing examiner or his or her assistant
 23 handing any order, ruling, decision, or other document to a person prior to, during, or after a hearing.

24 (b) Service by posting. By posting the written notice in a conspicuous place on the property where the
 25 violation occurred and concurrently sending a notice either by electronic mail or by first class mail.

26 (c) Service by mail. By mailing the written notice by regular first class mail-, to the person responsible
 27 for the code violation at his, her or its last known address, at the address of the violation, or at the
 28 address of the place of business of the person responsible for the code violation. The taxpayer's address
 29 as shown on the tax records of the county shall be deemed to be the proper address for the purpose of
 30 mailing such notice to the landowner of the property where the violation occurred. Service by mail shall
 31 be presumed effective upon the third business day following the day upon which the official written
 32 notice of violation was placed in the mail.

33 (d) Service by publication. For notice of violation only, when the address of the person responsible for
 34 the code violation cannot reasonably be determined, service may be made by publishing the abstract of
 35 the notice of violation substantially in the mannerdocument as set forth in RCW 4.28.100 and 4.28.110,
 36 as currently enacted or hereafter amended.

37 The failure of the director to make or attempt service of written notice shall not invalidate any
 38 proceedings as to any other person duly served.

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6.10.050 ENFORCEMENT PROVISIONS

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Violations may be enforced by issuing one or more civil infractions or one or more notices of violation or any combination thereof. In addition, any violation of this chapter shall constitute a misdemeanor, unless a different criminal category is specified. The City shall have discretionary authority to enforce a violation by issuing as either a civil infraction or a notice of civil violation pursuant to this chapter, or prosecuting it as a criminal matter misdemeanor.

Each day during which a code violation is committed, of this code occurs or continues shall be considered is a separate offense for purposes of civil infractions or notices of violation.

A.6.50.010- Misdemeanors

Any person who willfully or knowingly causes, aids or abets a code violation by any act of commission or omission is guilty of a misdemeanor, unless specifically designated as a gross misdemeanor, where such code violation results, or is likely to result, in a threat to public health, life, or safety or in significant harm to the environment. Upon conviction, the person shall be punished by a fine not to exceed \$1,000 and/or imprisonment in the County jail for a term not to exceed 90 days.

B.6.50.020- Code Violations

Whenever the director has reason to determine that a code violation occurred or is occurring, or that the code violations cited in an infraction have not been corrected, or that the terms of a Voluntary Correction Agreement have not been met, the director is authorized to issue a notice of violation and order to correct to any person responsible for the code violation.

Subsequent violations shall be treated as new violations for purposes of this section.

A. Notice of Violation and Order to Correct

A notice of violation and order to correct shall be completed in a form approved by the director and the City Attorney attorney, and shall be served consistent with MICC 6.10.040 40, and shall, at minimum, include the following:

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(a) The tax parcel number(s), address, when available, or description sufficient for identification of the building, structure, premises or land upon which or within which the violation has occurred or is occurring;

(b) A statement of each ordinance, regulation, code provision or permit requirement violated, and the facts to support that the violation(s) occurred or is occurring;

(c) The name of the City official issuing the notice and order and the name(s), if known, of the responsible party(ies) to whom the notice and order is being issued;

(d) An order requiring corrective action to be taken; description of (4) The required corrective action that is necessary to achieve compliance; and a date by which the correction must be completed;

(e) An explanation of the appeal process and the specific information required to file an appeal;

(f) A statement that if the violation is not corrected and the notice and order is not appealed, the determination is final and a monetary penalties penalty shall be due assessed according to this title;

(g) The amount of penalty that will be assessed; and

~~(g8) A statement advising of the right to appeal the notice of violation to the hearing examiner, instructions on how to file an appeal, and the date by which it must be filed.~~
~~Notice of Violation and Order to Correct to the Hearing Examiner.~~

2B. Supplementation, revocation or modification

~~(1) Whenever there is new information or a change in circumstances, the director may add to, rescind in whole or in part or otherwise modify a notice of violation and order by issuing a supplemental notice of violation. The supplemental notice shall be governed by the same procedures applicable to all notices of violation contained in this title, including the right to appeal to the hearing examiner. In addition, the director is authorized to issue penalties accrued as a part of the supplemental notice of violation. If the deadline to appeal the notice of violation has expired, only portions from the notice of violation that are modified in the supplemental notice of violation are subject to appeal to the hearing examiner.~~

~~(2) The director may revoke or modify a notice of violation issued under this title if the original notice of violation was issued in error or if a party was incorrectly named. The revocation or modification shall identify the reason and underlying facts for revocation and may be recorded with the King County recorder's office, or its successor agency, if the underlying notice of violation was recorded.~~

C. Failure to correct

~~Failure to correct the code violation in the manner prescribed in the notice of violation subjects the person responsible to any of the following compliance remedies provided by this chapter:~~

- ~~1. civil penalties and costs;~~
- ~~2. continued responsibility for abatement, remediation and/or mitigation;~~
- ~~3. permit suspension, revocation, modification and/or denial;~~
- ~~4. costs of abatement incurred by the City; and/or~~
- ~~5. other remedies that may be available to the City.~~

4D. Time Limits

~~(a1) Persons receiving a notice of violation shall rectify the code violations identified within the time period specified by the director in the notice of violation issued pursuant to this chapter.~~

~~(b2) Unless an appeal is filed with the City for a hearing before the hearing examiner in accordance with the provisions of this chapter, the notice of violation shall become the final administrative order of the director, and the civil penalties assessed and accrued shall be immediately due and subject to collection.~~

5E. Appeals

~~Any person identified in a notice of violation (or supplemental notice of violation) as a person responsible for a violation may appeal the same notice of violation within 14 days of service, according to the procedures described in MICC 6.10.09096. Failure to appeal the notice of violation within 14 days of issuance shall render the notice of violation a final determination that the conditions described therein in the notice of violation existed and constitute a code violation, assessed and accrued civil penalties are due, and that the named party is liable as a person responsible.~~

6F. Recording

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(1) Whenever a code violation is related to a condition on real property, and a notice of violation is served on a responsible party who owns said property, the City may record a copy of the notice of violation with the King County recorder's office, or its successor agency.

(2) When all violations specified in the notice of violation have been corrected or abated, the director shall record within a reasonable time a release of notice and order with the King County recorder's office, or its successor agency, if the underlying notice and order was recorded.

C.6.50.030 Civil Infractions

Whenever the director has reason to determine that a civil code violation occurred or is occurring, the director is authorized to issue a civil code infraction in accordance with chapter 7.80 RCW, which is incorporated herein by this reference, upon the person responsible for the condition and or who committed the issuance of an infraction constitutes a civil code violation infraction. First offenses shall be class 2 civil infractions, for which the maximum penalty and the default amount shall be \$125 for each infraction, and second or subsequent violations shall be class 1 civil infractions, for which the maximum penalty and the default amount shall be \$250 for each infraction, not including fees, costs, and assessments. The Mercer Island Municipal Court shall have jurisdiction over all infractions issued under this chapter title.

D.6.50.040 Civil Penalties

1A. Civil Penalties

A civil penalty for violation of the terms and conditions of a notice of violation, stop work order or voluntary correction agreement shall be imposed at the rate of \$100 per day for each violation, accruing for every day after the compliance date listed in the notice of violation. Thirty days after the compliance date, the penalty will increase to a rate of \$250 per day for each violation. Sixty days after the compliance date, the penalty will increase to a rate of \$500 per day for each violation, up to a maximum total penalty of \$50,000 for each violation.

B. Priority Violations

In addition to the penalties described above in Section A, any person that is responsible for a violation of the provisions of the following regulations will be subject to additional penalties. These penalties for priority violations will be assessed one time, and will not accrue daily and are not subject to any maximum, as described below:

Violation	Penalty
Damage or removal of trees in violation of chapter MICC 19.10 MICC	Triple the value of the cut or damaged tree, plus the cost of remediation. See MICC 19.10.160 for details.
Ecological damage in violation of chapter MICC 19.07 MICC	Up to \$25,000, plus the cost of remediation.
Failure to meet storm water, erosion control requirements in violation of chapter MICC 15.09 MICC	Up to \$10,000, plus the cost of remediation.

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<u>Fat, oil, grease discharge in violation of chapter MICC 15.06 MICC</u>	<u>Up to \$10,000, plus the cost of remediation.</u>
<u>Violation of stop work order or voluntary compliance agreement in violation of sections MICC 6.10.06069 or 6.10.070 MICC70</u>	<u>Up to \$10,000</u>

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When the potential penalty amount is listed as a range, the director will set the penalty based on the following criteria:

- a) The significance and severity of the violation and its impact on the public and the environment.
- b) The difficulty and time involved in resolving the violation and mitigating or remediating the area impacted by the violation.
- c) The resulting ill-gotten economic benefit and savings of construction costs realized by the person responsible for the violation.

C. Repeat Violations

A repeat violation is a violation that has occurred on the same property or that has been committed by the same person responsible elsewhere within the city, for which voluntary compliance previously has been agreed to sought or any enforcement action taken that was not timely appealed or if appealed, the appeal was dismissed, within the previous 36-month period. (For purposes of this subsection, repeat violation does not include each day in violation being counted as a separate violation.) To constitute a repeat violation, the violation need not be the same violation as the prior violation. Violation of a written order of the hearing examiner that has been served as provided in this chapter shall also constitute a repeat violation. Repeat violations will incur double the civil penalties set forth in Sections A and B, above. If violations area violation is repeated a third or subsequent time within a 36-month period, the penalties will be five times those set forth above. The City also has authority to suspend or revoke a business license when a responsible party is repeatedly doing work in violation of city regulations (chapter 5.01 MICC).

D. Deliberate Violation

If a violation was deliberate, the result of blatant disregard for direction from the City or knowingly false information submitted by the property owner, agent or their contractor, civil penalties will be incurred at double those set forth above in Sections A, B and C.

E. Voluntary compliance

The director may reduce penalties up to 80%, at their discretion, if voluntary compliance is achieved. The remaining penalty should reflect the significance and severity of the violation, whether or not the violation was deliberate, the City is reimbursed its reasonable staff and the professional costs incurred by the City in enforcing a notice of violation, stop work order, or voluntary compliance agreement.

E.6.50.050 Suspension, Revocation or Limitation of a Permit

The directorDirector may suspend, revoke or limit any permit issued whenever:

a. The permit holder has committed a code violation in the course of performing activities subject to that permit;

b. The permit holder has interfered with the directorDirector in the performance of his or her duties relating to that permit;

c. The permit was issued in error or on the basis of materially incorrect information supplied to the City by the permit holder; or

d. Permit fees or costs were paid to the City by check and returned from a financial institution marked nonsufficient funds (NSF) or cancelled.

Such suspension, revocation or modification shall be carried out through the civil violation provisions of this chaptersubchapter and shall be effective upon the compliance date established by the notice of violation. Such revocation, suspension or cancellation may be appealed to the hearing examinerHearing Examiner using the appeal provisions of this chapter. Notwithstanding any other provision of this chapter, the directorDirector may immediately suspend operations under any permit by issuing a stop work order.

F.6.50.060 Hold on Future Permits

The director may place a hold on the issuance of future permits on a property if:

a. A notice of violation or stop work order has been issued, and

b. The appeal period has passed, or an appeal was brought but it was dismissedoverturned, and

c. The violation has not been corrected and/or penalties or fines have not been paid, and

d. The permits relate to the violation.

A hold on future permits will prevent the issuance of any land use or building permit for the subject property, and for the person responsible on any other property within the City, until the violation is resolved, corrective actions are taken and penalties are paid. The director may use their discretion to issue exceptions to this subsection for emergencies or hazardous situations, or any other situation they deem reasonable.

G.6.50.070 Notice on Title

The director may file a notice with the records and elections division of King County recorder's office, or its successor agency, if:if:

a. A notice of violation or stop work order has been issued, and

b. The appeal period has passed, or an appeal was brought but it was dismissedoverturned, and

c. The violation has not been corrected and/or penalties or fines have not been paid, and

d. The violation relates to real property owned by the responsible party.

The notice shall inform the public of the presence of an unresolved notice of violation or stop work order on the subject property. The notice shall run with the land.

6.10.06060 VOLUNTARY COMPLIANCE AGREEMENTS

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A. 6.60.010 Timing

A voluntary compliance agreement (VCA) may be used to resolve code compliance cases, and may be entered into at any time before an administrative appeal is decided.

B. 6.60.020 Contents

A VCA is a written contract between the person responsible for the violation and the City, where such person agrees to abate the violation within a specified time and according to specified conditions. The VCA shall be completed on a form approved by the director and the City Attorney and shall, at minimum, include the following:

(1) The name and address of the person responsible;

(2) The street address or other description sufficient for identification of the building, structure, premises, or land upon which the violation has occurred or is occurring;

(3) A description of the violation(s) and a reference to the code(s) which has been violated;

(4) The necessary corrective action to be taken, and the date by which the correction must be completed;

(5) An agreement by the person responsible that the City may inspect the premises as may be necessary to determine compliance with the VCA;

(6) The reduced amount of the civil penalty, if any, that will be imposed pursuant to this title if the person responsible is agreeing to pay to does not meet his or her obligations under the City for the violation VCA;

(7) A statement that the person responsible acknowledges that the violation occurred as described in the VCA and waives the right to an administrative or judicial hearing for appeal purposes; and

(8) An agreement by the person responsible that if the City determines that such person does not meet his or her obligations specified in the VCA, the City may impose any remedy authorized by this chapter title, including, but not limited to:

(a) Assessment of civil penalties as established by resolution or otherwise identified in the VCA;

(b) Abatement of the violation;

(c) Assessment of all costs and expenses incurred by the City to pursue code enforcement and to abate the violation, including legal and incidental expenses; and

(d) Suspension, revocation, or limitation of a permit.

C. 6.60.030 Waiver of Appeal

In consideration of the City's agreement to enter into a VCA, the person responsible shall completely surrender and have no right to an administrative or judicial hearing, under this chapter title or otherwise, regarding the matter of the violation and/or the required corrective action. The VCA is a final, binding agreement, it is not a settlement agreement, and its contents are not subject to appeal.

D. 6.60.040 Amendment

1 The director may amend a VCA to grant an extension of the time limit for compliance, or a modification
 2 of the required corrective action may be granted, if the person responsible has shown due diligence
 3 and/or substantial progress in correcting the violation but unforeseen circumstances or circumstances
 4 beyond the control of the person responsible, render full and timely compliance under the original
 5 conditions unattainable. Such request shall be made in writing by the person responsible and clearly
 6 establish the need for such an amendment extension.

8 6.10.07070 STOP WORK ORDERS

9 A. 6.70.010 Issuance

10 The director shall issue a stop work order if the director finds that:

- 11 a. The work is not authorized by a valid permit or inaccurate information was used to obtain the
 12 permit; or
- 13 b. The permittee is not complying with the terms or conditions of the permit or approved plans,
 14 including storm water management and erosion control requirements, conditions of a seasonal
 15 development deviation, tree protection, construction impact mitigation plan; or
- 16 c. Previously unknown contamination of site soils from hazardous materials is encountered and
 17 poses a potential risk to human health and the environment; or
- 18 d. Adverse weather is causing significant problems on or off site; or
- 19 e. The work is adversely affecting the public health, safety, or welfare; or
- 20 f. The work is a hazard to property or is adversely affecting, or could adversely affect, adjacent
 21 property including: a right-of-way, a drainage way, a watercourse, an environmentally critical
 22 area, a storm water facility or a storm water treatment and flow control BMP; or
- 23 g. Otherwise materially impairs the director's ability to secure compliance with the Mercer Island
 24 City Code.

25 The stop work order shall state the reasons for the order, specify the violation(s) and prohibit any work
 26 or other activity at the site. The stop work order may be appended to, or incorporate by reference, a
 27 notice of violation. However, issuance of a notice of violation is not a condition precedent to the
 28 issuance of a stop work order. A stop work order shall be served consistent with MICC 6.10.04040 and
 29 shall take effect immediately upon service.

30 B. 6.70.020 Effect

31 When a stop work order has been issued, posted and/or served pursuant to this section, it is unlawful to
 32 conduct the activity or perform the work covered by the order, even if the order has been appealed,
 33 until the director has removed the copy of the order, if posted, and issued written authorization for the
 34 activity or work to be resumed. Any violation of a stop work order is hereby declared to be a nuisance
 35 and the director is authorized to enjoin or abate such nuisance by any legal or equitable means
 36 available. The costs, specifically including reasonable attorney and expert witness fees, for the injunction
 37 or abatement, shall be recovered by the City from the person responsible for the code violation in the
 38 manner provided by law. Failure to comply with the terms of a stop work order subjects the person
 39 responsible for the code violation to civil penalties and costs as set forth in this chapter title, including a

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1 monetary penalty that shall accrue for each day that a violation of a stop work order occurs, as
2 described in ~~MICC 6.50.040~~. In addition to such criminal or monetary penalties, the city may enforce a
3 stop work order pursuant to any other provision of this chapter and enforce it in superior court.

4 **C. 6.70.030 Appeal**

5 A stop work order may be appealed according to the procedures prescribed by ~~MICC 6.10.090~~. During
6 any such appeal, the stop work order shall remain in effect. Failure to appeal the stop work order within
7 the applicable time limits renders the stop work order a final determination that the civil code violation
8 occurred and that work was properly ordered to cease.

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9 **D. 6.70.040 Removal of a Stop Work Order**

10 When a stop work order has been posted in conformity with the requirements of this chapter, removal
11 of such order without the authorization of the City, or the hearing examiner if the matter has been
12 heard by the hearing examiner, is unlawful and a violation. The director will remove the stop work
13 order and write a letter of authorization to resume work only when the director finds that the reason for
14 the order has been resolved or abated.

16 **6.10.080 ABATEMENT**

17 **A. 6.80.010 Abatement**

18 Upon consultation with the City Attorney and ~~upon~~ prior approval by the City Manager, the City may
19 abate a condition which was caused by or continues to be a code violation when:

20 (a) The terms of the Voluntary Correction Agreement pursuant to this chapter ~~title~~ have not been
21 met; or

22 (b) A notice of violation or stop work order has been issued, the period for filing an appeal with
23 the hearing examiner has expired, and the required correction has not been completed; or

24 (c) A notice of violation or stop work order has been issued, a timely appeal was filed, the
25 appellant failed to appear at the scheduled hearing or a hearing was held as provided in this
26 chapter ~~title~~ and the required correction has not been completed by the date specified by an order
27 of the hearing examiner; or

28 (d) The condition is subject to ~~summary~~ abatement as provided for in this chapter or other
29 provisions of City or state law.

30 **B. 6.80.020 Summary Abatement**

31 Other provisions in this chapter notwithstanding, when ~~when~~ a code violation causes a condition, the
32 continued existence of which constitutes an immediate and emergent threat to the public health, safety,
33 or welfare or to the environment, the City may summarily, and without prior notice to the person
34 responsible, abate the condition. Notice of such abatement, including the reason for it, shall be given to
35 the person responsible for the violation as soon as reasonably possible after the abatement.

36 **C. 6.80.030 Authorized Action by the City**

1 Using any lawful means, the City may enter upon the subject property and may remove or correct the
2 condition which is subject to abatement. The City may seek judicial process as it deems necessary to
3 effect the removal or correction of such condition.

4 **D.6.90.040- No Cause of Action Against City**

5 No cause of action shall lie against the City or its agents, officers, or employees for actions reasonably
6 taken, or not taken, to prevent or cure any immediate threats.

7
8 **6.10.09090 APPEALS**

9 **A.6.90.010 Administrative Appeal – Filing Requirements**

10 PersonsAny person named in a notice of violation or stop work order, or any owner of the land where
11 the violation for which such a notice or order is issued, may file with the City Clerk a notice of appeal
12 within 14 days of the service of the notice or order. The notice of appeal shall be made in writing using
13 the appropriate Citycity form, clearly explaining the basis for the appeal, and shall include the applicable
14 appeal fee as established in a fee schedule adopted by the Mercer Island City Council.

15 **B. 6.90.020 Administrative Appeal – Procedures**

16 1) Upon receipt of the appeal, the City shall schedule an appeal hearing before the hearing examiner.
17 The hearing shall be conducted in accordance with the procedures set forth in MICC 3.4019, 15 and
18 the rules of procedure of the hearing examiner.

19 2) Enforcement of any notice of violation issued pursuant to this chapter shall be stayed as to the
20 appealing party during the pendency of any administrative appeal under this section, except when
21 the directorDirector determines that the violation poses a significant threat of immediate and/or
22 irreparable harm and so states in any notice-issued.

23 3) Enforcement of any stop work order issued pursuant to this chapter shall not be stayed during the
24 pendency of any administrative appeal under this section.

25 4) When multiple stop work orders or notices of violation have been issued for any set of related facts
26 constituting various violations, their appeals a violation, the enforcement actions appeal may be
27 consolidated.

28 **C.6.90.030 Administrative Appeal – Final Order**

29 1) Following review of the evidence submitted, if the examiner finds that no violation has occurred, the
30 hearing examiner shall uphold the appeal and reverse the notice of violation or stop order. If the
31 hearing examiner finds that a violation has occurred, the hearing examiner shall issue an order to
32 the person responsible for the violation which includes the following information:

33 (a) The decision regarding the alleged violation including findings of fact and conclusions based
34 thereon in support of the decision;

35 (b) The required corrective action;

36 (c) The date by which the correction must be completed; and

37 (d) The civil penalties assessed based on the provisions of this chaptertitle and the fee resolution;
38

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2) If an owner of property where a violation has occurred has affirmatively demonstrated that the violation was caused by another person or entity not the agent of the property owner and without the property owner’s knowledge or consent, such property owner shall be responsible only for abatement of the violation.

D.6.90.050 Effect of Decision

The decision of the hearing examiner shall constitute the final decision of the City, and the failure to comply with the decision of the hearing examiner, unless the decision is appealed to a court of competent jurisdiction, shall constitute a misdemeanor punishable by a fine of not more than \$1,000 or up to 90 days’ imprisonment, or both. In addition to criminal punishment pursuant to this section, the City may pursue collection and abatement as authorized by law.

6.10.100 RECOVERY OF PENALTIES AND COSTS

A.6.100.010 Payment

Any monetary penalties or costs assessed pursuant to this chapter constitute a personal obligation of the person responsible for the violation. In addition, the monetary penalties or costs assessed pursuant to this chapter may be assessed against the property that is the subject of the enforcement action. The City Attorney~~city attorney~~ is authorized to collect the monetary penalty or costs by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate the accrual of additional per diem monetary penalties so long as the violation continues.

B. 6.100.020 Recovery of Costs

All reasonable expenses incurred by the City in abating~~correcting~~ a violation shall be billed to the person responsible for the violation and shall become due and payable to the City within 30 calendar days from the date of the bill. Such costs may include, but are not limited to, the following:

1. ~~(a)~~ “Legal expenses,” which shall include, but are not limited to:

(a) Personnel costs, both direct and indirect, including attorney’s fees and all costs incurred by the City Attorney’s~~attorney’s~~ office or its designee;

(b) Actual and incidental expenses and costs incurred by the City in preparing notices, contracts, court pleadings, and all other necessary documents; and

(c) All costs associated with retention and use of expert witnesses or consultants.

2. ~~(b)~~ “Abatement expenses,” which shall include, but are not limited to:

(a) Costs incurred by the City for preparation of notices, contracts, and related documents;

(b) All costs associated with inspection of the abated property and monitoring of said property consistent with orders of compliance issued by the City’s hearing examiner or a court of competent jurisdiction;

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1 (c~~iii~~) All costs incurred by the City for hauling, storage, disposal, or removal of vegetation, trash,
 2 debris, dangerous structures or structures unfit for occupancy, potential vermin habitat or fire
 3 hazards, junk vehicles, obstructions to public rights-of-way, and setback obstructions;

4 (d~~iv~~) All costs incurred by law enforcement or related enforcement agencies;

5 (e~~v~~) All costs incurred by the City during abatement of nuisance and code violations may include
 6 interest in an amount as prescribed by law; and

7 The city manager or designee, or the hearing examiner, may in their discretion waive in whole or part
 8 the assessment of any costs upon a showing that abatement has occurred or is no longer necessary or
 9 that the costs would cause a significant financial hardship for the person responsible for the violation.
 10 Any challenge to the amount of the legal or abatement costs must be made within 14 days of issuance
 11 of the bill and shall be heard by the hearing examiner. The hearing examiner shall make a determination
 12 as to whether or not the city's costs were accurate and necessary for correcting the violation.

13 C.6.100.030 Use of Collection Agency

14 Pursuant to Chapter 19.16 RCW 19.16.500, as currently enacted or hereafter amended, the City~~city~~ may,
 15 at its discretion, use a collection agency for the purposes of collecting penalties and costs assessed
 16 pursuant to this chapter. The collection agency may add fees or interest charges to the original amount
 17 assigned to collections as allowed by law.

18 D. ~~6.100.040~~ Continuing Duty to Abate Violations

19 Payment of a monetary penalty or costs pursuant to this chapter does not relieve the person
 20 responsible for the violation of the duty to correct or abate the violation. Additional notices of violation
 21 may be issued and/or criminal charges filed for continuing failure to correct or abate a violation.

22 6.10.110 DEFINITIONS

24 Except where specifically defined in this section, all words used in this title shall carry their customary
 25 meanings. The word "shall" is always mandatory, and the word "may" denotes a use of discretion in
 26 making a decision. The following words and phrases used in this title shall have the following meanings:

27 "Abate" means to take whatever steps are deemed necessary in the interest of the general health,
 28 safety, and welfare of the City by the director to return a property to the condition in which it existed
 29 before a civil code violation occurred or to assure that the property complies with applicable code
 30 requirements. Abatement may include, but is not limited to, rehabilitation, demolition, removal,
 31 replacement or repair.

32 "Appeal hearing" means a hearing requested in response to a notice of violation~~and order to correct,~~
 33 stop work order, ~~infraction~~ or other official written notice of violation issued by the director to contest
 34 the finding that a violation occurred or to contest that the person cited for a violation is responsible for
 35 the violation.

36 "Civil penalty" or "monetary penalty," means a fine or fee levied as a consequence for a civil violation,
 37 civil infraction or stop work order.

1 "Civil violation" or "code violation" or "violation" means and includes one or more of the following:

2 (1) Any act or omission contrary to any ordinance, resolution, regulation or public rule of the City
 3 that regulates or protects public health, the environment or the use and development of land or
 4 water, whether or not the ordinance, resolution or regulation is codified; and

5 (2) Any act or omission contrary to the conditions of any permit, violation notice or stop work or
 6 other order issued pursuant to any such ordinance, resolution, regulation or public rule.

7 "Compliance" means the violation has been abated, remediated or otherwise resolved and any
 8 applicable penalties or costs have been paid.

9 "Complainant" means the person that makes a complaint to the City reporting a violation or potential
 10 violation.

11 "Costs" means, but is not limited to, contract expenses and City employee labor expenses incurred in
 12 abating a nuisance; a rental fee for City equipment used in abatement; costs of storage, disposal, or
 13 destruction; legal expenses and attorneys' fees associated with civil judicial enforcement of abatement
 14 orders or in seeking abatement orders; and any other costs incurred by the City, excluding fees and
 15 expenses associated with appeals authorized by this code or by state law.

16 "De minimus violation" means a civil violation that is of very low impact and poses low risk to the health,
 17 safety and welfare of the public and to the environment.

18 "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any
 19 structure or the alteration or use of land above, at, or below ground or water level, and all acts
 20 authorized by a City permit or regulation.

21 "Director" means the director of the development services group, or their designee.

22 "Excessive Complaint" means a complainant that repeatedly reports to the City the same or closely
 23 related issues in a manner that may be intended to harass or antagonize the alleged responsible person.

24 "Found in violation" means that:

25 (1) A notice of violation, stop work order or infraction has been issued and not timely appealed; or

26 (2) The hearing examiner has determined that the violation has occurred and the hearing examiner's
 27 determination has not been stayed or reversed on appeal.

28 "Frivolous complaint" means a complaint that is based on an issue that is not a code violation or is a de
 29 minimus violation. The complaint may be an attempt to harass or antagonize the alleged responsible
 30 person.

31 "Hearing examiner" means the City of Mercer Island hearing examiner, as provided in chapter MICC 3.40
 32 MICC.

1 “Infraction” or “civil infraction” means any code violation designated as an infraction or civil infraction
 2 by the director pursuant to Chapter 7.80 RCW, incorporated herein by reference.

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3 “Mortgagee” means a financial institution, including a bank, credit union or other commercial lender,
 4 which holds mortgaged property as security for repayment of a loan.

5 “Notice of violation” means a written statement, issued by the director, that contains the information
 6 required under MICC 6.10.050 (B)(1) notifying 50.020 and notifies a person that they are responsible for
 7 one or more civil violations of the Mercer Island City Code, orders the timely correction of the same,
 8 and/or assesses civil penalty for failure to timely correct.-

9 “Nuisance” (also referred to herein as “violation” or “nuisance violation”) means:

10 (1) A violation of any City of Mercer Island development, land use, or public health ordinance;

11 (2) Doing an act, omitting to perform any act or duty, or permitting or allowing any act or omission
 12 that annoys, injures, or endangers the comfort, repose, health, or safety of others, is unreasonably
 13 offensive to the senses, or that obstructs or interferes with the free use of property so as to
 14 interfere with or disrupt the free use of that property by any lawful owner or occupant;

15 (3) Potential vermin habitat or fire hazard; or

16 (4) Junk Vehicles. A “junk vehicle” includes apparent inoperable, immobile, disassembled, or
 17 extensively damaged vehicles. In addition, any wrecked inoperable, abandoned, or disassembled
 18 trailer, house trailer, boat, tractor, automobile, other vehicle, or any parts thereof.

19 “Owner” means any owner, part owner, joint owner, tenant in common, tenant in partnership, joint
 20 tenant, or tenant by the entirety, of the whole or of a part of a building or land.

21 “Permit” means any form of certificate, approval, registration, license or any other written permission
 22 issued by the City of Mercer Island. All conditions of approval, and all easements and use limitations
 23 shown on the face of an approved final plat which are intended to serve or protect the general public
 24 are deemed conditions applicable to all subsequent plat property owners and their tenants and agents
 25 as permit requirements enforceable under this chapter title.

26 “Person responsible for the violation” or “person responsible” or “violation” means any of the following:
 27 the person doing the work, a person who has titled ownership or legal control of the property or
 28 structure that is subject to the violation; an occupant or other person in control of the property or
 29 structure that is subject to the violation; a developer, builder, business operator, or owner who is
 30 developing, building, or operating a business on the property or in a structure that is subject to the
 31 violation; a mortgagee that has filed an action in foreclosure on the property that is subject to the
 32 violation, based on breach or default of the mortgage agreement, until title to the property is
 33 transferred to a third party; a mortgagee of property that is subject to the violation and has not been
 34 occupied by the owner, the owner’s tenant, or a person having the owner’s permission to occupy the
 35 premises for a period of at least 90 days; or any person who created, caused, participated in, or has
 36 allowed a violation to occur.

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“Public nuisance” means a nuisance that affects equally the rights of an entire community or neighborhood, although the extent of the damage may be unequal.

“Resolution” means any resolution adopted by the Mercer Island City Council.

“Repeat violation” means a violation that has occurred on the same property or that has been committed by the same person responsible elsewhere within the city, for which voluntary compliance previously has been agreed to sought or any enforcement action taken that was not timely appealed or if appealed, the appeal was dismissed, within the previous 36-month period. (For purposes of this subsection, repeat violation does not include each day in violation being counted as a separate violation.) To constitute a repeat violation, the violation need not be the same violation as the prior violation. Violation of a written order of the hearing examiner that has been served as provided in this chapter shall also constitute a repeat violation.

“Stop work order” means a written order specifying code violations and prohibiting any work or other activity at a particular site.

“Voluntary compliance agreement” or “VCA” means a written contract between the person responsible for the violation and the City, under which such person agrees to abate the violation within a specified time and according to specified conditions.

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DEVELOPMENT SERVICES GROUP

9611 SE 36TH ST., MERCER ISLAND, WA 98040

(206) 275-7605

TO: Planning Commission

FROM: Evan Maxim, Interim Director of Development Services

DATE: June 20, 2018

RE: **2018 Comprehensive Plan Amendment and Rezone for “Parcel 12 / WSDOT”**

Summary

The City is proposing a Comprehensive Plan amendment and rezone to change both the Comprehensive Plan designation and zoning of City-owned land known as “Parcel 12” and a portion of the adjoining Washington Department of Transportation (WSDOT) property from Public Institution (P) to Town Center (TC). See Attachments A, B, and C.

Background

On June 5, 2018, the City Council passed Resolution 1544 authorizing the City Manager to execute a purchase and sale agreement with Parkway Management Group et al. to purchase the real property at 7810 SE 27th Street (the “Tully’s property”) south of Parcel 12. The Tully’s property is designated in the Comprehensive Plan and is zoned Town Center (TC). The agreement became effective on June 7, commencing a 120-day due diligence period ending on October 5, 2018.

City-owned land north of the Tully’s property known as “Parcel 12” along with adjoining WSDOT-owned land is currently designated Public Institution (P) in both the Comprehensive Plan and zoning code/map. On June 5, 2018, the City Council also passed Resolution 1545 initiating a proposed Comprehensive Plan amendment and rezone to change both the Comprehensive Plan designation and zoning of City-owned land known as “Parcel 12” from Public Institution (P) to Town Center (TC). See Attachment A.

The proposed Comprehensive Plan amendment would be processed “out of cycle,” meaning outside of the annual Comprehensive Plan amendment process as allowed by the Growth Management Act and City laws (Revised Code of Washington (RCW) 36.70A.130(2) and Mercer Island City Code 19.15.050(C)).

The proposed Comprehensive Plan map amendments are shown on Attachment B. The proposed zoning map amendments are shown on Attachment C.

The City anticipates engaging in a Request for Qualifications process to solicit and identify interested, experienced and capable developers to form a public-private partnership. The City would provide the

land (Parcel 12 and the Tully's property after purchase by the City) and offer the development rights on the land to a developer for construction of 100 or more transit commuter parking stalls. We expect the developer to also propose a mixed-use project on the land.

This public-private partnership presents an opportunity to significantly reduce, if not eliminate, a City contribution of funds (other than a contribution of Sound Transit funds from the 2017 Sound Transit settlement) by utilizing City-owned land in a key geographic location that supports long-term, transit commuter parking for Mercer Island. Any public-private partnership agreement will be a future agenda item subject to City Council consideration and approval and is mentioned as supporting contextual information. Any future project permit applications resulting from a public-private partnership will have additional opportunity for a public process, including public comment, following City Council authorization of the public-private partnership.

To leverage private investment, thereby reducing the City's financial share, the City is considering maximizing the value of Parcel 12 through the proposed Comprehensive Plan amendment and rezone and changing the land use designation and zoning from Public Institution (P) to Town Center (TC). While parking is currently allowed in the P zone, by rezoning to match the adjacent Tully's parcel, which is TC, the City desires to attain the greatest redevelopment flexibility.

The proposed boundary for the proposed Comprehensive Plan amendment and rezone is approximate and will be further refined following selection of a proposed developer. This will allow some design flexibility for the future project.

Next Steps

At the Planning Commission's June 20 meeting, staff is proposing 1) to provide the Planning Commission with an introduction to the proposed Comprehensive Plan Amendment and rezone, and 2) identify additional information needed by the Planning Commission for your future review and deliberation.

Staff anticipates returning to the Planning Commission for further review and public hearing on the proposed Comprehensive Plan amendment and Rezone on August 29, 2018.

Attachments:

- A. Resolution 1545
- B. Comprehensive Plan Maps to be amended
 - a. Figure 1-Land Use Map
 - b. Figure TC-1-Mercer Island Town Center Maximum Building Height
 - c. Figure TC-2-Retail Use Required Adjacent to Street Frontages
 - d. Figure TC-3-Open Space-Potential Opportunity Sites
- C. Zoning Code Maps to be amended
 - a. City of Mercer Island Zoning Map
 - b. MICC 19.11, Figure 1 – Mercer Island Town Center Maximum Building Height
 - c. MICC 19.11, Figure 2 – Retail Use Required Adjacent to Street Frontages
 - d. MICC 19.11, Figure 7 – Preferred Through-Block Pedestrian Connection Locations

**CITY OF MERCER ISLAND
RESOLUTION NO. 1545**

**A RESOLUTION OF THE CITY OF MERCER ISLAND, WASHINGTON,
INITIATING A PROPOSED, OUT OF CYCLE COMPREHENSIVE PLAN
AMENDMENT AND REZONE OF THE LAND KNOWN AS PARCEL 12 FROM
PUBLIC INSTITUTION TO TOWN CENTER**

WHEREAS, on June 5, 2018, the Mercer Island City Council approved Resolution No. 1544, authorizing the City Manager to execute a purchase and sale agreement with Parkway Management Group et al. to purchase the real property at 7810 SE 27th Street (“Tully’s Property”); and

WHEREAS, the City is evaluating the Tully’s Property as a potential site for long-term, transit commuter parking; and

WHEREAS, to purchase the Tully’s Property, the City plans on utilizing the funds provided by Sound Transit in accordance with the Settlement Agreement approved by the City Council on October 17, 2017 (AB 5346), which allows reimbursement of up to \$4.41 million towards the development of long-term, transit commuter parking; and

WHEREAS, the Settlement Agreement requires the City to fund 51% of the cost to construct up to 200 of such parking stalls; and

WHEREAS, contribution of City land qualifies as a cost contribution; and

WHEREAS, in April 2000, the Washington State Department of Transportation (WSDOT) deeded to the City several surplus parcels in Mercer Island as part of its I-90 Turnbacks (Quitclaim Deed, King County Recording No. 20000425001234, recorded on April 25, 2000); and

WHEREAS, included in the WSDOT deed was Parcel 12, an elongated section of land generally running east-west to the north of the Tully’s Property containing a portion of Sunset Highway and a portion of the Greta Hackett Outdoor Sculpture Gallery as approximately shown on Exhibit 1 (“City’s Property”); and

WHEREAS, the City’s Property and the adjoining WSDOT property is currently designed “Public Institution” on both the City’s Comprehensive Plan Land Use Map and the Zoning Map; and

WHEREAS, amending both the City’s Comprehensive Plan Land Use Map and the Zoning Map to change the City’s Property from “Public Institution” to “Town Center” provides increased flexibility in the use of the City’s Property for long-term, transit commuter parking, and for other uses and improvements allowed in the Town Center that are necessary to support such parking; and

WHEREAS, Mercer Island City Code 19.15.050(C) and Revised Code of Washington (RCW) 36.70A.130(2) allow the City to amend the Comprehensive Plan no more frequently than once every calendar year; and

WHEREAS, the final docket of proposed amendments for 2018 was established by the Mercer Island City Council by Resolution No. 1534 on November 6, 2017; and

WHEREAS, the next annual docket cycle is in 2019, concluding by the end of 2019; and

WHEREAS, RCW 36.70A.130(2)(b) allows the City to adopt amendments or revisions to its comprehensive plan more frequently than once per year whenever an emergency exists; and

WHEREAS, the Tully's Property purchase and sale agreement requires closing by December 2, 2018; and

WHEREAS, the City Council wants the right to consider the re-designation and re-zone of the City's Property to Town Center, prior to closing on the Tully's Property; and

WHEREAS, a decision on the proposed re-designation and re-zone of Parcel 12 in the next annual amendment cycle in 2019 would occur on the 4th quarter of 2019, nearly a year after the Tully's Property closing date; and

WHEREAS, consideration of, and a decision on, the proposed re-designation and re-zone of the City's Property in 2019 would delay completion of the long-term, transit commuter parking until sometime in 2024, a year after the East Link Light Rail Station is scheduled to open for service; and

WHEREAS, based on the foregoing, the City Council determines it is necessary to expedite the consideration of, and a possible decision on any proposed re-designation and re-zone of the City's Property, and potentially a portion of the adjoining WSDOT property, to promote timely completion of a long-term, transit commuter parking facility within the City of Mercer Island's Town Center near the East Link Light Rail Station while still ensuring early and continuous public participation; and

WHEREAS, MICC 19.15.050(C)(3) allows the City Council to consider amendments more frequently than once per calendar year if the Council specifies the scope of the amendment, identifies the projected completion date and, if necessary, funds resources necessary to accomplish the work;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON AS FOLLOWS:

The City Council directs City staff and the Planning Commission to analyze, study, and make recommendations to the City Council by September 18, 2018 on the proposed, out of cycle Comprehensive Plan amendment and rezone of the portion of land known as Parcel 12 (the City's Property) and potentially a portion of the adjoining WSDOT property, from Public Institution to Town Center as approximately shown on Exhibit A.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS REGULAR MEETING ON THE 5th DAY OF JUNE 2018.

CITY OF MERCER ISLAND

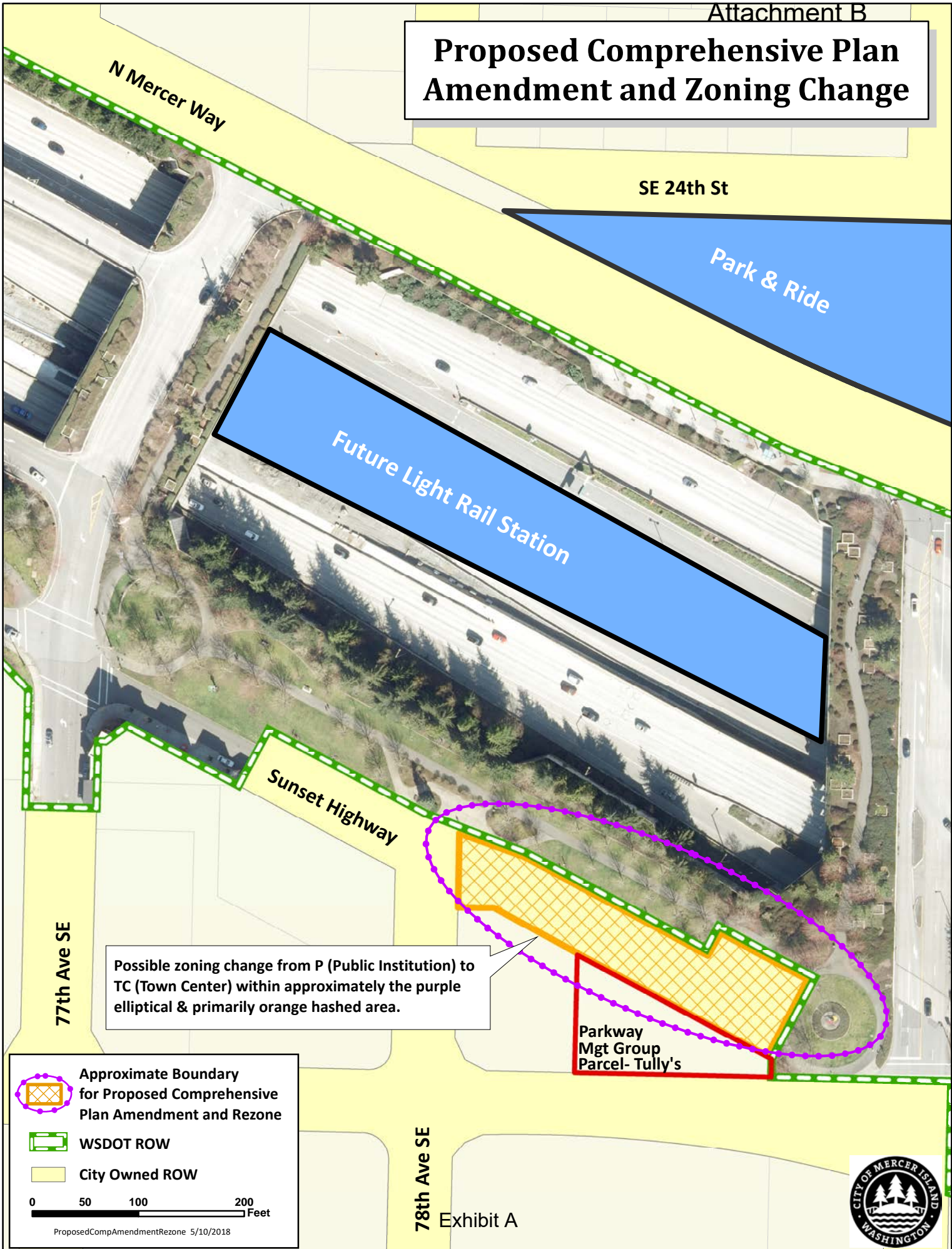


Debbie Bertlin, Mayor

ATTEST:


Deborah Estrada, City Clerk

Proposed Comprehensive Plan Amendment and Zoning Change



Possible zoning change from P (Public Institution) to TC (Town Center) within approximately the purple elliptical & primarily orange hashed area.

Parkway Mgt Group Parcel- Tully's

Approximate Boundary for Proposed Comprehensive Plan Amendment and Rezone

WSDOT ROW

City Owned ROW

0 50 100 200 Feet

ProposedCompAmendmentRezone 5/10/2018

78th Ave SE Exhibit A



Figure 1- Land Use Map













Mercer Island Land Use Plan

The Land Use Plan is intended to be a generalized depiction of land uses. The map is not a description of zoning boundaries nor should it be interpreted on a site specific basis.

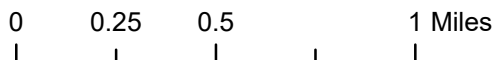
Possible change from P (Public Institution) to TC (Town Center) within approximately the red elliptical area

DRAFT

Legend

-  Park
-  Linear Park (I-90)
-  Open Space
-  Public Facility
-  Neighborhood Business
-  Commercial Office
-  Town Center
-  Multi-Family MF-2
-  Multi-Family MF-2L
-  Multi-Family MF-3
-  Single Family R-12
-  Single Family R-15
-  Single Family R-8.4
-  Single Family R-9.6

The Mercer Island City limits delineates the communities' Urban Growth Area. The City limits are contiguous with the Mercer Island Lake Washington Shoreline.



Map Date: 5/30/2018

CP-Figure1-LandUseMapColor+Symbol2018.mxd

Figure TC-1: Town Center Subareas & Maximum Height Limit

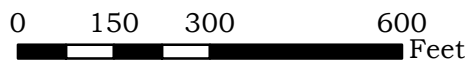
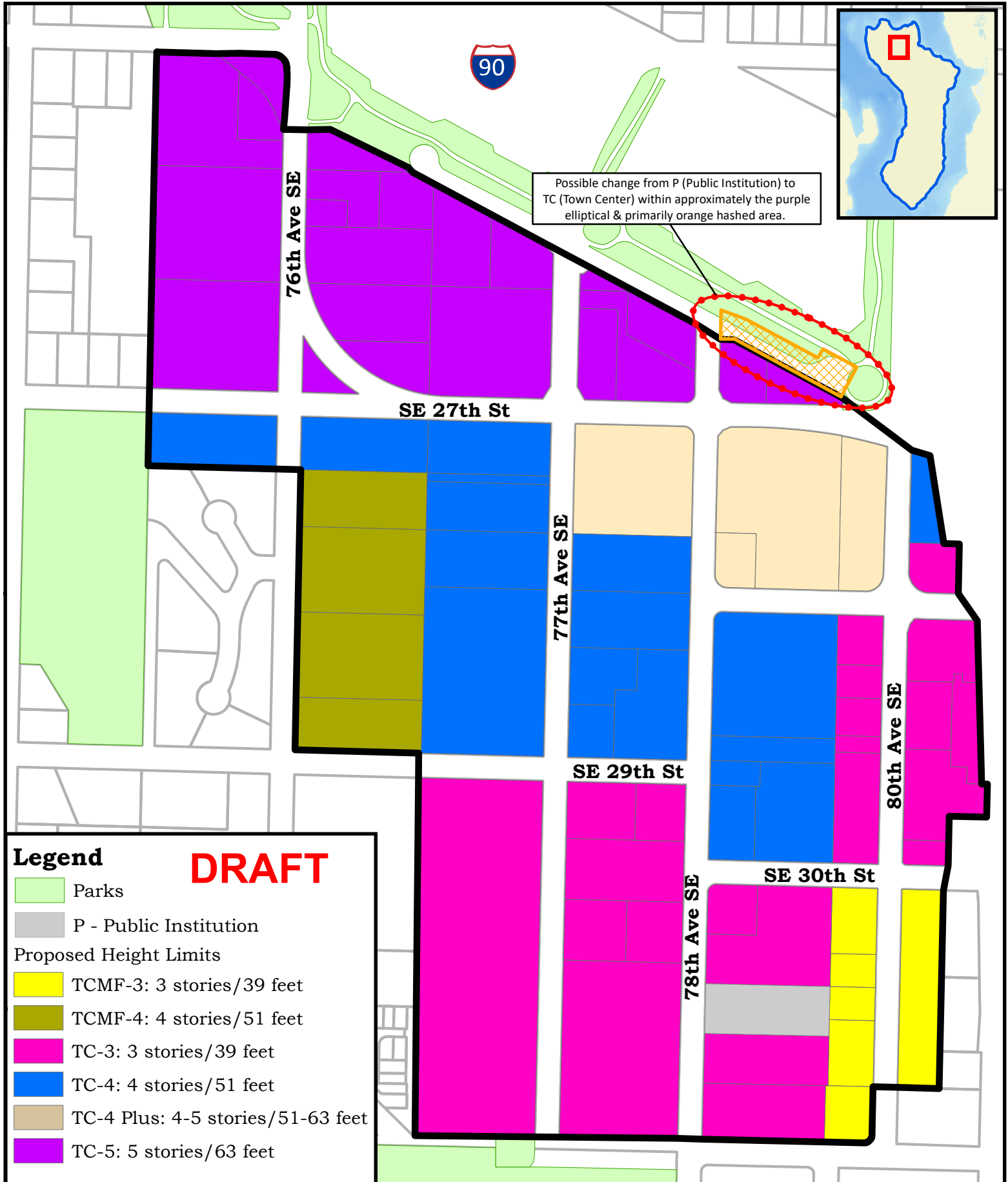
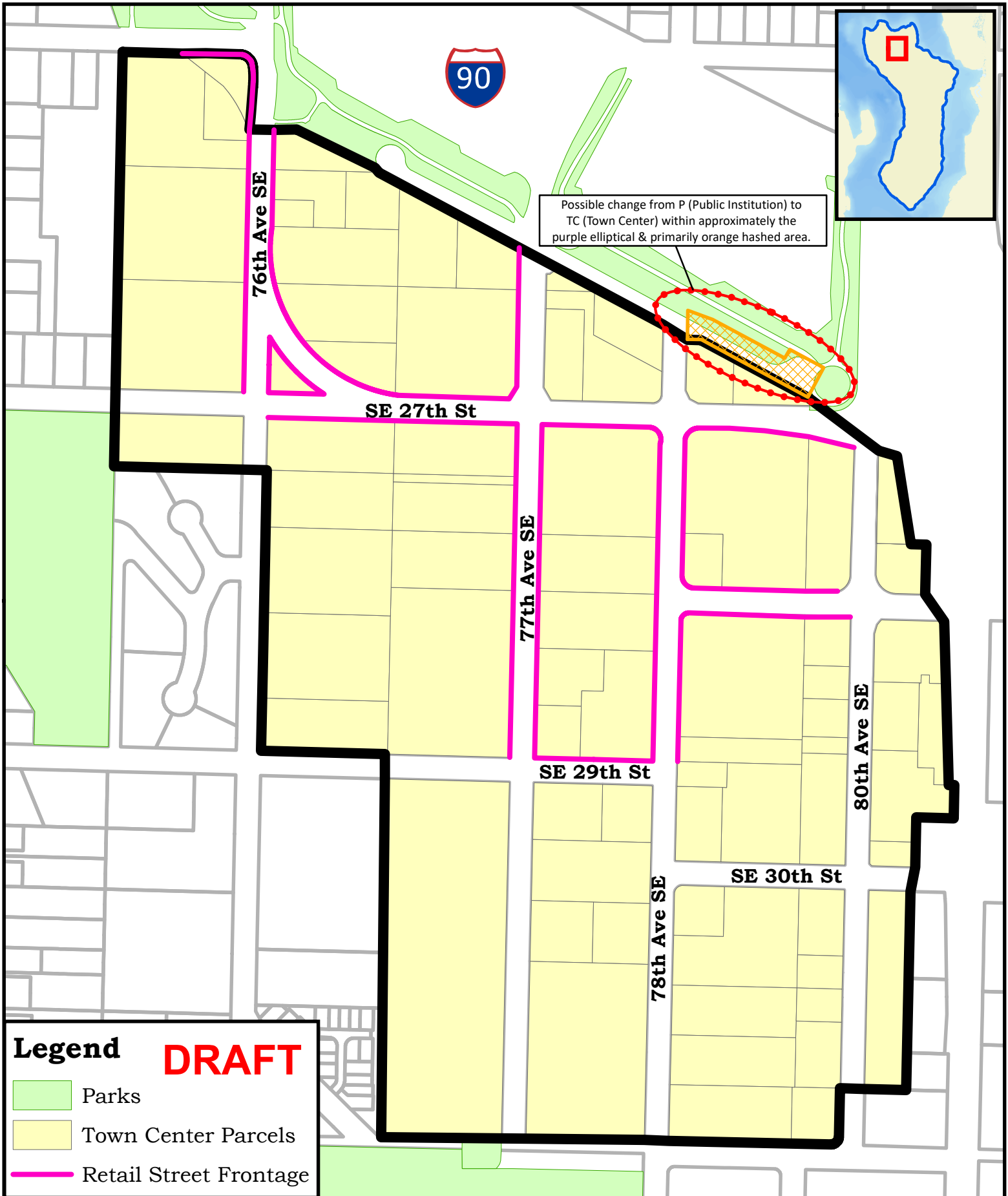


Figure TC-2: Retail Use Required Adjacent to Street Frontages



Legend **DRAFT**

- Parks
- Town Center Parcels
- Retail Street Frontage



0 150 300 600 Feet

Figure TC-3: Open Space- Potential Opportunity Sites

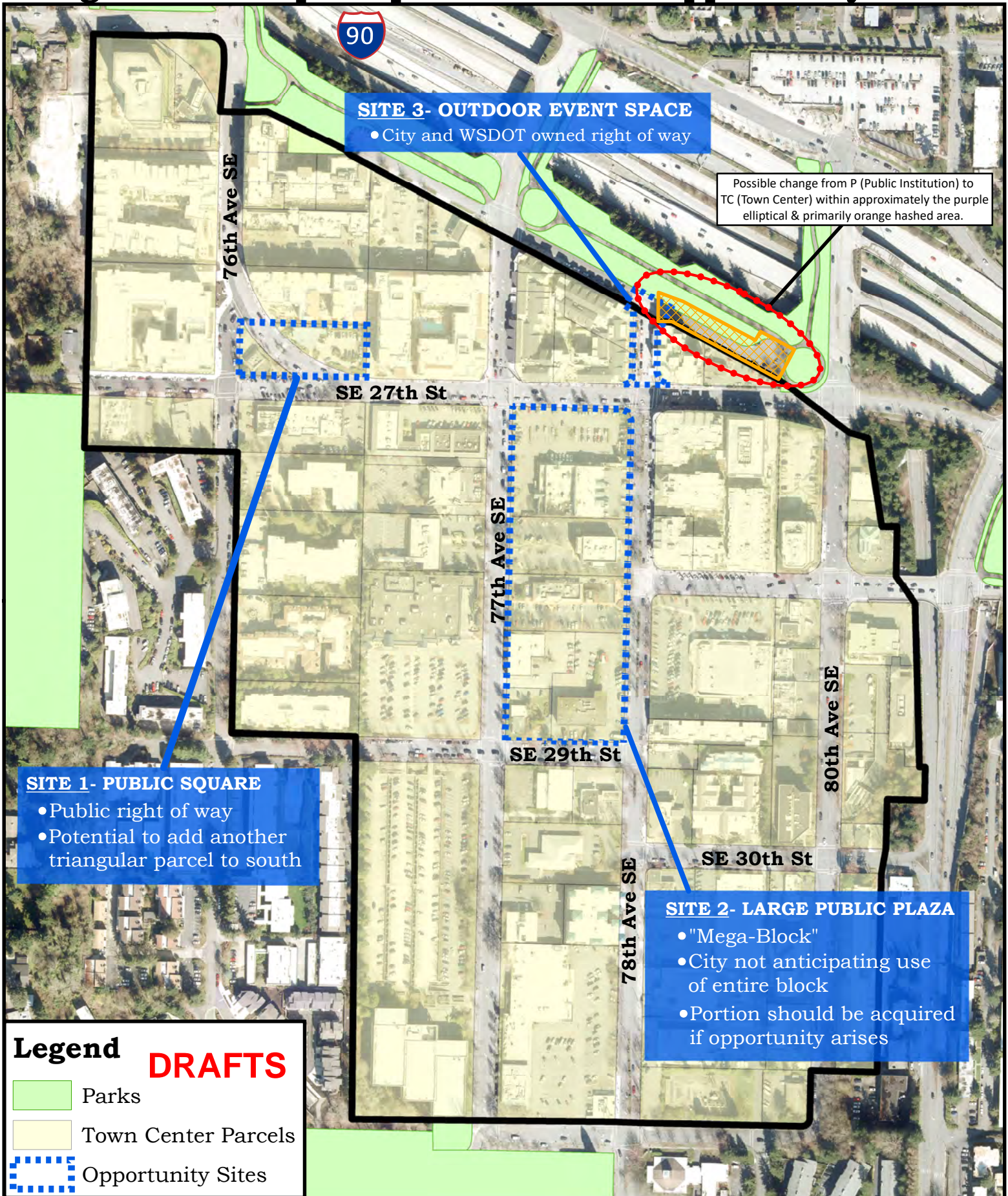
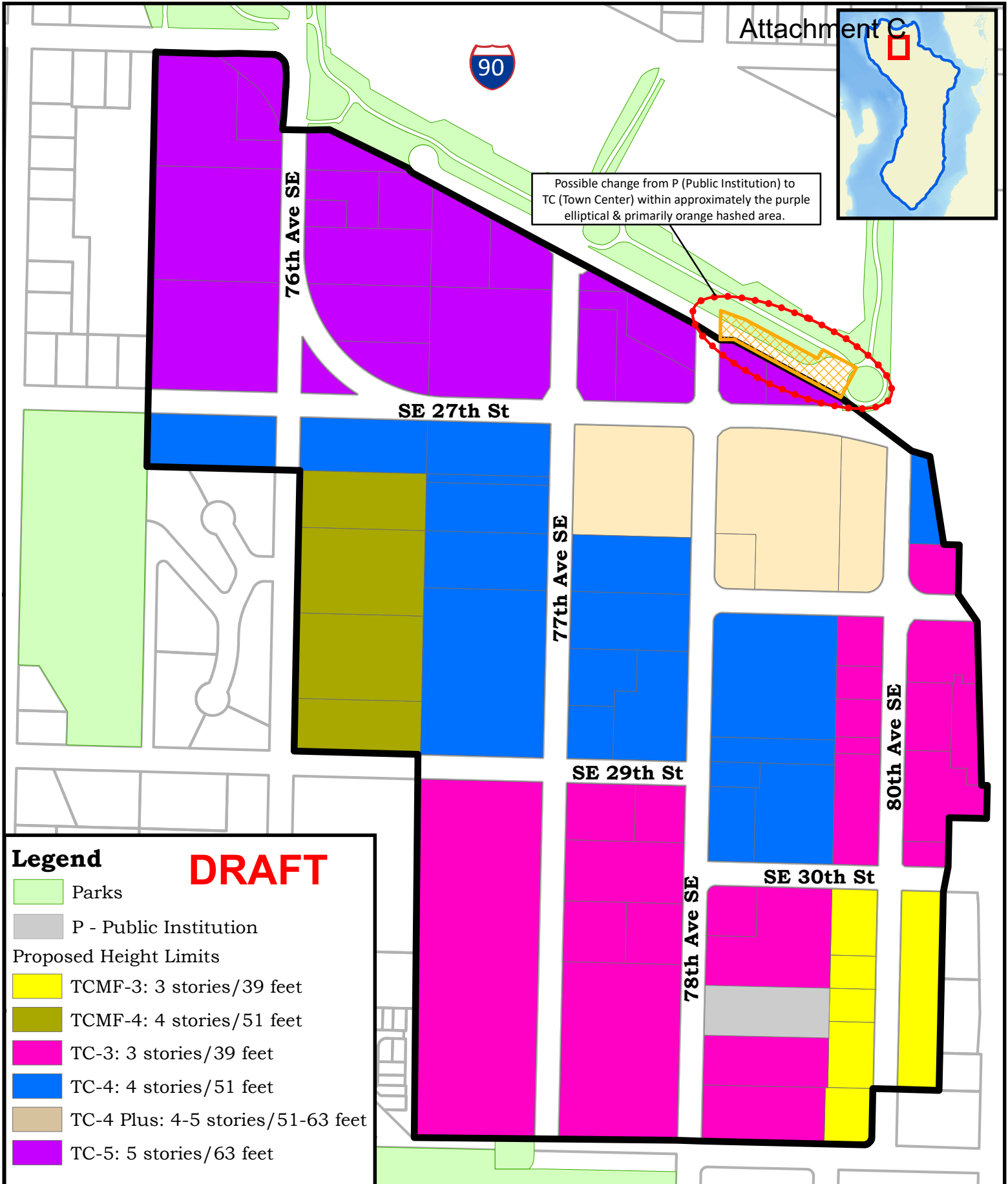


Figure 1: Town Center Subareas & Maximum Height Limit



Legend DRAFT

- Parks
- P - Public Institution

Proposed Height Limits

- TCMF-3: 3 stories/39 feet
- TCMF-4: 4 stories/51 feet
- TC-3: 3 stories/39 feet
- TC-4: 4 stories/51 feet
- TC-4 Plus: 4-5 stories/51-63 feet
- TC-5: 5 stories/63 feet

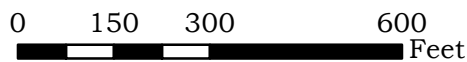
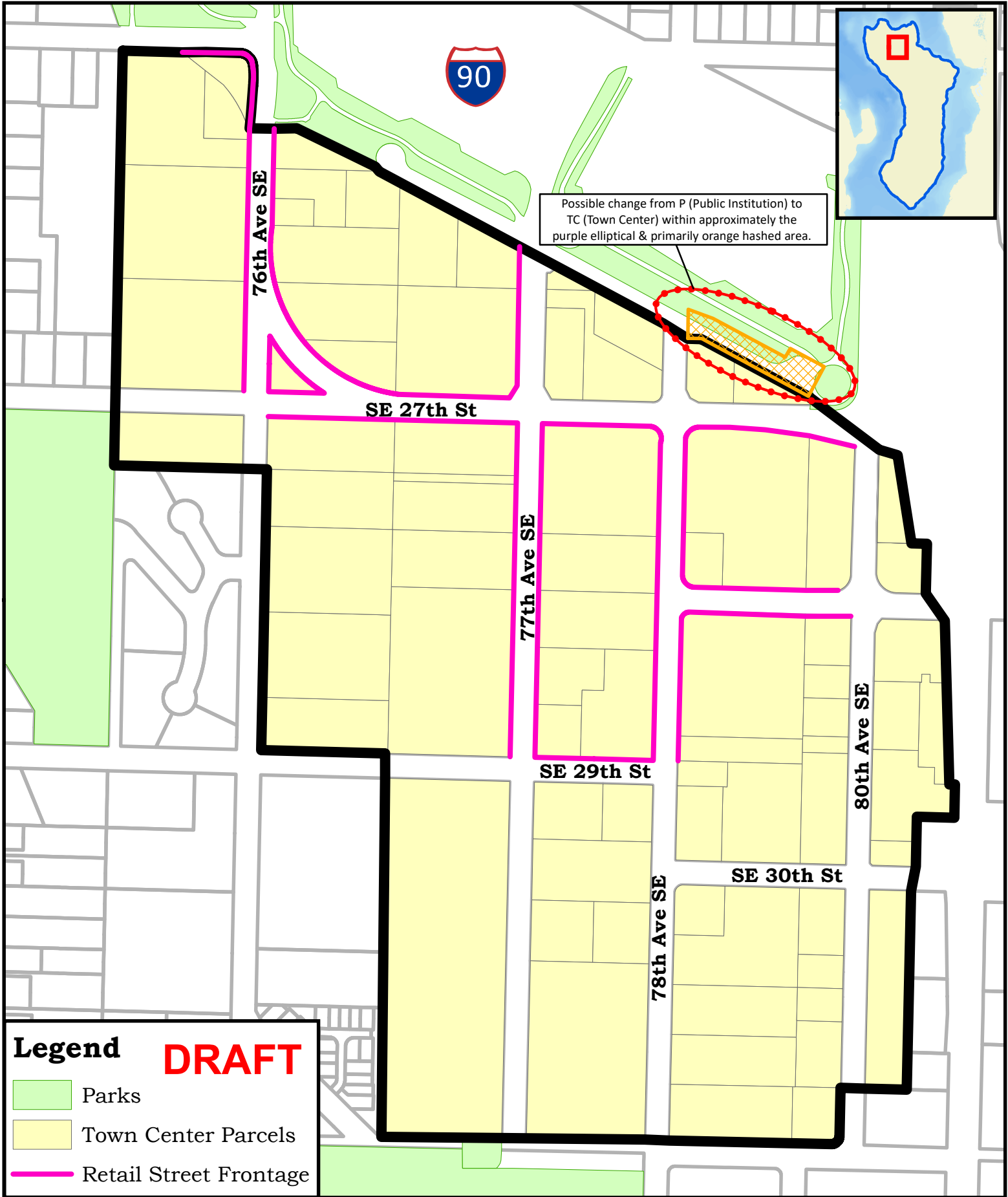


Figure 2: Retail Use Required Adjacent to Street Frontages



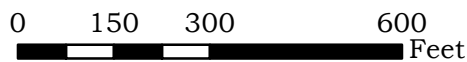
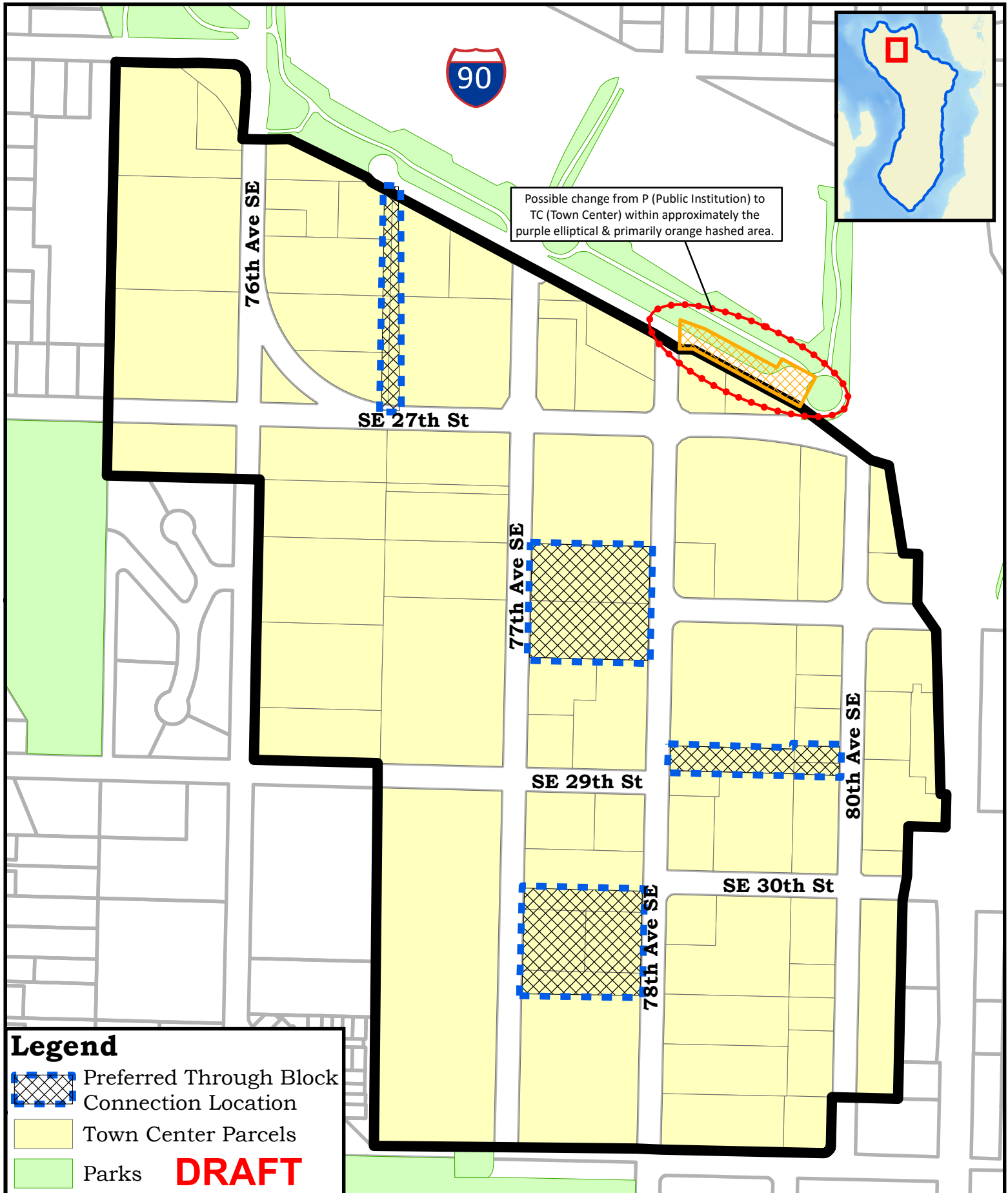
Legend **DRAFT**

- Parks
- Town Center Parcels
- Retail Street Frontage



0 150 300 600 Feet

Figure 7- Preferred Through-Block Pedestrian Connection Locations



TRANSPORTATION ELEMENT

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TRANSPORTATION ELEMENT

I. INTRODUCTION

The intent of the Transportation Element is to provide policies and projects to guide the development of Mercer Island transportation system in support of the City's vision for the future. The policies guide the actions of the City, as well as the decisions related to individual developments.

The Transportation Element provides an inventory of all of Mercer Island's existing transportation system and includes auto, truck, bicycle, bus, and pedestrian. This update to the Transportation Element reflects the changes to circulation and operations related to the closure of the I-90 reversible lanes and related ramps.

Objectives of the Transportation Element

The City of Mercer Island has three main objectives within its Transportation Element:

- develop multi-modal goals, policies, programs and projects which support implementation of the Land Use Element of the Comprehensive Plan,
- define policies and projects that encourage the safe and efficient development of the transportation system, and
- comply with legislative requirements for multi-modal transportation planning.

Washington State's Growth Management Act (GMA) outlines specific requirements for the Transportation Element of a city's comprehensive plan. It calls for a balanced approach to land use and transportation planning to ensure that a city's transportation system can support expected growth and development. In addition, it mandates that capital facilities funds be adequate to pay for any necessary improvements to the transportation system. Finally, a city must adopt specific standards for the acceptable levels of congestion on its streets; these standards are called level of service (LOS) standards.

At the federal level, transportation funds have been focused on the preservation and improvement of transportation facilities and creating a multi-modal approach to transportation planning. For Mercer Island, transportation projects that combine improvements for auto, buses, bicycles, and pedestrians have a much greater chance of receiving state and federal grant funds than those that focus solely on widening the road to carry more single-occupant vehicles.

Other legislative requirements addressed by the Transportation Element include the King County 2012 Countywide Planning Policies, the 1991 Commute Trip Reduction Act, the Americans with Disabilities Act (ADA) and the 1990 federal Clean Air Act

Amendments. Each of these laws emphasizes closer coordination between a jurisdiction’s land use planning and its approach to transportation planning.

Transportation Today

Most of Mercer Island’s streets are two lane residential streets with low to moderate volumes of traffic. Island Crest Way, a north-south arterial which runs the length of the Island, is an exception to this rule because it is a principal feeder route to I-90 and the Town Center. East and West Mercer Way ring the Island and provide two more connections with I-90. SE 40th Street and Gallagher Hill Road also carry high traffic volumes in the north-central portion of the Island. In addition to arterial streets, the local street network provides access to private residences and properties. Public transit serves the Mercer Island Park and Ride and other locations on the Island.

Mercer Island has over 56 miles of trails, sidewalks and bicycle lanes for non-motorized travel. A regional trail runs across the north end of the Island along the I-90 corridor providing a convenient connection to Seattle and Bellevue for pedestrians and bicyclists.

Upcoming Changes

The Sound Transit East Link light rail line, scheduled for completion in 2023, will change how Mercer Island residents travel and live. A new light rail station at the Town Center will provide access to destinations in Seattle, Bellevue and other cities that are part of the Sound

Transit system. As part of this change, many of the buses from the east side of Lake Washington will terminate at Mercer Island and bus riders will transfer to light rail. The existing park and ride at North Mercer Way is frequently at or near capacity, and parking demand will increase with light rail. As part of the mitigation agreement with Sound Transit, additional parking for the light rail station will be added in the Town Center.

In sum, these regional changes will likely affect travel and land use development patterns, particularly for the north end of the Island. The changes will also provide new opportunities for the Island and will support the vision and development of the Town Center.

Land Use Assumptions – The Comprehensive Plan

Mercer Island's Comprehensive Plan, of which the Transportation Element is a part, must be internally consistent. This means that the various requirements in each element must not contradict one another. Of particular importance is the relationship between the Transportation Element and the Land Use Element.

The transportation forecasts used in this element are based on Mercer Island growth targets for housing and employment, regional traffic forecasts by the Puget Sound Regional Council, and local traffic counts. Within the 20-year planning period, the City’s growth target is 2,320 new housing units and

1,160 new jobs to be generated on the Island by 2035.

The Land Use Element defines Mercer Island's strategy for managing future growth and physical land development for the 20-year planning period. Proposed transportation improvements, policies and programs are consistent with the vision of the Land Use Element. The Land Use vision emphasizes continued reinvestment and redevelopment of the Town Center to create a mixed-use pedestrian-friendly and transit-oriented environment. Most of the forecasted housing units and jobs will be located in and around the downtown core. Outside of the Town Center, the lower density residential nature of the remainder of the Island will be maintained with low forecasted changes in household growth.

Town Center Plan

The 1994 Town Center Plan for Mercer Island was updated in 2016 through a cooperative effort of City staff, consultants and many citizens over a two-year long process. Specific goals and policies related to transportation and mobility are in the Land Use element.

The plan for a Sound Transit Link Light Rail station located on the I-90 corridor between 77th Avenue SE and 80th Avenue SE will continue to focus multimodal development and population growth within the Town Center area.

II. TRANSPORTATION GOALS AND POLICIES

The following transportation goals and policies have been developed to guide transportation decisions for Mercer Island. They have been crafted to be consistent with all other Comprehensive Plan elements, including most importantly, the Land Use Element. They also serve to further articulate and implement the City's vision for the future.

GOAL 1: Encourage the most efficient use of the transportation system through effective management of transportation demand and the transportation system.

- 1.1 Encourage measures to reduce vehicular trips using Transportation Demand Management strategies such as preferential parking for carpools/vanpools, alternative work hours, bicycle parking, and distribution of information and promotion of non-motorized travel, transit and ridesharing options.
- 1.2 Encourage businesses and residential areas to explore opportunities for shared parking and other parking management strategies.
- 1.3 Employ transportation system management (TSM) techniques to improve the efficient operation of the transportation system including, but not limited to: traffic through and turn

lanes, management of street parking, signals and other traffic control measures.

GOAL 2: Receive the maximum value and utility from the City's investments in the transportation system.

- 2.1 Place a high priority on maintaining the existing transportation facilities and the public rights of way.
- 2.2 Continue to prioritize expenditures in the transportation system recognizing the need to maintain existing transportation assets, meet adopted service level goals, and emphasize continued investments in non-motorized transportation facilities.
- 2.3 Pursue opportunities for private sector participation in the provision, operation and maintenance of the transportation system.
- 2.4 Coordinate street improvement projects with utilities, developers, neighborhoods, and other parties in order to minimize roadway disruptions and maintain pavement integrity.
- 2.5 Explore all available sources for transportation funding, including grants, impact fees and other local options as authorized by the state legislature.

2.6 Prioritize transportation investments in the Town Center that promote mixed-use and compact development and provide multi-modal access to regional transit facilities.

GOAL 3: Minimize negative transportation impacts on the environment.

- 3.1 Use sound design, construction and maintenance methods to minimize negative impacts related to water quality, noise, and neighborhood impacts.
- 3.2 Work with WSDOT and other agencies to minimize impacts on Island facilities and neighborhoods from traffic congestion on regional facilities, implementation of ramp metering, and provision of transit services and facilities.
- 3.3 Construct transportation improvements with sensitivity to existing trees and vegetation.

GOAL 4: Provide transportation choices for travelers through the provision of a complete range of transportation facilities, and services.

- 4.1 Work with King County Metro, Sound Transit and other providers to ensure adequate transit services to meet the needs of the Island, including:
 - maintain existing and encourage new public transit service on the Island;
 - maintain convenient transit connections to regional

activity centers, including the Seattle CBD, Bellevue, University of Washington and other centers;

- provide convenient transit service for travel on Mercer Island and enhance connections to regional transit stations including the proposed Link light rail station; and
- continue to expand innovative transit services including demand responsive transit for the general public, subscription bus, or custom bus services.

4.2 Provide for and encourage non-motorized travel modes consistent with the Parks and Recreation Plan and Pedestrian and Bicycle Facilities Plan.

- 4.3 Support opportunities to facilitate transfers between different travel modes through strategies such as:
- providing small park and ride facilities throughout the Island; and
 - improving pedestrian access to transit with on and off road pedestrian improvements.

4.4 Investigate opportunities for operating, constructing and/or financing park and ride lots for Mercer Island residents only.

4.5 Encourage site and building design that promotes pedestrian activity, ridesharing opportunities, and the use of transit.

- 4.6 Promote the development of pedestrian linkages between public and private development and transit in the Town Center District.
- 4.7 Promote the mobility of people and goods through a multi-modal transportation system consistent with the Pedestrian and Bicycle Facilities Plan.

GOAL 5: Comply with local, regional, state and federal requirements related to transportation.

- 5.1 Comply with the requirements of the federal and state Clean Air Acts, and work with other jurisdictions in the Puget Sound region to achieve conformance with the State Implementation Plan.
- 5.2 Meet the requirements of the Americans with Disabilities Act (ADA) and apply these standards to development of the transportation system.
- 5.3 Comply with the Commute Trip Reduction requirements through the continued implementation of a CTR plan.
- 5.4 Assist regional agencies in the revisions and implementation of the Transportation 2040 (PSRC), WSDOT Highway System Plan, and the Washington Transportation Plan 2030 and subsequent versions of these documents.
- 5.5 Work with the participants of the Eastside Transportation

Partnership (ETP) to coordinate transportation planning for the Eastside subarea.

- 5.6 Comply with state initiatives and directives related to climate change and greenhouse gas reduction. Identify implementable actions that improve air quality, reduce air pollutants and promote clean transportation technologies.

GOAL 6: Ensure coordination between transportation and land use decisions and development.

- 6.1 Ensure compatibility between transportation facilities and services and adjacent land uses, evaluating aspects such as:
 - potential impacts of transportation on adjacent land use;
 - potential impacts of land development and activities on transportation facilities and services; and
 - need for buffering and/or landscaping alongside transportation facilities.
- 6.2 Develop strategies to manage property access along arterial streets in order to preserve their function.
- 6.3 In the project development review process, evaluate transportation implications including:
 - congestion and level of service;
 - connectivity of transportation facilities and

- services from a system perspective;
 - transit needs for travelers and for transit operators; and
 - non-motorized facilities and needs.
 - 6.4 Ensure that transportation improvements, strategies and actions needed to serve new developments shall be in place at the time new development occurs or be financially committed and scheduled for completion within six years.
 - 6.5 As part of a project’s SEPA review, review the project’s impact on transportation and require mitigation of on-site and off-site transportation impacts. The City shall mitigate cumulative impacts of SEPA-exempt projects through implementation of the Transportation Improvement Program.
 - 6.6 Develop standards and procedures for measuring the transportation impact of a proposed development and for mitigating impacts.
 - 6.7 Participate in the review of development and transportation plans outside the City boundaries that may have an impact on the Island and its transportation system, and consider the effect of the City’s transportation plans on other jurisdictions.
 - 6.8 Encourage transit, bicycle and pedestrian principles in the design of projects including:
 - locating structures on the site in order to facilitate transit and non-motorized travel modes;
 - placing and managing on-site parking to encourage travel by modes other than single occupant vehicles;
 - provision of convenient and attractive facilities for pedestrians and bicyclists; and
 - provision of public easements for access and linkages to pedestrian, bicycle and transit facilities.
 - 6.9 Require adequate parking and other automobile facilities to meet anticipated demand generated by new development.
- GOAL 7: Provide a safe, convenient and reliable transportation system for Mercer Island.**
- 7.1 Include in the City’s roadway design standards, requirements for facilities to safely accommodate travel by all travel modes.
 - 7.2 Provide a safe transportation system through maintenance and upkeep of transportation facilities.
 - 7.3 Monitor the condition and performance of the transportation system to compare growth projections with actual conditions, assess the adequacy of transportation

- facilities and services, and to identify locations where improvements may become necessary.
- 7.4 Monitor traffic accidents, citizen input/complaints, traffic violations, and traffic volumes to identify and prioritize locations for safety improvements.
- 7.5 Where a need is demonstrated, consider signage, traffic controls, or other strategies to improve the safety of pedestrian crossings.
- 7.6 Verify the policies, criteria and a process to determine when, and under what conditions, private roads and privately maintained roads in the public right of way should be accepted for public maintenance and improvement.
- 7.7 Coordinate with local and regional emergency services to develop priority transportation corridors and develop coordinated strategies to protect and recover from disaster.
- GOAL 8: Preserve adequate levels of accessibility between Mercer Island and the rest of the region.**
- 8.1 Continue to recognize I-90 as a highway of statewide significance.
- 8.2 Work with King County Metro and Sound Transit to ensure mobility and adequate levels of transit service linking Mercer Island to the rest of the region.
- 8.3 Work with WSDOT, King County Metro, and Sound Transit to ensure the provision of adequate Park and Ride capacity for Island residents.
- 8.4 Maintain an effective role in regional transportation planning, decision-making and implementation of transportation system improvements.
- GOAL 9: Balance the maintenance of quality Island neighborhoods with the needs of the Island's transportation system.**
- 9.1 Strive to the extent possible to minimize traffic impacts to neighborhoods and foster a "pedestrian-friendly" environment.
- 9.2 Address parking overflow impacts on neighborhoods caused by major traffic generators such as schools, businesses, parks, and multifamily developments.
- 9.3 Provide facilities for pedestrians and bicyclists designed in keeping with individual neighborhood characteristics.
- 9.4 Work with King County Metro to provide public transit vehicles and services that are more in scale with the City's neighborhoods and its local road network.
- 9.5 Maintain comprehensive street design guidelines and standards that determine the appropriate

function, capacity, and improvement needs for each street/roadway, while minimizing construction and neighborhood impacts.

how it might be adjusted to meet land use objectives.

GOAL 10: Maintain acceptable levels of service for transportation facilities and services on Mercer Island.

- 10.1 The City of Mercer Island Level of Service (LOS) at arterial street intersections shall be a minimum of “C” within and adjacent to the Town Center and “D” for all other intersections.
- 10.2 Use the level of service standard to evaluate the performance of the transportation system and guide future system improvements and funding. Emphasize projects and programs that focus on the movement of people and provide alternatives to driving alone.
- 10.3 Implement the following strategy when vehicle capacity or funding is insufficient to maintain the LOS standard: (1) seek additional funding for capacity improvements, (2) explore alternative, lower-cost methods to meet level-of-service standards (e.g., transportation demand management program, bicycle corridor development or other strategies), (3) reduce the types or size of development, (4) restrict development approval, and (5) reevaluate the level of service standard to determine

- 10.4 Ensure that the City’s level of service policies are linked to the land use vision and comply with concurrency requirements.
- 10.5 Revise the Transportation Element if the Land Use and/or Capital Facilities Element of the Comprehensive Plan are changed to maintain a balanced and consistent plan.

GOAL 11: Ensure parking standards support the land use policies of the Comprehensive Plan.

- 11.1 Continue to implement flexible parking requirements for Town Center development based on the type and intensity of the proposed development; site characteristics; likelihood for parking impacts to adjacent uses; opportunities for transit, carpooling and shared parking; and potential for enhancements to the pedestrian environment.
- 11.2 Maintain the current minimum parking requirements of three off-street spaces for single family residences, but may consider future code amendments that allow for the reduction of one of the spaces provided that the quality of the environment and the single family neighborhood is maintained.
- 11.3 Support business development in the downtown area by prioritizing on-street parking spaces in the Town Center for short-term parking, and

encourage the development of off-street shared parking facilities for long-term parking in the Town Center.

GOAL 12: Promote bicycle and pedestrian networks that safely access and link commercial areas, residential areas, schools, and parks within the City.

- 12.1 Maximize the safety and functionality of the bicycle system by enhancing road shoulders, which are to be distinguished from designated bicycle lanes.
- 12.2 Implement the Pedestrian and Bicycle Facilities Plan to meet existing and anticipated needs for non-motorized transportation. This Plan should be coordinated with other transportation planning efforts and periodically updated.
- 12.3 Study opportunities for use of innovative methods for pedestrians crossing streets, including use of colored and textured pavements within the City.

III. TRANSPORTATION SYSTEM – EXISTING CONDITIONS

This section describes and inventories the current travel patterns and transportation system serving Mercer Island, including land, water and air transportation. Major transportation modes serving Mercer Island include automobiles, non-motorized modes such as walking and biking, and public and school transit.

Travel Patterns - How Mercer Islanders Move About

Mercer Island has relatively high levels of vehicle ownership and personal mobility. Approximately 70 percent of the households on Mercer Island have two or more vehicles, while less than five percent of households have no vehicle at all. Comparing the 2016 American Community Survey (US Census) data with the 2000 US Census data, a number of changes are observed.

The percent of Mercer Island residents who commute to work by driving alone has dropped from 76 percent to 72 percent, those who take a bus or carpool to work decreased from 17 percent to 14 percent, and those who work at home increased from 7 percent to 10 percent. The average travel time to work for Mercer Island residents is 25 minutes, which is below the regional average of 32 minutes.

A November 2013 WSDOT *Mercer Island Travel Survey* found that 55 percent of commute trips originating on the Island traveled west towards Seattle and 45 percent traveled east towards Bellevue.

Roadway Network

Mercer Island has over 75 miles of public roads. Interstate 90 (I-90) runs east-west across the northern end of Mercer Island, providing the only road and transit connection to the rest of the Puget Sound region. Access to the I-90 on-ramps and off-ramps is provided at West Mercer Way, 76th Avenue SE, 77th Avenue SE, 80th Avenue SE, Island Crest Way, and East Mercer Way.

Most of the road network is comprised of 2-lane local streets serving the Island's residential areas. Arterial roadways comprise approximately 25 miles, or one third, of the system. In addition to public roads, there are numerous private roads serving individual neighborhoods and developments on the Island.

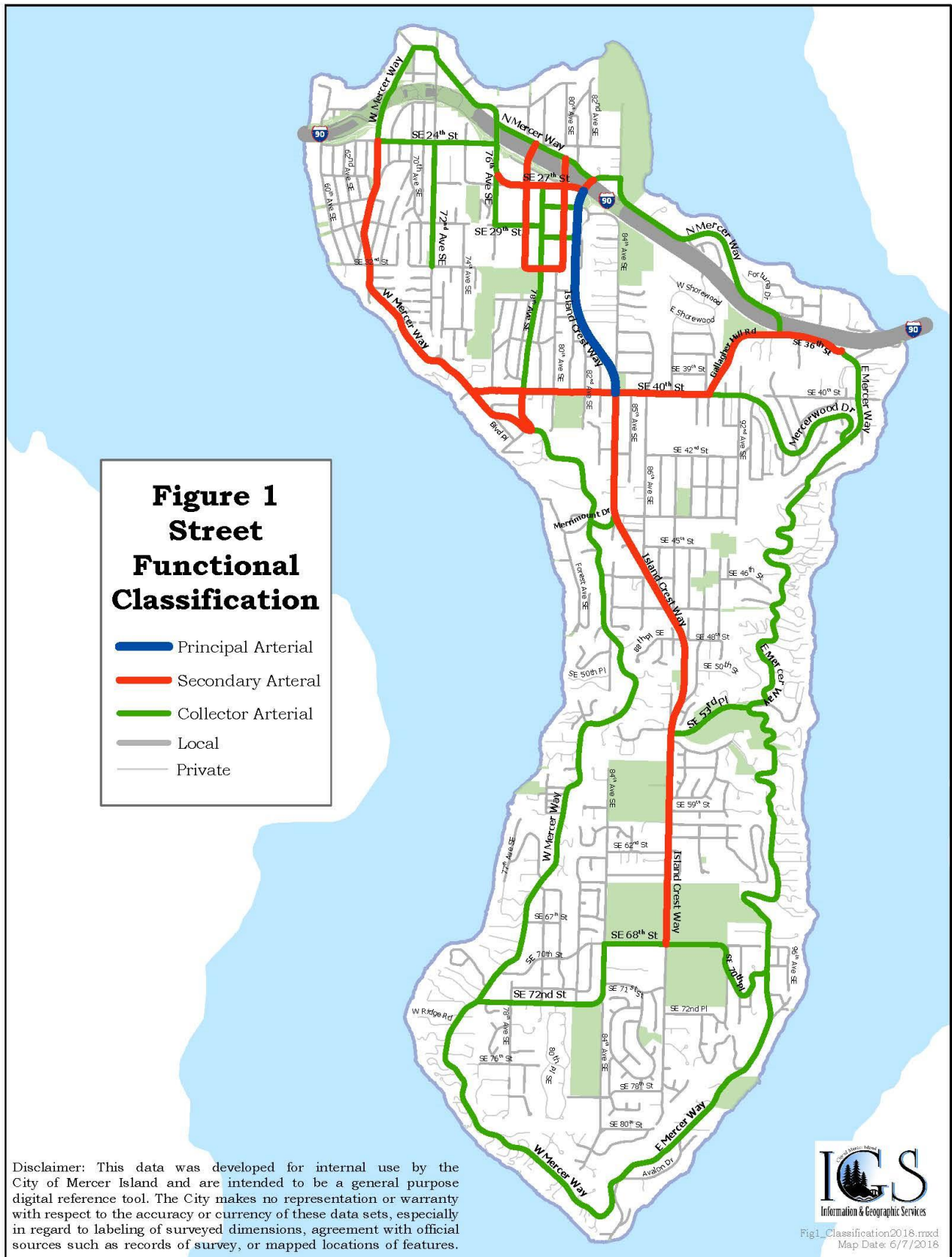
Roadways on the Island are classified into different categories according to their purpose and physical characteristics. The categories are:

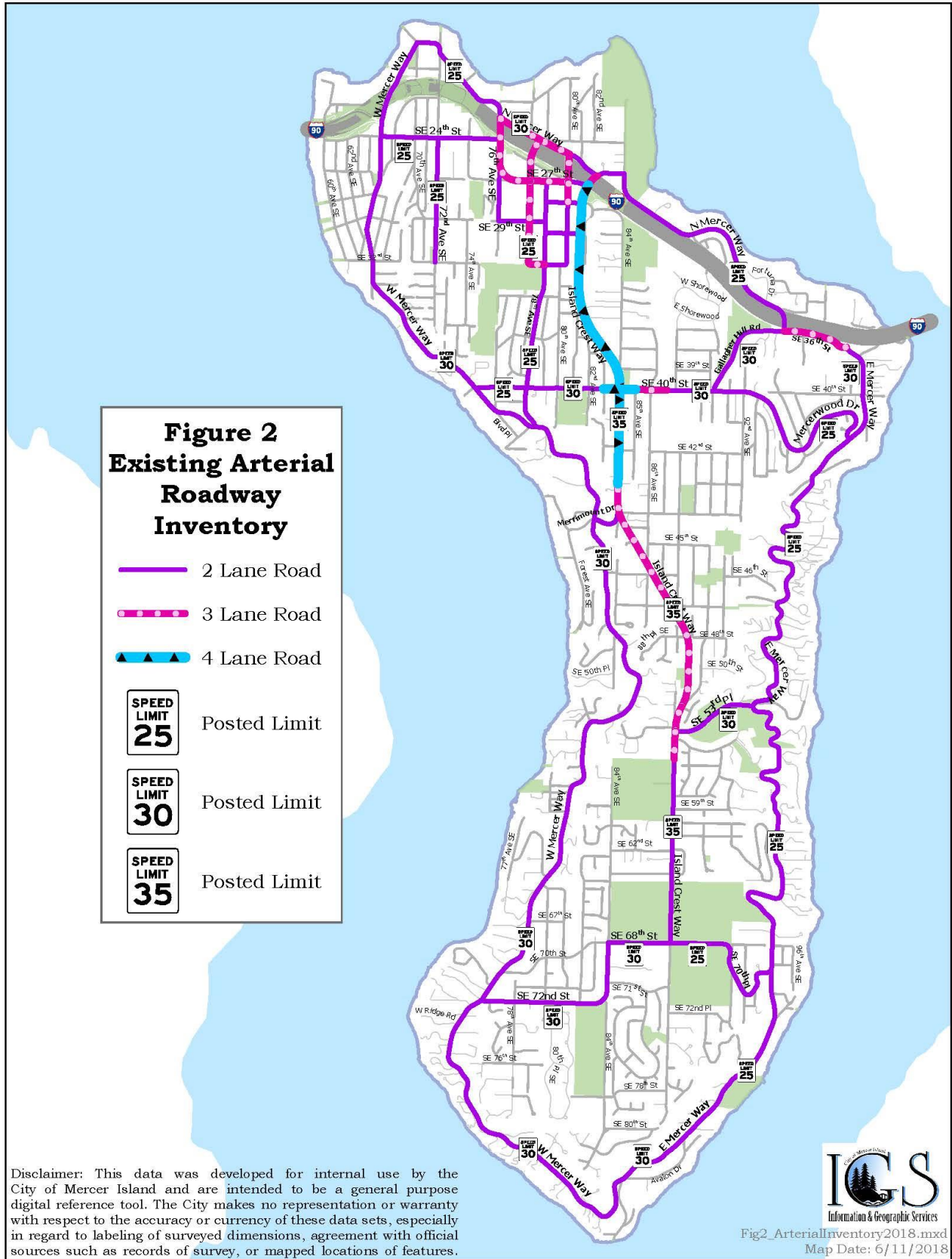
- *Principal Arterials* carry the highest volumes of traffic and provide the best mobility in the roadway network. These roads generally have higher speed limits, higher traffic volumes, and limit access to adjacent land uses.
- *Secondary Arterials* connect with and augment principal arterials and generally have a higher degree of access to adjacent land, lower traffic volumes and lower travel speeds.

- *Collector Arterials* provide for movement within neighborhoods, connecting to secondary and principal arterials; and typically have low traffic volumes and carry little through traffic.
- *Local Streets* provide for direct access to abutting properties and carry low volumes of traffic at low travel speeds. Local streets are usually not intended for through traffic.

Individual streets are assigned classifications based on several criteria, including the type of travel to be served, the role of the street in the overall street network and transportation system, physical characteristics, traffic characteristics, and adjacent land uses. Based on City Staff recommendations, the City Council periodically reviews and updates the street classification system, its criteria and specific street classification designations.

Figure 1 shows the street functional classifications. **Figure 2** shows the number of travel lanes and posted speed limits of arterial roadways.





Level of Service Standard

Level of Service (LOS) is a measurement of the quality of traffic flow and congestion at intersections and roadways. LOS is defined by the amount of delay experienced by vehicles traveling through an intersection or on a roadway. LOS is based on an A-F scale with LOS A representing little or no delay and LOS F representing very long delays.

Under the Growth Management Act, each local jurisdiction is required to establish a minimum threshold of performance for its arterial roadways. Cities use this standard to identify specific actions to maintain the adopted LOS standard. The City of Mercer Island has established its Level of Service standard at intersections of two arterial streets as LOS C within and adjacent to the Town Center and LOS D elsewhere. This standard applies to the operation during either the AM or PM peak periods. The intersection of SE 53rd Place/Island Crest Way, which does not have sufficient volume to warrant a signal, will be exempt from the LOS D standard until traffic volumes increase and signal warrants are met.

To be consistent with the WSDOT standard for I-90 and its ramp intersections, the city will accept LOS D at those intersections. I-90 is designated as a Highway of Statewide Significance under RCW 47.06.140.

Traffic Operations

For transportation planning purposes, traffic operations are typically analyzed during the busiest hour of the street system, when traffic volumes are at peak levels. On Mercer Island, the peak hour of traffic operations typically corresponds with the afternoon commute, which falls between 4:00 and 6:00 in the afternoon (PM peak hour). Traffic counts were collected and analyzed at 39 intersections throughout the Island.

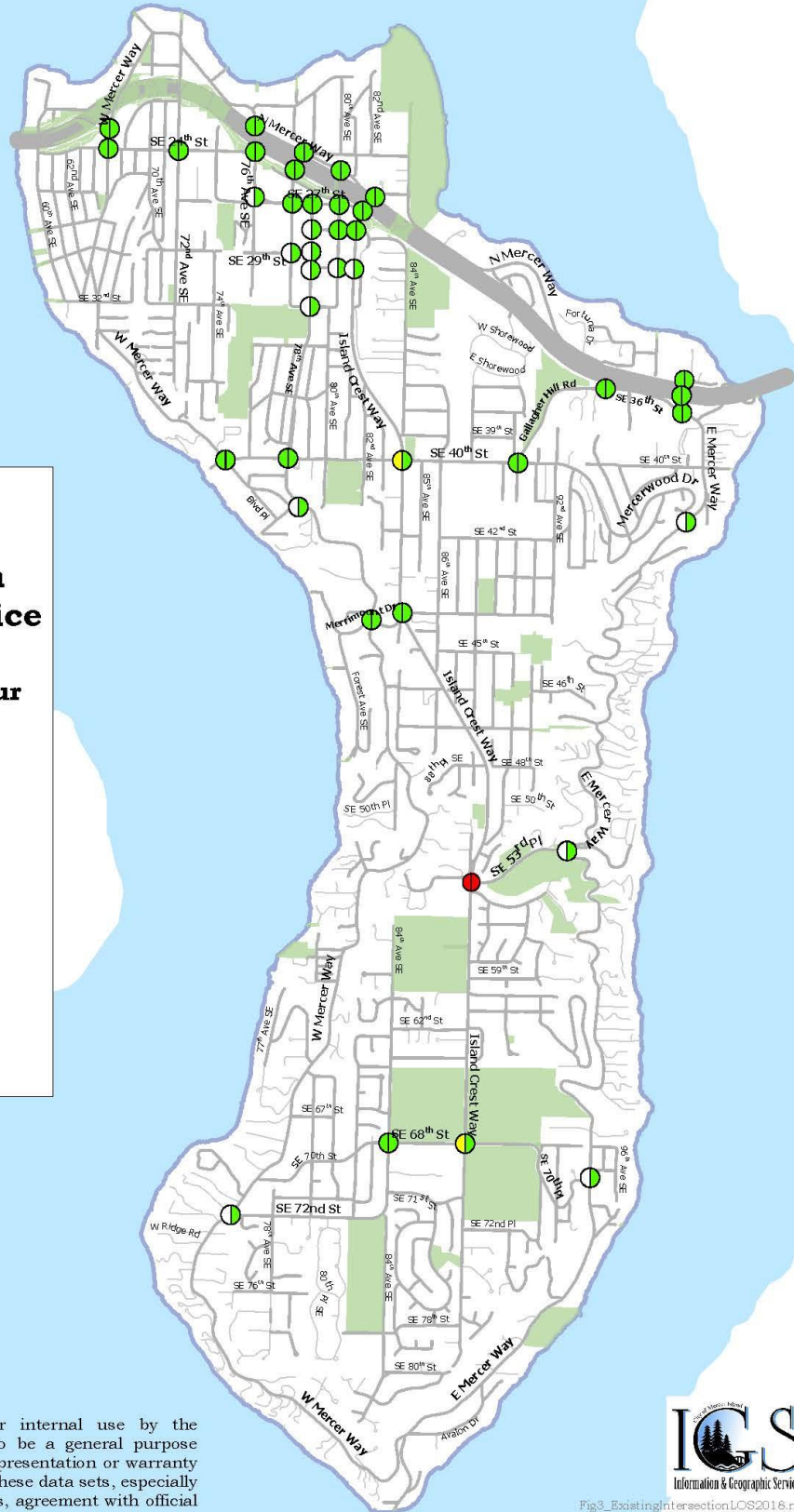
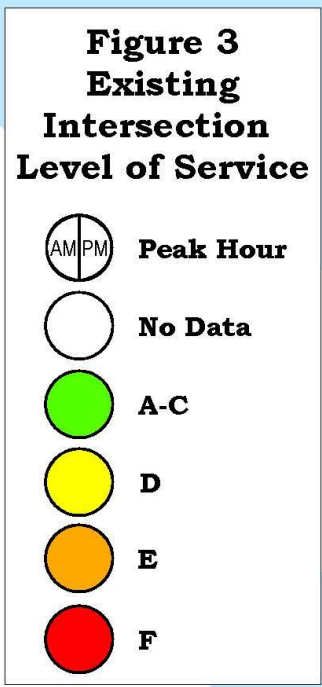
Select intersections for the AM peak hour were counted and analyzed to provide an understanding of the transportation system during the morning commute, which typically peaks between 7:30 AM and 8:30 AM.

Table 1 and **Figure 3** show the AM and PM peak hour operations for each of the study intersections. Outside of the Town Center, the analysis shows that during the AM and PM peak hour, all intersections operate at LOS D or better for existing conditions, except the intersection of SE 53rd Place/Island Crest Way operates at LOS F during the morning and afternoon peak hours.

Within the Town Center, where the LOS C standard applies, all intersections operate within this standard during the morning and afternoon peak hours.

Table 1. 2018 Existing Intersection Operations

Intersection	AM Peak Hour	PM Peak Hour
Town Center Intersections (LOS C Standard)		
SE 24th St/76th Ave SE	B	B
N Mercer Way/77th Ave SE	A	A
N Mercer Way/Park & Ride/80th Ave SE	C	C
SE 27th St/76th Ave SE	--	A
SE 27th St/77th Ave SE	B	B
SE 27th St/78th Ave SE	A	B
SE 27th St/80th Ave SE	B	C
SE 28th St/78th Ave SE	--	A
SE 28th St/80th Ave SE	B	B
SE 28th St/Island Crest Way	B	B
SE 29th St/77th Ave SE	--	B
SE 29th St/78th Ave SE	--	B
SE 30th St/78th Ave SE	--	B
SE 30th St/80th Ave SE	--	A
SE 30th St/Island Crest Way	--	B
SE 32nd St/78th Ave SE	--	B
WSDOT Intersections (LOS D Standard)		
I-90 EB off-ramp/I-90 WB on-ramp/W Mercer Way	B	B
I-90 WB on-ramp/N Mercer Way/76th Ave SE	A	A
I-90 EB off-ramp/77th Ave SE	B	B
I-90 WB off-ramp/N Mercer Way/Island Crest Way	D	C
I-90 EB on-ramp/SE 27th St/Island Crest Way	B	B
I-90 WB ramps/100th Ave SE	B	A
I-90 EB off-ramp/100th Ave SE/E Mercer Way	B	B
I-90 EB on-ramp/SE 36th St/E Mercer Way	B	B
Outside of Town Center Intersections (LOS D Standard)		
SE 24th St/W Mercer Way	B	B
SE 24th St/72nd Ave SE	A	B
SE 36th St/N Mercer Way	C	C
SE 40th St/W Mercer Way	B	A
SE 40th St/78th Ave SE	A	B
SE 40th St/Island Crest Way	D	C
SE 40th St/SE Gallagher Hill Rd	C	B
Mercerwood Dr/E Mercer Way	--	A
W Mercer Way/78th Ave SE	--	B
Merrimount Dr/W Mercer Way	B	B
Merrimount Dr/Island Crest Way	C	C
SE 53rd Place/Island Crest Way	F	F
SE 53rd Place/E Mercer Way	--	A
SE 68th St/84th Ave SE	C	B
SE 68th St/Island Crest Way	D	C
SE 68th St/E Mercer Way	--	A
SE 72nd St/W Mercer Way ^[JD1]	--	A



Disclaimer: This data was developed for internal use by the City of Mercer Island and are intended to be a general purpose digital reference tool. The City makes no representation or warranty with respect to the accuracy or currency of these data sets, especially in regard to labeling of surveyed dimensions, agreement with official sources such as records of survey, or mapped locations of features.



Fig3_ExistingIntersectionLOS2018.mxd
Map Date: 6/11/2018

Parking

Most parking in the City is provided by off-street parking lots, along residential access streets, or by on-street spaces in select areas of the Town Center.

In 2001, the City implemented a permit parking program for on-street parking in the Town Center in response to overflow conditions at the Mercer Island Park and Ride lot. This program preserves selected public on-street parking spaces for Mercer Island resident use, between the hours of 7:00 AM and 9:00 AM, Monday through Friday. All Mercer Island residents are eligible for a Town Center District permit which will allow them to park on Town Center streets during the specified hours.

An additional permit parking program was developed for residential streets north of the park and ride lot on North Mercer Way. This program only allows residents of the area to park on City streets between 7:00 AM and 4:00 PM, weekdays.

Bicycle and Pedestrian Facilities

Bicycle and pedestrian facilities are a valuable asset for the residents of Mercer Island. These facilities are used for basic transportation, recreation, going to and from schools, and the facilities contribute to our community's quality of life. In 1996, the City developed a *Pedestrian and Bicycle Facilities Plan* to provide a network of

bicycle and pedestrian facilities. The plan focused on encouraging non-motorized travel and improving the safety of routes near the Island's elementary schools. Of the 47 projects identified in the plan, 38 of the projects were either fully or partially completed during the first 12 years of the plan.

A 2010 update to the plan included vision and guiding principles, goals and policies, an existing and future network, a list of completed projects, revised facility design standards, and a prioritized list of projects. The plan emphasizes further development of safe routes to schools, completion of missing connections, and application of design guidelines.

A regional trail runs across the north end of the Island along the I-90 corridor providing a convenient connection to Seattle and Bellevue for pedestrians and bicyclists. The majority of streets in the Town Center include sidewalks. In addition, there are sidewalks near schools and select streets. Throughout the Island there are paved and unpaved shoulders and multiuse trails that provide for pedestrian mobility.

The bicycle network is made up of designated bicycle facilities including bicycle lanes and sharrows, and shared non-motorized facilities including shared use pathways, off-road trails, and paved shoulder areas. **Figure 4** shows the pedestrian and bicycle facilities on the Island's arterial network as identified by the Pedestrian and Bicycle Facilities Plan.



Public Transportation

The King County Department of Metropolitan Services (Metro) and the regional transit agency Sound Transit provide public transportation services for Mercer Island and throughout King County. There are four major types of service offered on the Island: local fixed route service, regional express service, custom bus service, and Access service.

Local fixed route service operates on the arterial roadway system, and provides public transit service for most of the Island, connecting residential and activity areas.

Regional Express service, which also operates on fixed routes, is oriented toward peak hour commuter trips between the Mercer Island Park and Ride and major employment and activity centers off the Island. Sound Transit and Metro provide express service west and east along I-90 into Seattle and Bellevue.

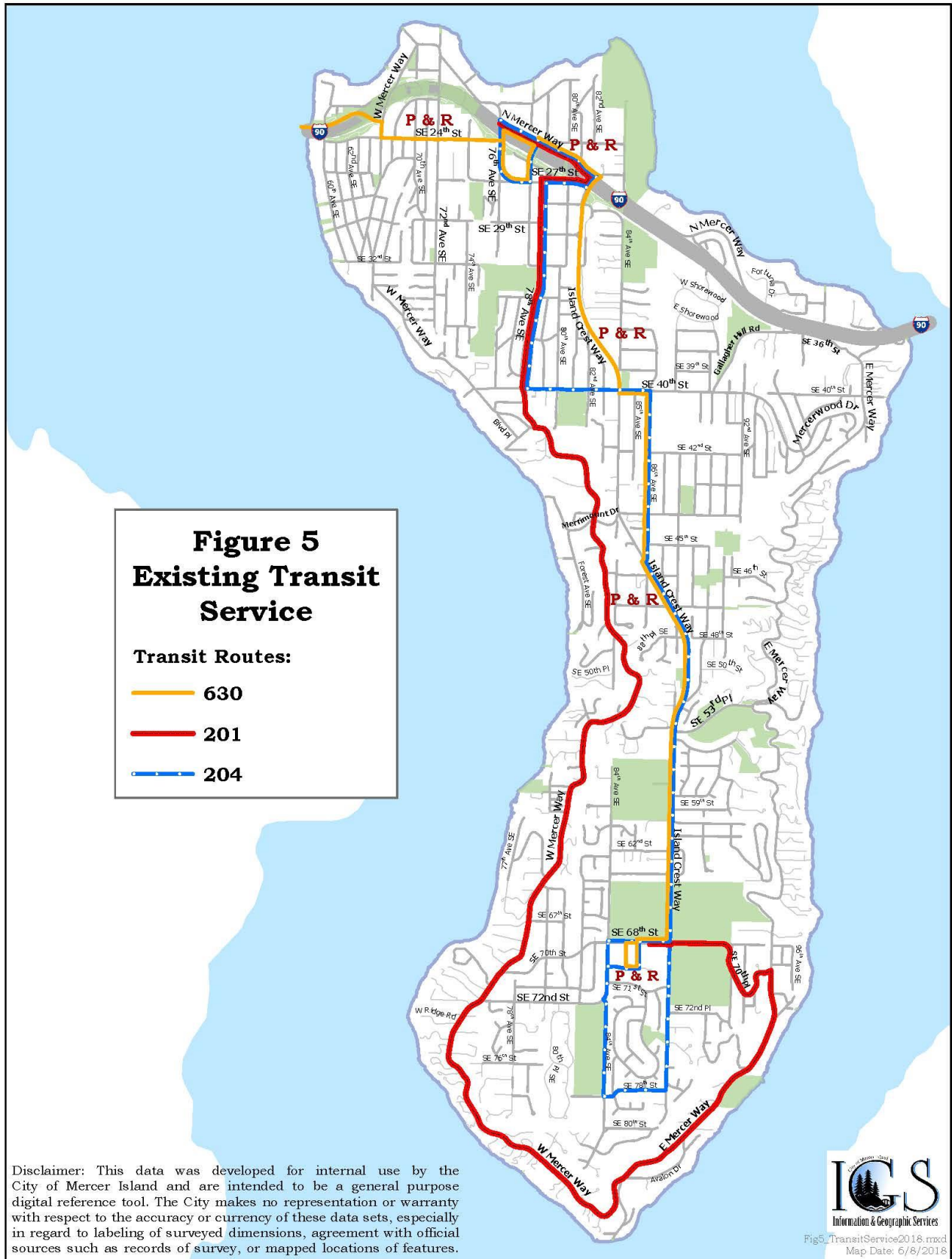
Custom bus service includes specially designed routes to serve specific travel markets, such as major employers, private schools, or other special destinations. These services are typically provided during peak commute hours, and operate on fixed routes with limited stops. Custom bus service is currently provided between the Mercer Island Park and Ride and Lakeside School and University Prep in Seattle.

Access Service provides door-to-door transportation to elderly and special needs populations who have limited ability to use public transit. Access covers trips within the King County Metro transit service area.

Figure 5 shows the current transit routes serving the Island. On Mercer Island, there are three routes that circulate throughout the city (Metro routes 201, 204 and 630). At the Mercer Island Park and Ride, Sound Transit routes 550 and 554 connect Mercer Island to Seattle, Bellevue, and Issaquah; and Metro route 216 provides service to Redmond and Seattle.

Route 201 serves the western portion of Mercer Island providing service from the Mercer Island Park and Ride lot, along 78th Avenue SE, West Mercer Way, East Mercer Way, SE 70th Place, and SE 68th Street to the Mercer Village Center. This route operates on weekdays and has two morning and one afternoon trips.

Route 204 provides service between the Mercer Island Park and Ride lot and the Mercer Village Center. This route travels on 78th Avenue SE, SE 40th Street, 86th Avenue SE, Island Crest Way, and SE 68th Street to the Mercer Village Center. The route operates every 30-60 minutes from approximately 6:00 AM to 7:00 PM on weekdays.



Route 630 is a community shuttle which provides service between downtown Seattle and the Mercer Village Center. It provides five trips toward downtown Seattle in the morning and five trips toward Mercer Village in the evening.

Park and Ride

The Mercer Island Park and Ride is located north of I-90 on N Mercer Way near Mercer Island’s Town Center. The Park and Ride has 447 spaces and is served by Metro and Sound Transit buses.

According to the *Fourth Quarter 2017 Park and Ride Utilization Report* prepared by King County, the Mercer Island lot is typically fully occupied during weekdays. A number of the users of this lot do not reside on the Island.

Congregational Church of Mercer Island and at the Mercer Village Center. These lots are described in Table 2. Together, they provide an additional 81 parking spaces for use by Island residents.

School Transportation

The Mercer Island School District (MISD) provides bus transportation for public kindergarten through 12th grade students on Mercer Island. The MISD operates approximately 40 scheduled bus routes during the morning and afternoon. In addition, the District provides free Orca cards to high school students who live more than one mile from Mercer Island High School and do not have either a parking pass or are not assigned to a district bus.

Table 2: Mercer Island Park and Ride Locations and Capacities

Lot	Location	Capacity	Cars Parked	% Spaces Occupied
Mercer Island Park and Ride	8000 N Mercer Way	447	447	100%
Mercer Island Presbyterian Church	3605 84th Ave SE	14	13	93%
United Methodist Church	70th Ave SE & SE 24th St.	18	17	96%
Mercer Village Center	84th Ave SE & SE 68th St.	21	7	32%
Congregational Church of Mercer Island	4545 Island Crest Way	28	3	11%

Source: Metro Transit P&R Utilization Report Fourth Quarter 2017.

To supplement park and ride capacity on the Island, Metro has leased four private parking lots for use as park and ride lots, located at the Mercer Island Presbyterian Church, Mercer Island United Methodist Church,

Rail Services & Facilities

There are no railroad lines or facilities on Mercer Island. In the region, the Burlington Northern Railroad and Union Pacific Railroad companies provide freight rail service between Seattle, Tacoma, Everett, and other areas of Puget Sound, connecting with intrastate, interstate and international rail lines. Amtrak provides scheduled interstate passenger rail service from Seattle to California and Chicago. Major centers in Washington served by these interstate passenger rail routes include Tacoma, Olympia, Vancouver, Everett, Wenatchee, and Spokane.

Air Transportation

Mercer Island does not have any air transportation facilities or services. Scheduled and chartered passenger and freight air services are provided at Seattle-Tacoma International Airport in SeaTac, and at the King County International Airport in south Seattle.

Water Transportation

Mercer Island does not have any public water transportation services. The City's public boat launch is on the east side of the Island, off of East Mercer Way, under the East Channel Bridge.

IV. TRANSPORTATION SYSTEM – FUTURE NEEDS

This section describes the future transportation conditions and analysis used to identify future transportation needs and improvements.

Future Travel Demand

The future traffic volumes were forecast for the year 2035 based on the City's land use and zoning, as well as the housing and employment growth targets, as identified in the King County Buildable Lands (2014) report. More than 70 percent of new households and 76 percent of new jobs are forecasted to occur within the Town Center.

The analysis assumes the opening of the East Link light rail line in 2023, which will result in an additional travel option between the Town Center and regional destinations.

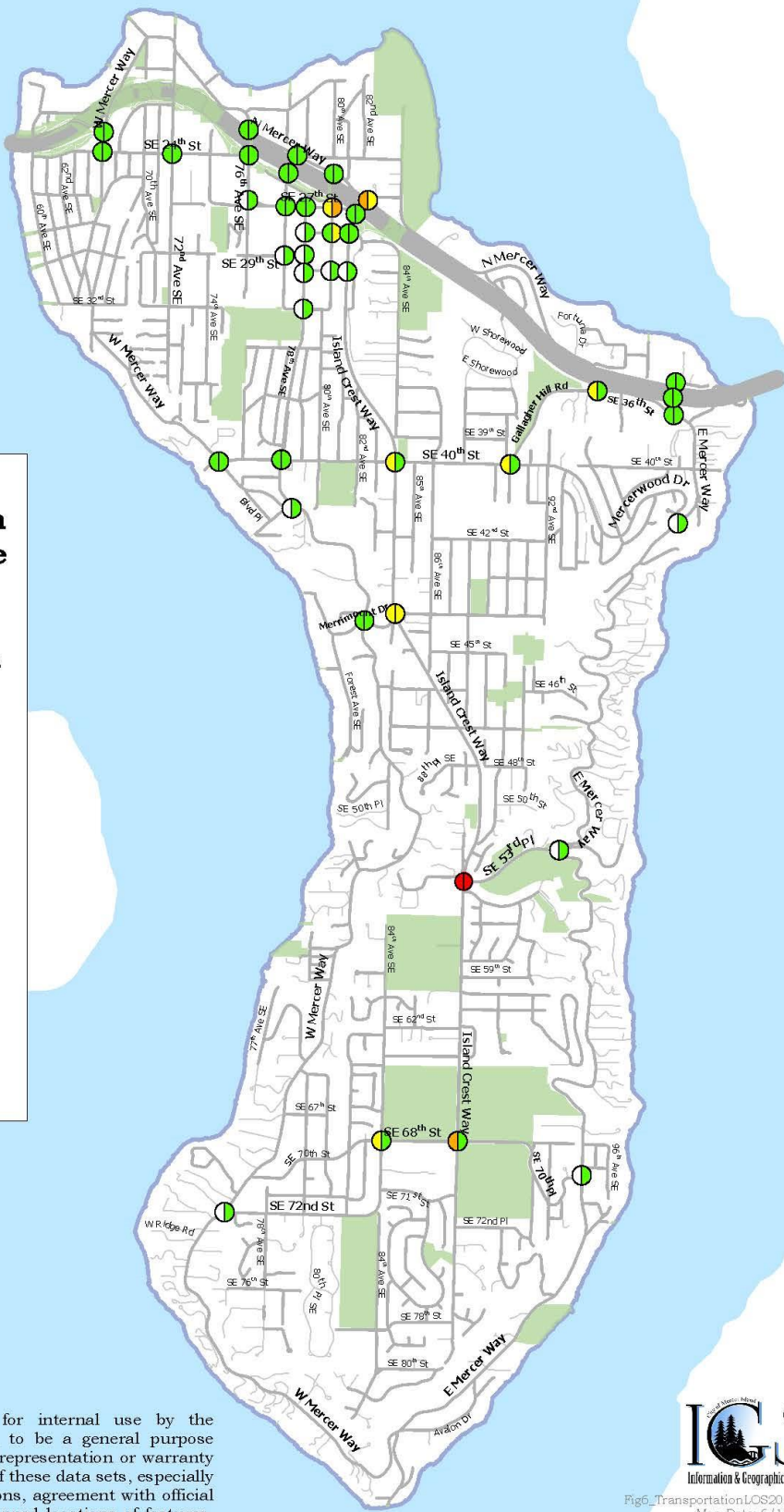
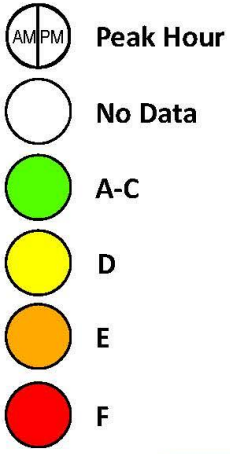
Town Center traffic growth reflects the higher potential for pedestrian and transit trips. Overall, the traffic growth in the Town Center is forecast to increase by an average of 28 percent between 2018-2035, an annual growth rate of 1.5 percent. For areas outside the Town Center, traffic growth is expected to be lower with approximately 10 percent growth between 2018-2035, an annual growth rate of 0.5 percent. The resulting forecasted traffic volumes directly reflect the anticipated land use, housing, and employment growth assumptions for the Island.

Traffic Operations Without Improvements

The 2035 traffic analysis uses the forecasted growth in traffic and planned changes to the regional transportation system (light rail station and associated I-90 projects). **Figure 6** shows the future traffic operations at the study intersections without any changes to roadway capacity on Mercer Island.

Results of the 2035 traffic operations analysis show that five intersections would operate below the LOS standards by 2035 if improvements are not made to the intersections. In the Town Center, the two intersections of SE 27th Street/80th Avenue SE and SE 28th Street/80th Avenue SE, would operate at LOS D or worse during either the AM or PM peak hours, without improvements. Outside of the Town Center, the intersections of SE 53rd Place/Island Crest Way and SE 68th Street/Island Crest Way would operate below the LOS D standard during either the AM or PM peak hours. The WSDOT-controlled intersection at the I-90 westbound off-ramp/N Mercer Way/Island Crest Way intersection would operate at LOS E during 2035 AM peak hour. The City will work with the WSDOT to explore improvements at this intersection.

**Figure 6
Transportation
Level of Service
2035
Without
Improvements**



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Fig6_Transportation LOS2035.mxd
Map Date: 6/13/2018

Recommended Improvements

In addition to the projects identified in the City's 2019-2024 TIP, a future transportation needs analysis recommended additional projects based on the long-range mobility and safety needs through 2035. These include select projects from the City's Pedestrian and Bicycle Facilities Plan. **Figure 7** shows the locations of the recommended improvement projects. **Table 3** provides a map identification, describes the location and details for each of the projects, and estimates a project cost. The table is divided into two main categories of project types:

Non-Motorized Projects – The listed projects include new crosswalk improvements and pedestrian and bicycle facilities. These projects are identified projects from the City's Pedestrian and Bicycle Facilities Plan that connect residential areas to schools, parks, regional transit and other destinations.

Intersection/Road Projects – Roadway projects are those that increase the capacity and safety of an intersection or roadway segment. The projects include the maintenance of existing roadway segments to ensure that the City's current street system is maintained.

The recommended improvements identify a total of \$_ million dollars of transportation improvements over the next 20 years. About _ percent (\$_ million) of the total is for street preservation and resurfacing projects to maintain the existing street system. Another _ percent (\$_ million) is for non-motorized system improvements.

About __ percent (\$_ million) is for traffic operational improvements at intersections that maintain LOS operations.

Traffic Operations With Recommended Improvements

With the recommended improvements, the intersection operations will meet the City's LOS standard for intersection operation and the transportation system will provide a better network for pedestrian and bicycle travel, allowing greater mobility for Island residents. In addition, improvements to regional transportation facilities will accommodate growth in housing and employment, which will to be focused in the Town Center, where residents can be easily served by high capacity transit. **Table 4** compares the 2035 intersection study locations without and with the recommended improvements for each of the AM and PM study locations.

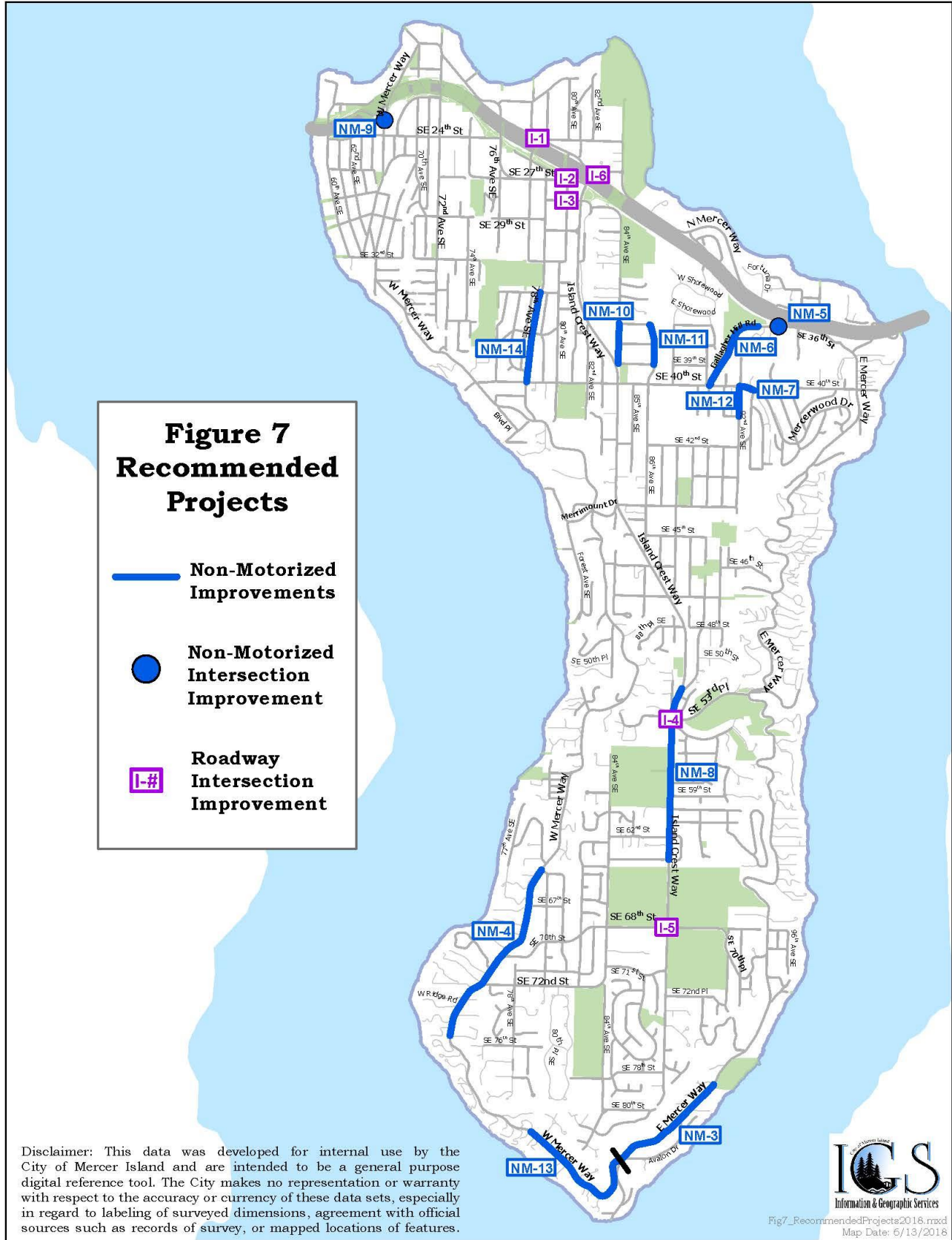


Table 3. Recommended Project List 2018-2035

ID	LOCATION	DESCRIPTION	JUSTIFICATION	COST (\$)
Non-Motorized Projects (NM)				
NM-1	Pedestrian and Bicycle Facilities Plan Implementation	Annual funding for non-motorized improvements.	2019-2024 TIP: Project D1	810,000 (\$45,000 per year)
NM-2	ADA Compliance Plan Implementation - Biennial	Design and construct improvements to meet ADA compliance standards.	2019-2024 TIP: Project D2	675,000 (\$75,000 every other year)
NM-3	East Mercer Way Roadside Shoulders (Clarke Beach to Avalon Drive)(+)	Add paved shoulders for non-motorized users.	2019-2024 TIP: Project D3.	483,000
NM-4	West Mercer Way Roadside Shoulders Phase 2 (SE 70th Street to 7400 Block) and Phase 3 (SE 65th Street to SE 70th Street)	Add a shoulder on the east side of West Mercer Way for non-motorized users.	2019-2024 TIP: Project D4	796,000
NM-5	Crosswalk Improvement at SE 36th Street and North Mercer Way Intersection	Add pedestrian crossing with refuge island, ADA improvements, and rectangular rapid flashing beacons (RRFBs).	2019-2024 TIP: Project D5	100,000
NM-6	Gallagher Hill Road Sidewalk Improvement	Construct concrete curb, gutter, and sidewalk along east side of street.	2019-2024 TIP: Project D6	540,000
NM-7	Mercerwood Drive between 92nd Avenue SE and 93rd Avenue SE	Safe routes to school pedestrian facility along south side of street.	2019-2024 TIP: Project D7	200,000
NM-8	Island Crest Way Bike Route between 90th Avenue SE and SE 63rd Street	Complete missing gap in north-south bike route.	East Link mitigation/ 2019-2024 TIP: Project E1 (design only \$300,000)	2,000,000
NM-9	I-90 Trail Crossing at West Mercer Way	Construct enhanced trail crossing.	East Link mitigation/ 2019-2024 TIP: Project E2	300,000
NM-10	84th Avenue SE Sidewalk between SE 33rd Street and SE 36th Street	Construct sidewalk.	Safe routes to school	350,000
NM-11	86th Avenue SE Sidewalk Phase 2 between SE 36th Street and SE 39th Street	Add sidewalk along east side of street	Safe routes to school	340,000
NM-12	92nd Avenue SE Sidewalk between SE 40th Street to SE 41st Street	Construct sidewalk along west side of street.	Safe routes to school	200,000
NM-13	West Mercer Way Roadside Shoulders (8100 block to Avalon Drive)	Add a paved shoulder (east side) for non-motorized users.	Pedestrian and Bicycle Facilities Plan: Project WMW8	TBD
NM-14	78th Avenue SE between SE 34th Street and SE 40th Street	Improve pedestrian and bicycle facilities to connect with Town Center.	Pedestrian and Bicycle Facilities Plan: Project N15 and N16	1,131,300
Intersection Projects (I) / Road Projects (R)				
I-1	77th Avenue SE/N Mercer Way	Roundabout or traffic signal.	East Link bus-rail integration/fails to meet LOS standard	Sound Transit Mitigation
I-2	SE 27th Street/80th Avenue SE	Traffic signal.	East Link mitigation/fails to meet LOS standard	Sound Transit Mitigation
I-3	SE 28th Street/80th Avenue SE	Traffic signal.	Fails to meet LOS standard	854,900
I-4	SE 53rd Place/Island Crest Way	Traffic signal.	Fails to meet LOS standard	602,700

ID	LOCATION	DESCRIPTION	JUSTIFICATION	COST (\$)
I-5	SE 68th Street/Island Crest Way	Traffic signal or roundabout.*	Fails to meet LOS standard	982,500
I-6	N Mercer Way/I-90 Westbound Off-Ramp/Island Crest Way	Add exclusive westbound left turn lane at I-90 off-ramp.	Fails to meet WSDOT LOS Standard	TBD
I-7	Light Rail Station Access Improvements and Mitigation for I-90 Center Roadway Closure	Vehicle and non-motorized improvements to enhance access to station and address issues related to I-90 center roadway closure.	Light rail station scheduled to open in 2023	TBD
R-1	Street Preservation/Maintenance	Resurfacing arterial and residential streets based on PCI rating.	2019-2024 TIP: Projects A1, B3, C1-C10	30,000,000
			Total 2018-2035 Projects	TBD

*Cost estimate reflects higher cost option of alternative actions.

Table 4. 2035 Intersection Operations – Without and With Recommended Improvements

Intersection	2035 AM Peak Hour		2035 PM Peak Hour	
	Without Improvements	With Recommended Improvements	Without Improvements	With Recommended Improvements
Town Center Intersections (LOS C Standard)				
SE 24th St/76th Ave SE	B	B	B	B
N Mercer Way/77th Ave SE	A	B	A	A
N Mercer Way/Park & Ride/80th Ave SE	C	C	C	C
SE 27th St/76th Ave SE	--	--	B	B
SE 27th St/77th Ave SE	B	B	C	C
SE 27th St/78th Ave SE	B	B	B	B
SE 27th St/80th Ave SE	D	B	E	B
SE 28th St/78th Ave SE	--	--	B	B
SE 28th St/80th Ave SE	B	B	D	B
SE 28th St/Island Crest Way	B	B	C	C
SE 29th St/77th Ave SE	--	--	B	B
SE 29th St/78th Ave SE	--	--	C	C
SE 30th St/78th Ave SE	--	--	C	C
SE 30th St/80th Ave SE	--	--	B	B
SE 30th St/Island Crest Way	--	--	B	B
SE 32nd St/78th Ave SE	--	--	C	C
WSDOT Intersections (LOS D Standard)				
I-90 EB off-ramp/I-90 WB on-ramp/W Mercer Way	B	B	B	B
I-90 WB on-ramp/N Mercer Way/76th Ave SE	B	B	A	A
I-90 EB off-ramp/77th Ave SE	B	B	B	B
I-90 WB off-ramp/N Mercer Way/Island Crest Way	E	C	D	C
I-90 EB on-ramp/SE 27th St/Island Crest Way	C	C	C	C
I-90 WB ramps/100th Ave SE	C	C	B	B
I-90 EB off-ramp/100th Ave SE/E Mercer Way	B	B	B	B
I-90 EB on-ramp/SE 36th St/E Mercer Way	B	B	B	B
Outside of Town Center Intersections (LOS D) Standard				
SE 24th St/W Mercer Way	B	B	C	C
SE 24th St/72nd Ave SE	B	B	B	B
SE 36th St/N Mercer Way	D	D	C	C
SE 40th St/W Mercer Way	B	B	B	B
SE 40th St/78th Ave SE	B	B	B	B
SE 40th St/Island Crest Way	D	D	C	C
SE 40th St/SE Gallagher Hill Rd	D	D	C	C
Mercerwood Dr/E Mercer Way	--	--	B	B
W Mercer Way/78th Ave SE	--	--	B	B
Merrimount Dr/W Mercer Way	C	C	C	C
Merrimount Dr/Island Crest Way	D	D	D	D
SE 53rd Place/Island Crest Way	F	B	F	B
SE 53rd Place/E Mercer Way	--	--	A	A
SE 68th St/84th Ave SE	D	D	B	B
SE 68th St/Island Crest Way	E	A	C	A
SE 70th Place/E Mercer Way	--	--	B	B
SE 72nd St/W Mercer Way	--	--	B	B[A2]

V. FINANCIAL ANALYSIS

Since incorporation in 1960, the City has consistently made (or required through private development) transportation investments that have preceded and accommodated population growth and its associated traffic growth. This strategy has enabled the City to make significant improvements in the community's neighborhood streets, arterial roads, pavement markings, streets signs, pedestrian, and bicycle facilities.

In 2017, the City's primary funding sources for local transportation projects included: gas tax revenues (\$510,000), real estate excise tax (\$2,845,000), Transportation Benefit District vehicle fees (\$370,000) and transportation impact fees (\$237,000). In total, the City received between approximately \$2.7 million (2016) and \$4.0 million (2017) in annual transportation revenues.

In addition, Sound Transit mitigation for the closure of the I-90 center roadway is

providing up to \$5.1 million in funds for operational and safety improvements.

Combined with supplemental federal and state grant funding, Mercer Island has sufficient resources to maintain and improve its transportation system over the next twenty years and will be able to accomplish the following:

- Maintain the City's arterial street system on a 25-year (average) life cycle;
- Maintain the City's residential system on a 35-year (average) life cycle.
- Maintain, improve and expand the City's pedestrian/bicycle system over the next 20 years.
- Maintain and improve the transportation system to meet the forecasted housing and employment growth targets.

VI. IMPLEMENTATION STRATEGIES

The following actions by the City of Mercer Island and other jurisdictions will be necessary to effectively implement the program and policy elements of this transportation element:

Transportation System - Streets, Transit, Non-Motorized

- Develop local neighborhood traffic control plans as necessary to address specific issues.
- Develop a program for monitoring transportation adequacy to compare projections to actual conditions and identify locations where improvement may become necessary.
- Implement Transportation System Management techniques to control traffic impacts.

Planning - Standards, Policies, Programs

- Periodically update the City's inventory of transportation conditions, functioning level of service and projected levels of service.
- Complete the plan for non-motorized transportation improvements consistent with the City's Comprehensive Plan, including a review of the Pedestrian and Bicycle Facilities Plan and its design standards.
- Develop a neighborhood parking program to address parking

overflow impacts from schools, businesses, parks and multi-family housing.

- Revise design standards as necessary to comply with ADA requirements.
- Continue to involve the public in transportation planning and decisions.
- Create "transit friendly" design guidelines for new development projects in the Town Center.
- Develop policies, criteria and a process to determine when, and under what conditions, private roads and privately-maintained roads in public rights of way should be accepted for public maintenance and improvement.
- Implement the City's adopted Commute Trip Reduction program.

Financial Strategies

- Secure funding to implement the adopted six-year Transportation Improvement Program.
- Actively pursue outside funding sources to pay for adopted transportation improvements and programs.

Transit Planning

- Work with Metro to reinstate and improve fixed route transit services. Work with Metro to explore alternative methods of providing service to island

residents, such as developing a demand responsive service throughout the Island.

- Work with Metro and Sound Transit to site, design and construct high capacity transit and parking facilities consistent with Land Use and Transportation Policies contained in the Comprehensive Plan that will be available for use by Mercer Island residents.

VII. CONSISTENCY WITH OTHER PLANS & REQUIREMENTS

The Growth Management Act of 1990 requires that local comprehensive plans be consistent with plans of adjacent jurisdictions and regional, state and federal plans. Further, there are several other major statutory requirements with which Mercer Island transportation plans must comply. This section briefly discusses the relationship between this Transportation Element and other plans and requirements.

Other Plans

The Transportation Element of the Mercer Island Comprehensive Plan is fully consistent with the following plans:

Mercer Island Comprehensive Plan — The Transportation Element is based on the needs of, and is fully consistent with the Land Use Element.

King County and Multicounty Planning Policies — Mercer Island's proposed transportation policies are fully consistent with PSRC's multi-county and King County's countywide planning policies.

Vision 2040— Vision 2040 builds upon Vision 2020 and Destination 2030 to articulate a coordinated long-range land use and transportation growth strategy for the Puget Sound region. Mercer Island Comprehensive Plan's Land Use and Transportation Elements supports this strategy by accommodating new growth in the Town Center which is near existing and proposed future transportation improvements along the I-90 corridor.

Metropolitan Transportation Plan — The Puget Sound Regional Council (PSRC) has updated its long-term vision of the future transportation system through the Vision 2040 and Transportation 2040 plans. The Transportation Element is consistent with these plans.

Regional Transit System Plan — Sound Transit's Regional Transit System Plan (RTP) lays out the Puget Sound region's plans for constructing and operating a regional high capacity transit system. Both the Land Use and Transportation Elements directly support regional transit service and facilities, and are consistent with the RTP.

Plan Requirements

The Transportation Element of the Mercer Island Comprehensive Plan meets the following regulations and requirements:

Growth Management Act — The Growth Management Act, enacted by the Washington State Legislature in 1990 and amended in 1991, requires urbanized counties and cities in Washington to plan for orderly growth for 20 years into the future. Mercer Island's Transportation Element conforms to all of the components of a comprehensive transportation element as defined by GMA.

Commute Trip Reduction — In 1991, the Washington State Legislature enacted the Commute Trip Reduction

Law which requires implementation of transportation demand management (TDM) programs to reduce work trips. In response to these requirements, Mercer Island has developed its own CTR program to reduce work trips by City employees. There are two other CTR-affected employers on the Island; both have developed CTR programs.

Air Quality Conformity — Amendments to the federal Clean Air Act made in 1990 require Washington and other states to develop a State Implementation Plan (SIP) which will reduce ozone and carbon monoxide air pollutants so that national standards may be attained. The Central Puget Sound area, including King County and Mercer Island, currently meets the federal standards for ozone and carbon monoxide. The area is designated as a carbon monoxide maintenance area, meaning the area has met federal standards, but is required to develop a maintenance plan to reduce mobile sources of pollution.

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TRANSPORTATION ELEMENT

I. INTRODUCTION

The intent of the Transportation Element is to provide policies and projects to guide the development of Mercer Island transportation system in support of the City’s vision for the future. The policies guide the actions of the City, as well as the decisions related to individual developments.

The Transportation Element provides an inventory of [all of Mercer Island’s existing transportation system](#) and includes [all modes of travel](#)—auto, truck, bicycle, bus, and pedestrian. ~~In addition, a section focuses on the special transportation needs of the Town Center.~~ [This update to the Transportation Element reflects the changes to circulation and operations related to the closure of the I-90 reversible lanes and related ramps.](#)

Objectives of the Transportation Element

The City of Mercer Island has three main objectives within its Transportation Element:

- develop multi-modal goals, policies, programs and projects which support implementation of the Land Use Element of the Comprehensive Plan,
- define policies and projects that encourage the safe and efficient development of the transportation system, and

- comply with legislative requirements for multi-modal transportation planning.

Washington State's ~~1990~~ Growth Management Act (GMA) ~~outlined~~[outlines](#) specific requirements for the Transportation Element of a city’s comprehensive plan. It calls for a balanced approach to land use and transportation planning to ensure that a city’s transportation system can support expected growth and development. In addition, it mandates that capital facilities funds be adequate to pay for any necessary improvements to the transportation system. Finally, a city must adopt specific standards for the acceptable levels of congestion on its streets; these standards are called level of service (LOS) standards.

At the federal level, transportation funds have been focused on the preservation and improvement of transportation facilities and ~~on~~[on](#) creating a multi-modal approach to transportation planning. For Mercer Island, transportation projects that combine improvements for auto, buses, bicycles, and pedestrians have a much greater chance of receiving state and federal grant funds than those that focus solely on widening the road to carry more single-occupant vehicles.

Other legislative requirements addressed by the Transportation Element include the King County 2012

Countywide Planning Policies, the 1991 Commute Trip Reduction Act, the Americans with Disabilities Act (ADA) and the 1990 federal Clean Air Act Amendments. Each of these laws emphasizes closer coordination between a jurisdiction's land use planning and its approach to transportation planning.

Transportation Today

Most of Mercer Island's streets are two lane residential streets with low to moderate volumes of traffic. Island Crest Way, a north-south arterial which runs the length of the Island, is an exception to this rule because it is a principal feeder route to I-90 ~~and the Town Center~~. East and West Mercer Way ring the Island and provide two more connections with I-90 ~~as well~~. SE 40th Street and Gallagher Hill Road ~~are~~ also major carry high traffic carriers/volumes in the north-central portion of the Island. In addition to arterial streets, the local street network provides access to ~~other streets and~~ private residences and properties. Public transit serves the Mercer Island Park and Ride ~~let in~~ and other locations on the I-90 corridor and along Island Crest Way.

Mercer Island has over 56 miles of trails, sidewalks and bicycle lanes for non-motorized travel. A regional trail runs across the north end of the Island along the I-90 corridor providing a convenient connection to Seattle and Bellevue for pedestrians and bicyclists.

Upcoming Changes

~~Regional changes to the transportation system will likely change how Mercer Island residents travel and live. The I-90 center reversible lanes will be replaced by~~ The Sound Transit East Link light rail line, ~~slated~~ scheduled for completion in 2023, will change how Mercer Island residents travel and live. A new light rail station at the Town Center will provide access to destinations in Seattle, Bellevue and other cities that are part of the Sound Transit system. As part of this change, many of the buses from the east side of Lake Washington will terminate at Mercer Island and bus riders will transfer to light rail. ~~In addition, commencing in the summer of 2017, Mercer Island residents will no longer have access to the center reversible lanes, but will instead access new dedicated HOV lanes.~~ The ~~current existing~~ park and ride at North Mercer Way is frequently at or near capacity, and parking demand will increase ~~when the center HOV lane is closed and~~ with light rail. The City should address the overall parking for Mercer Island citizens, the total funding costs, and work with other agencies. As part of the mitigation agreement with Sound Transit, additional parking for the light rail station will be added in the Town Center.

In sum, these regional changes will likely affect travel and land use development patterns, particularly for the north end of the Island. The changes will also provide new opportunities for the Island and will support the vision and development of the Town Center.

Land Use Assumptions – The Comprehensive Plan

Mercer Island's Comprehensive Plan, of which the Transportation Element is a part, must be internally consistent. This means that the various requirements in each element must not contradict one another. Of particular importance is the relationship between the Transportation Element and the Land Use Element.

The transportation forecasts used in this element are based on Mercer Island growth targets for housing and employment, regional traffic forecasts by the Puget Sound Regional Council, and local traffic counts. Within the ~~2015 to 2035~~[20-year](#) planning period, the City's growth target is 2,320 new housing units and 1,160 new jobs to be generated on the Island ~~during this 20-year period~~[by 2035](#).

The Land Use Element defines Mercer Island's strategy for managing future growth and physical land development for the ~~next 20 years~~[year planning period](#). Proposed transportation improvements, policies and programs are consistent with the vision of the Land Use Element. The Land Use vision emphasizes continued reinvestment and redevelopment of the Town Center to create a mixed-use pedestrian-friendly and transit-oriented environment. Most of the forecasted housing units and jobs will be located in and around the downtown core. Outside of the Town Center, the lower density residential nature of the remainder of the Island will be maintained with low forecasted changes in household growth.

Town Center Plan

The 1994 Town Center Plan for Mercer Island was updated in 2016 through a cooperative effort of City staff, consultants and many citizens over a two-year long process. Specific goals and policies related to transportation and mobility are in the Land Use element.

The plan for a Sound Transit Link Light Rail station located on the I-90 corridor between 77th Avenue SE and 80th Avenue SE will continue to focus multimodal development and population growth within the Town Center area.

II. TRANSPORTATION GOALS AND POLICIES

The following transportation goals and policies have been developed to guide transportation decisions for Mercer Island. They have been crafted to be consistent with all other Comprehensive Plan elements, including most importantly, the Land Use Element. They also serve to further articulate and implement the City Council's vision for the future.

GOAL 1: Encourage the most efficient use of the transportation system through effective management of transportation demand and the transportation system.

- 1.1 Encourage measures to reduce vehicular trips using Transportation Demand Management strategies such as preferential parking for carpools/vanpools, alternative work hours, bicycle parking, and distribution of information and promotion of non-motorized travel, transit and ridesharing options.
- 1.2 Encourage businesses and residential areas to explore opportunities for shared parking and other parking management strategies.
- 1.3 Employ transportation system management (TSM) techniques to improve the efficient operation of the transportation system including, but not limited to: traffic through and turn

lanes, management of street parking, signals and other traffic control measures.

GOAL 2: Receive the maximum value and utility from the City's investments in the transportation system.

- 2.1 Place a high priority on maintaining the existing transportation facilities and the public rights of way.
- 2.2 Continue to prioritize expenditures in the transportation system recognizing the need to maintain existing transportation assets, meet adopted service level goals, and emphasize continued investments in non-motorized transportation facilities.
- 2.3 Pursue opportunities for private sector participation in the provision, operation and maintenance of the transportation system.
- 2.4 Coordinate street improvement projects with utilities, developers, neighborhoods, and other parties in order to minimize roadway disruptions and maintain pavement integrity.
- 2.5 Explore all available sources for transportation funding, including grants, impact fees and other local options as authorized by the state legislature.

2.6 Prioritize transportation investments in the Town Center that promote mixed-use and compact development and provide multi-modal access to regional transit facilities.

GOAL 3: Minimize negative transportation impacts on the environment.

3.1 Use sound design, construction and maintenance methods to minimize negative impacts related to water quality, noise, and neighborhood impacts.

3.2 Work with WSDOT and other agencies to minimize impacts on Island facilities and neighborhoods from traffic congestion on regional facilities, implementation of ramp metering, and provision of transit services and facilities.

3.3 Construct transportation improvements with sensitivity to existing trees and vegetation.

GOAL 4: Provide transportation choices for travelers through the provision of a complete range of transportation facilities, and services.

4.1 Work with King County Metro, Sound Transit and other providers to ensure adequate transit services to meet the needs of the Island, including:

- maintain existing and encourage new public transit service on the Island;
- maintain convenient transit connections to regional

activity centers, including the Seattle CBD, Bellevue, University of Washington and other centers;

- provide convenient transit service for travel on Mercer Island and enhance connections to regional transit stations including the proposed Link light rail station; and
- ~~investigate potential new~~ [continue to expand innovative transit](#) services including demand responsive transit for the general public, subscription bus, or custom bus services.

4.2 Provide for and encourage non-motorized travel modes consistent with the Parks and Recreation Plan and Pedestrian and Bicycle Facilities Plan.

4.3 Support opportunities to facilitate transfers between different travel modes through strategies such as:

- providing small park and ride facilities throughout the Island; and
- improving pedestrian access to transit with on and off road pedestrian improvements.

4.4 Investigate opportunities for operating, constructing and/or financing park and ride lots for Mercer Island residents only.

4.5 Encourage site and building design that promotes pedestrian activity, ridesharing

- opportunities, and the use of transit.
- 4.6 Promote the development of pedestrian linkages between public and private development and transit in the Town Center District.
- 4.7 Promote the mobility of people and goods through a multi-modal transportation system consistent with the Pedestrian and Bicycle Facilities Plan.

GOAL 5: Comply with local, regional, state and federal requirements related to transportation.

- 5.1 Comply with the requirements of the federal and state Clean Air Acts, and work with other jurisdictions in the Puget Sound region to achieve conformance with the State Implementation Plan.
- 5.2 Meet the requirements of the Americans with Disabilities Act (ADA) and apply these standards to development of the transportation system.
- 5.3 Comply with the Commute Trip Reduction requirements through the continued implementation of a CTR plan.
- 5.4 Assist regional agencies in the revisions and implementation of the Transportation 2040 (PSRC), WSDOT Highway System Plan, and the [2007-2026](#) Washington Transportation Plan [2030](#) and subsequent versions of these documents.

- 5.5 Work with the participants of the Eastside Transportation Partnership (ETP) to coordinate transportation planning for the Eastside subarea.
- 5.6 Comply with state initiatives and directives related to climate change and greenhouse gas reduction. Identify implementable actions that improve air quality, reduce air pollutants and promote clean transportation technologies.

GOAL 6: Ensure coordination between transportation and land use decisions and development.

- 6.1 Ensure compatibility between transportation facilities and services and adjacent land uses, evaluating aspects such as:
- potential impacts of transportation on adjacent land use;
 - potential impacts of land development and activities on transportation facilities and services; and
 - need for buffering and/or landscaping alongside transportation facilities.
- 6.2 Develop strategies to manage property access along arterial streets in order to preserve their function.
- 6.3 In the project development review process, evaluate transportation implications including:
- congestion and level of service;

- connectivity of transportation facilities and services from a system perspective;
 - transit needs for travelers and for transit operators; and
 - non-motorized facilities and needs.
- 6.4 Ensure that transportation improvements, strategies and actions needed to serve new developments shall be in place at the time new development occurs or be financially committed and scheduled for completion within six years.
- 6.5 As part of a project's SEPA review, review the project's impact on transportation and require mitigation of on-site and off-site transportation impacts. The City shall mitigate cumulative impacts of SEPA-exempt projects through implementation of the Transportation Improvement Program.
- 6.6 Develop standards and procedures for measuring the transportation impact of a proposed development and for mitigating impacts.
- 6.7 Participate in the review of development and transportation plans outside the City boundaries that may have an impact on the Island and its transportation system, and consider the effect of the City's transportation plans on other jurisdictions.
- 6.8 Encourage transit, bicycle and pedestrian principles in the design of projects including:
- locating structures on the site in order to facilitate transit and non-motorized travel modes;
 - placing and managing on-site parking ~~so~~ to encourage travel by modes other than single occupant vehicles;
 - provision of convenient and attractive facilities for pedestrians and bicyclists; and
 - provision of public easements for access and linkages to pedestrian, bicycle and transit facilities.
- 6.9 Require adequate parking and other automobile facilities to meet anticipated demand generated by new development.
- GOAL 7: Provide a safe, convenient and reliable transportation system for Mercer Island.**
- 7.1 Include in the City's roadway design standards, requirements for facilities to safely accommodate travel by all travel modes.
- 7.2 Provide a safe transportation system through maintenance and upkeep of transportation facilities.
- 7.3 Monitor the condition and performance of the transportation system to compare growth projections with actual conditions, assess the adequacy of transportation

- facilities and services, and to identify locations where improvements may become necessary.
- 7.4 Monitor traffic accidents, citizen input/complaints, traffic violations, and traffic volumes to identify and prioritize locations for safety improvements.
- 7.5 Where a need is demonstrated, consider signage, traffic controls, or other strategies to improve the safety of pedestrian crossings.
- 7.6 Verify the policies, criteria and a process to determine when, and under what conditions, private roads and privately maintained roads in the public right of way should be accepted for public maintenance and improvement.
- 7.7 Coordinate with local and regional emergency services to develop priority transportation corridors and develop coordinated strategies to protect and recover from disaster.

GOAL 8: Preserve adequate levels of accessibility between Mercer Island and the rest of the region.

~~8.1 — The I-90 Memorandum of Agreement was amended in 2004. Any future modification to such access for Mercer Island traffic must comply with the terms and conditions of the MOA, as amended.~~

- ~~8.28.1~~ Continue to recognize I-90 as a highway of statewide significance.
- ~~8.32~~ Work with King County Metro and Sound Transit to ensure mobility and adequate levels of transit service linking Mercer Island to the rest of the region.
- ~~8.43~~ Work with WSDOT, King County Metro, and ~~the~~ Sound Transit to ensure the provision of adequate Park and Ride capacity for Island residents.
- ~~8.54~~ ~~Continue to m~~Maintain an effective role in regional transportation planning, decision-making and implementation of transportation system improvements.

GOAL 9: Balance the maintenance of quality Island neighborhoods with the needs of the Island's transportation system.

- 9.1 Strive to the extent possible to minimize traffic impacts to neighborhoods and foster a "pedestrian-friendly" environment.
- 9.2 Address parking overflow impacts on neighborhoods caused by major traffic generators such as schools, businesses, parks, and multifamily developments.
- 9.3 Provide facilities for pedestrians and bicyclists designed in keeping with individual neighborhood characteristics.

- 9.4 Work with King County Metro to provide public transit vehicles and services that are more in scale with the City's neighborhoods and its local road network.
- 9.5 Maintain comprehensive street design guidelines and standards that determine the appropriate function, capacity, and improvement needs for each street/roadway, while minimizing construction and neighborhood impacts.

GOAL 10: Maintain acceptable levels of service for transportation facilities and services on Mercer Island.

- 10.1 The City of Mercer Island Level of Service (LOS) at arterial street intersections shall be a minimum of "C" within and adjacent to the Town Center and "D" for all other intersections.
- 10.2 Use the level of service standard to evaluate the performance of the transportation system and guide future system improvements and funding. Emphasize projects and programs that focus on the movement of people and provide alternatives to driving alone.
- 10.3 Implement the following strategy when vehicle capacity or funding is insufficient to maintain the LOS standard: (1) seek additional funding for capacity improvements, (2) explore alternative, lower-cost

methods to meet level-of-service standards (e.g., transportation demand management program, bicycle corridor development or other strategies), (3) reduce the types or size of development, (4) restrict development approval, and (5) reevaluate the level of service standard to determine how it might be adjusted to meet land use objectives.

- 10.4 Ensure that the City's level of service policies are linked to the land use vision and comply with concurrency requirements.
- 10.5 Revise the Transportation Element if the Land Use and/or Capital Facilities Element of the Comprehensive Plan are changed to maintain a balanced and consistent plan.

GOAL 11: Ensure parking standards support the land use policies of the Comprehensive Plan.

- 11.1 Continue to implement flexible parking requirements for Town Center development based on the type and intensity of the proposed development; site characteristics; likelihood for parking impacts to adjacent uses; opportunities for transit, carpooling and shared parking; and potential for enhancements to the pedestrian environment.
- 11.2 Maintain the current minimum parking requirements of three off-street spaces for single family residences, but may consider future code amendments that allow for the reduction of one of

the spaces, provided that the quality of the environment and the single family neighborhood is maintained.

- 11.3 Support business development in the downtown area by prioritizing on-street parking spaces in the Town Center for short-term parking, and encourage the development of off-street shared parking facilities for long-term parking in the Town Center.

GOAL 12: Promote bicycle and pedestrian networks that safely access and link commercial areas, residential areas, schools, and parks within the City.

- 12.1 Maximize the safety and functionality of the bicycle system by enhancing road shoulders, which are to be distinguished from designated bicycle lanes.
- 12.2 Implement the Pedestrian and Bicycle Facilities Plan to meet existing and anticipated needs for non-motorized transportation. This Plan should be coordinated with other transportation planning efforts and periodically updated.
- 12.3 Study opportunities for use of innovative methods for pedestrians crossing streets, including use of colored and textured pavements within the City.

III. TRANSPORTATION SYSTEM – EXISTING CONDITIONS

This section describes and inventories the current travel patterns and transportation system serving Mercer Island, including land, water and air transportation. Major transportation modes serving Mercer Island include automobiles, non-motorized modes such as walking and biking, and public and school transit.

Travel Patterns - How Mercer Islanders Move About

Mercer Island has relatively high levels of vehicle ownership and personal mobility. Approximately ~~two-thirds~~ 70 percent of the households on Mercer Island have two or more vehicles, while less than ~~four~~ five percent of households have no vehicle at all. Comparing the ~~2012~~ 2016 American Community Survey (US Census) data with the 2000 US Census data, a number of changes are observed.

The percent of Mercer Island residents who commute to work by driving alone has dropped from 76 percent to ~~71~~ 72 percent, those who take a bus or carpool to work decreased from 17 percent to 14 percent, and those who work at home increased from 7 percent to 10 percent. The average travel time to work for Mercer Island residents is ~~20~~ 23 ~~25~~ minutes, which is below the regional average of ~~27~~ 32 minutes.

A November 2013 WSDOT *Mercer Island Travel Survey* found that 55 percent of commute trips originating on the Island traveled west towards ~~the~~ Seattle and

45 percent traveled east towards Bellevue.

Roadway Network

Mercer Island has over 75 miles of public roads. Interstate 90 (I-90) runs east-west across the northern end of Mercer Island, providing the only road and transit connection to the rest of the Puget Sound region. Access to the I-90 on-ramps and off-ramps is provided at West Mercer Way, 76th Avenue SE, 77th Avenue SE, 80th Avenue SE, Island Crest Way, and East Mercer Way.

~~There are a number of changes occurring to the I-90 corridor in preparation for Sound Transit light rail, scheduled for completion in 2023. These include the addition of westbound and eastbound HOV lanes to the I-90 mainline. The reversible HOV lanes down the center lanes of the I-90 facility will become the dedicated rail corridor for Sound Transit light rail.~~

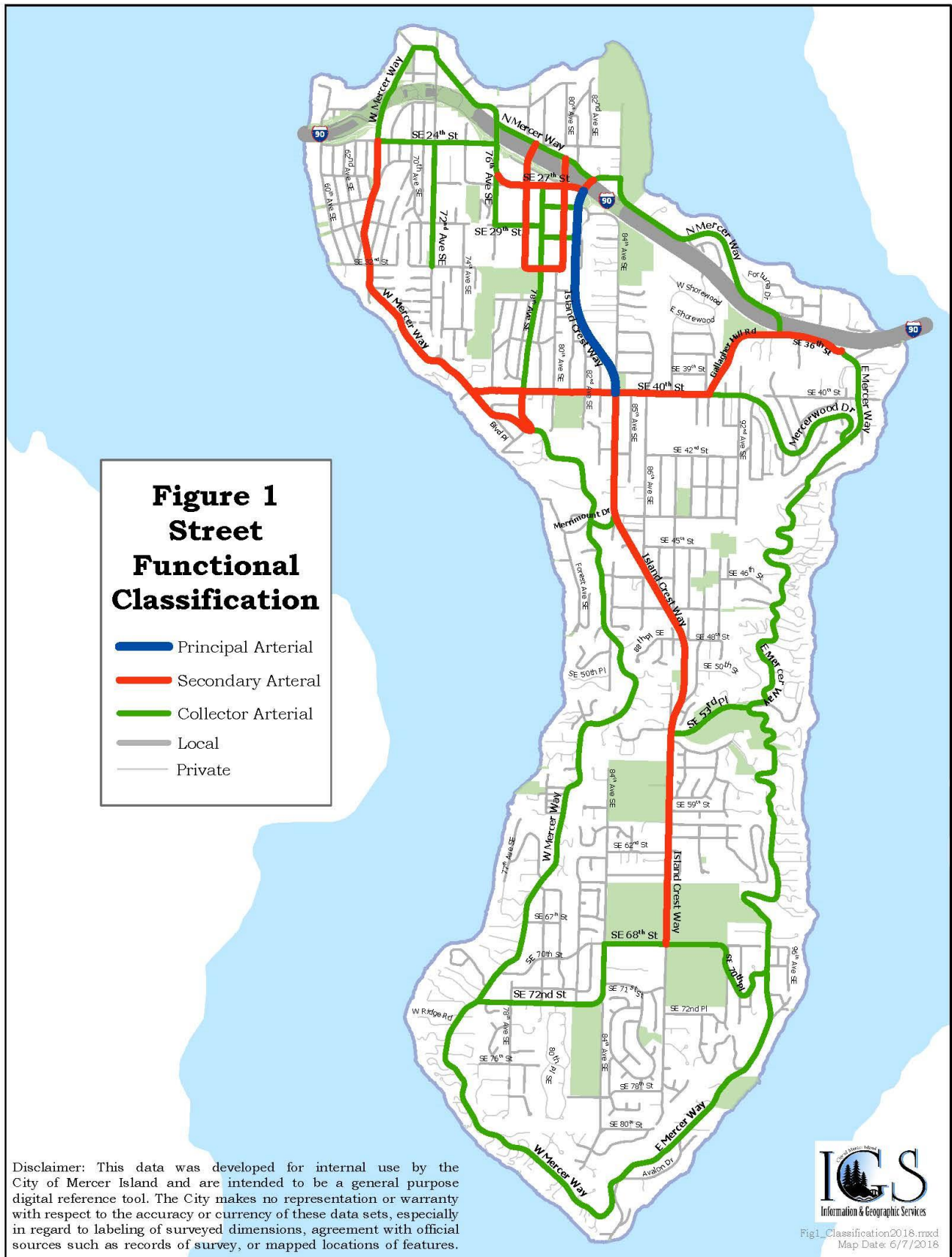
~~On the Island,~~ Most of the road network is comprised of 2-lane local streets serving the Island's residential areas. Arterial roadways comprise approximately 25 miles, or one third, of the system. In addition to public roads, there are numerous private roads serving individual neighborhoods and developments on the Island.

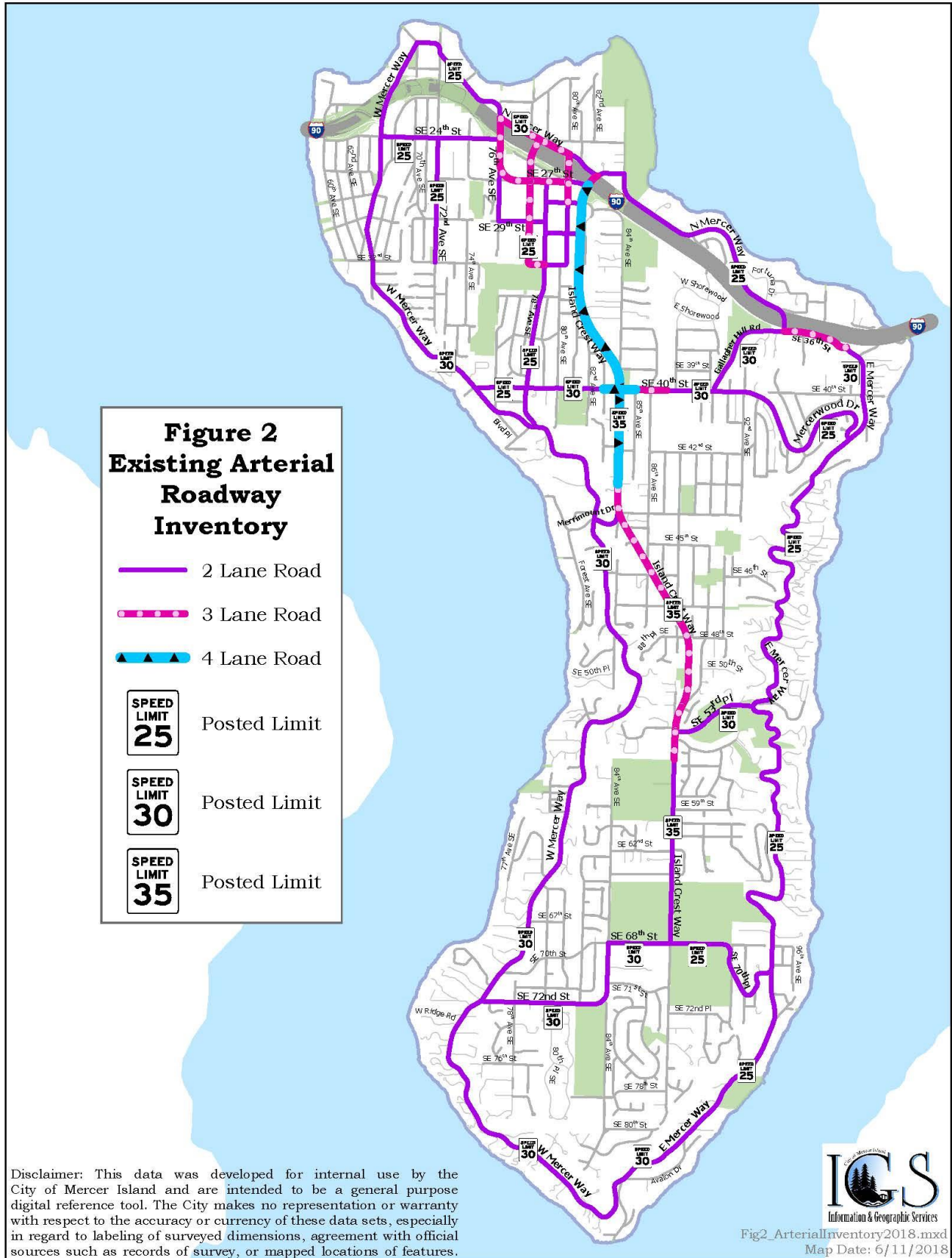
Roadways on the Island are classified into different categories according to their purpose and physical characteristics. The categories are:

- *Principal Arterials* carry the highest volumes of traffic and provide the best mobility in the roadway network. These roads generally have higher speed limits, higher traffic volumes, and limit access to adjacent land uses.
- *Secondary Arterials* connect with and augment principal arterials and generally have a higher degree of access to adjacent land, lower traffic volumes and lower travel speeds.
- *Collector Arterials* provide for movement within neighborhoods, connecting to secondary and principal arterials; and typically have low traffic volumes and carry little through traffic.
- *Local Streets* provide for direct access to abutting properties and carry low volumes of traffic at low travel speeds. Local streets are usually not intended for through traffic.

Individual streets are assigned classifications based on several criteria, including the type of travel to be served, the role of the street in the overall street network and transportation system, physical characteristics, traffic characteristics, and adjacent land uses. Based on City Staff recommendations, the City Council periodically reviews and updates the street classification system, its criteria and specific street classification designations.

Figure 1 shows the street functional classifications. **Figure 2** shows ~~2014 roadway features describing the shoulder types and sidewalk locations.~~ ~~Figure 3~~ shows the number of travel lanes, and posted speed limits of arterial roadways.





Level of Service Standard

Level of Service (LOS) is a measurement of the quality of traffic flow and congestion at intersections and roadways. LOS is defined by the amount of delay experienced by vehicles traveling through an intersection or on a roadway. LOS is based on an A-F scale with LOS A representing little or no delay ~~and~~ LOS F representing ~~extreme delay~~ very long delays.

Under the Growth Management Act, each local jurisdiction is required to establish a minimum threshold of performance for its arterial roadways. Cities use this standard to identify specific actions to maintain the adopted LOS standard. The City of Mercer Island has established its Level of Service standard at intersections of two arterial streets as LOS C within and adjacent to the Town Center and LOS D elsewhere. This standard applies to the operation during either the AM or PM peak periods. The intersection of SE 53rd Place/Island Crest Way, which does not have sufficient volume to warrant a signal, will be exempt from the LOS D standard until traffic volumes increase and signal warrants are met.

To be consistent with the WSDOT standard for ~~Interstate I-90~~ and its ramp intersections, the city will accept ~~a~~ LOS D at those intersections. I-90 is designated as a Highway of Statewide Significance under RCW 47.06.140.

Traffic Operations

For transportation planning purposes, traffic operations are typically analyzed during the busiest hour of the street system, when traffic volumes are at peak levels. On Mercer Island, the peak hour of traffic operations typically corresponds with the afternoon commute, which typically falls between 4:00 and 6:00 in the afternoon (PM peak hour). Traffic counts were collected and analyzed at 39 intersections throughout the Island.

~~Selected counts~~ Select intersections for the AM peak hour were ~~also collected~~ counted and analyzed to provide an understanding of the transportation system during the morning commute, which typically peaks between 7:30 AM and 8:30 AM.

Table 1 ~~shows and~~ Figure 3 show the AM and PM peak hour operations for each of the study intersections. Outside of the Town Center, the analysis shows that during the AM and PM peak hour, all intersections operate at LOS D or better for ~~2014 existing~~ conditions, except the intersection of SE 53rd Place/Island Crest Way operates at LOS F during the morning ~~peak hour~~ and at LOS E during the afternoon peak ~~hour~~ hours.

Within the Town Center, where the LOS C standard applies, the intersection of N Mercer Way/77th Avenue SE operates at LOS E all intersections operate within this standard during the morning and afternoon peak hours. ~~Figure 5 shows the 2014 LOS at key intersections during the morning and afternoon peak hours.~~

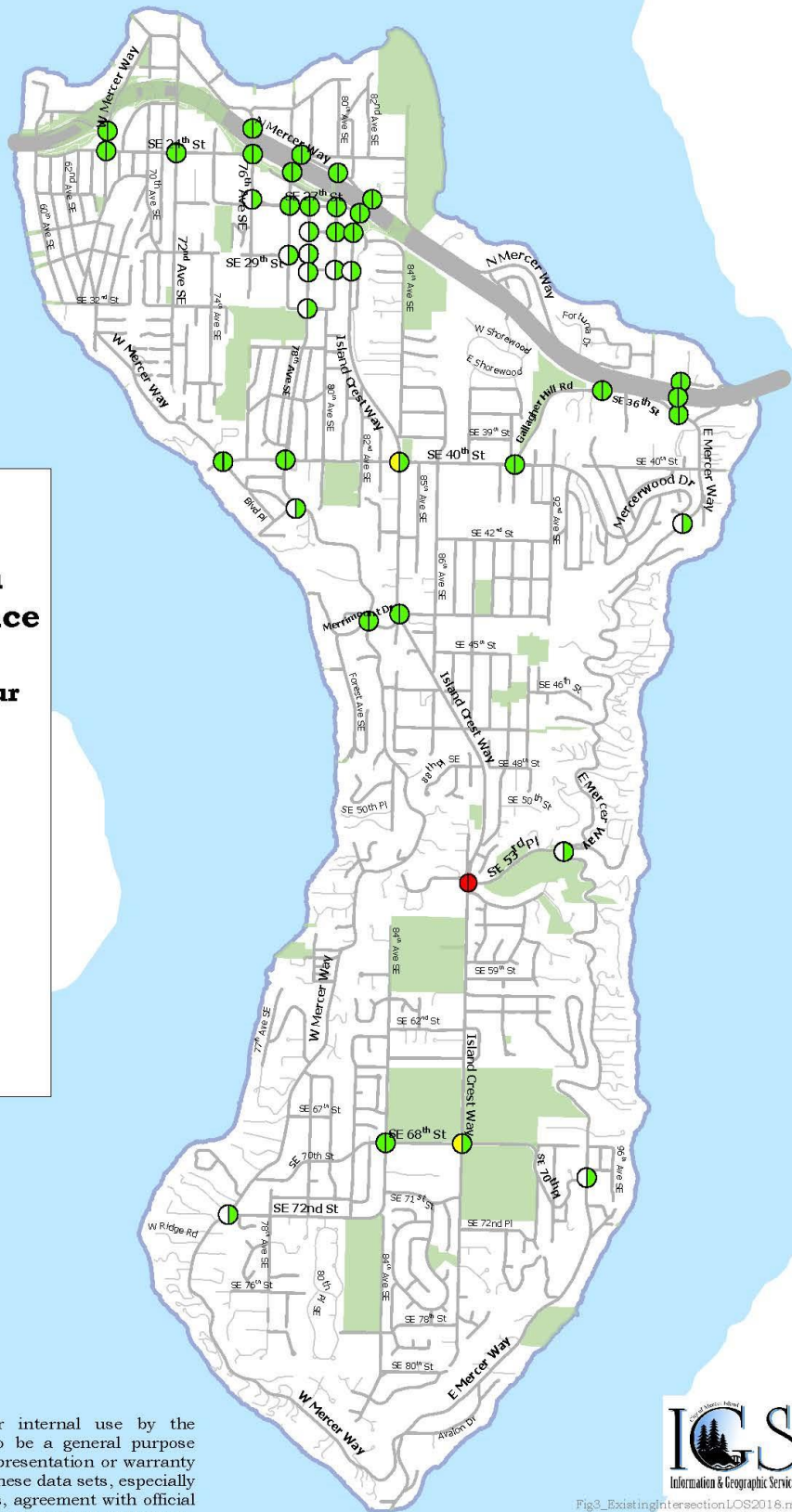
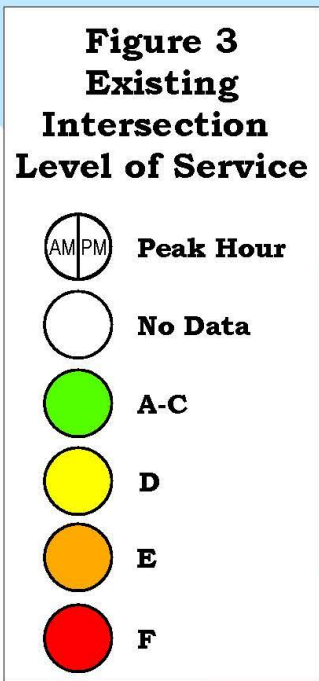
Table 1. 20142018 Existing Intersection Operations

Intersection	AM Peak Hour	PM Peak Hour
Town Center Intersections (LOS C Standard)		
SE 24th St/76th Ave SE	B	B
N Mercer Way/77th Ave SE	EA	EA
N Mercer Way/Park & Ride/80th Ave SE	BC	C
SE 27th St/76th Ave SE	--	BA
SE 27th St/77th Ave SE	B	B
SE 27th St/78th Ave SE	A	AB
SE 27th St/80th Ave SE	B	BC
SE 28th St/78th Ave SE	--	BA
SE 28th St/80th Ave SE	-B	CB
SE 28th St/Island Crest Way	B	CB
SE 29th St/77th Ave SE	--	B
SE 29th St/78th Ave SE	--	CB
SE 30th St/78th Ave SE	--	CB
SE 30th St/80th Ave SE	--	BA
SE 30th St/Island Crest Way	--	AB
SE 32nd St/78th Ave SE	--	B
WSDOT Intersections (LOS D Standard)		
I-90 EB off-ramp/I-90 WB on-ramp/W Mercer Way	B	AB
I-90 WB on-ramp/N Mercer Way/76th Ave SE	BA	CA
I-90 EB off-ramp/77th Ave SE	B	B
I-90 WB off-ramp/N Mercer Way/Island Crest Way	CD	DC
I-90 EB off-ramp/77th Ave SE	B	B
I-90 EB on-ramp/SE 27th St/Island Crest Way	CB	CB
I-90 WB ramps/100th Ave SE	B	A
I-90 EB off-ramp/100th Ave SE/E Mercer Way	B	B
I-90 EB on-ramp/SE 36th St/E Mercer Way	AB	B
I-90 EB off-ramp/100th Ave SE/E Mercer Way	B	AB
I-90 WB ramps/100th Ave SE	B	CA
Outside of Town Center Intersections (LOS D) Standard		
SE 24th St/W Mercer Way	B	B
SE 24th St/72nd Ave SE	-A	B
SE 36th St/N Mercer Way	C	C
SE 40th St/W Mercer Way	-B	A
SE 40th St/78th Ave SE	-A	B
SE 40th St/Island Crest Way	D	DC
SE 40th St/SE Gallagher Hill Rd	C	DB
Mercerwood Dr/E Mercer Way	--	BA
W Mercer Way/78th Ave SE	--	B
Merrimount Dr/W Mercer Way	-B	B
Merrimount Dr/Island Crest Way	-C	C
SE 53rd Place/Island Crest Way	F	EF
SE 53rd Place/E Mercer Way	--	A
SE 72nd St/W Mercer Way	=	A
SE 68th St/84th Ave SE	C	B
SE 68th St/Island Crest Way	D	C

Commented [

SE 68th St/E Mercer Way	--	A
<u>SE 72nd St/W Mercer Way</u>	<u>--</u>	<u>A</u>

Commented [



Disclaimer: This data was developed for internal use by the City of Mercer Island and are intended to be a general purpose digital reference tool. The City makes no representation or warranty with respect to the accuracy or currency of these data sets, especially in regard to labeling of surveyed dimensions, agreement with official sources such as records of survey, or mapped locations of features.



Fig3_ExistingIntersectionLOS2018.mxd
Map Date: 6/11/2018

Parking

Most parking in the City is provided by off-street parking lots, along residential access streets, or by on-street spaces in select areas of the Town Center.

In 2001, the City implemented a permit parking program for on-street parking in the Town Center in response to overflow conditions at the Mercer Island Park and Ride lot. This program preserves selected public on-street parking spaces for Mercer Island resident use, between the hours of 7:00 AM and 9:00 AM, Monday through Friday. All Mercer Island residents are eligible for a Town Center District permit which will allow them to park on Town Center streets during the specified hours.

An additional permit parking program was developed for residential streets north of the park and ride lot on North Mercer Way. This program only allows residents of the area to park on City streets between 7:00 AM and 4:00 PM, weekdays.

Bicycle and Pedestrian Facilities

Bicycle and pedestrian facilities are a valuable asset for the residents of Mercer Island. These facilities are used for basic transportation, recreation, going to and from schools, and the facilities contribute to our community's quality of life. In 1996, the City developed a *Pedestrian and Bicycle Facilities Plan* to provide a network of bicycle and pedestrian facilities. The plan

focused on encouraging non-motorized travel and improving the safety of routes near the Island's elementary schools. Of the 47 projects identified in the plan, 38 of the projects were either fully or partially completed during the first 12 years of the plan.

A 2010 update to the plan included vision and guiding principles, goals and policies, an existing and future network, a list of completed projects, revised facility design standards, and a prioritized list of projects. The plan emphasizes further development of safe routes to schools, completion of missing connections, and application of design guidelines.

A regional trail runs across the north end of the Island along the I-90 corridor providing a convenient connection to Seattle and Bellevue for pedestrians and bicyclists. The majority of streets in the Town Center include sidewalks. In addition, there are sidewalks near schools and select streets. Throughout the Island there are paved and unpaved shoulders and multiuse trails that provide for pedestrian mobility.

The bicycle network is made up of designated bicycle facilities including bicycle lanes and sharrows, and shared non-motorized facilities including shared use pathways, off-road trails, and paved shoulder areas. **Figure 24** shows the pedestrian and bicycle facilities on the [Island's arterial network](#) as identified by the Pedestrian and Bicycle Facilities Plan.



Public Transportation

The King County Department of Metropolitan Services (Metro) and the regional transit agency Sound Transit provide public transportation services for Mercer Island and throughout King County. There are four major types of service offered on the Island: local fixed route service, regional express service, custom bus service, and Access service.

Local fixed route service operates on the arterial roadway system, and provides public transit service for most of the Island, connecting residential and activity areas. ~~Transit passengers tend to be "transit dependent" travelers, such as those too young to drive, people unable to drive, or those people who do not have access to a private vehicle.~~

Regional Express service, which also operates on fixed routes, is oriented toward peak hour commuter trips between the Mercer Island Park and Ride and major employment and activity centers off the Island. Sound Transit and Metro provide express service ~~generally picks up riders at central collection areas such as park and ride lots, and stop less frequently along the route to major destinations. Express service is provided west and east along I-90 into Seattle and Bellevue and is provided by King County Metro and Sound Transit.~~

Custom bus service includes specially designed routes to serve specific travel markets, such as major employers, private schools, or other special destinations. These services are typically

provided during peak commute hours, and operate on fixed routes with limited stops. Custom bus service is currently provided between the Mercer Island Park and Ride and Lakeside School and University Prep in Seattle.

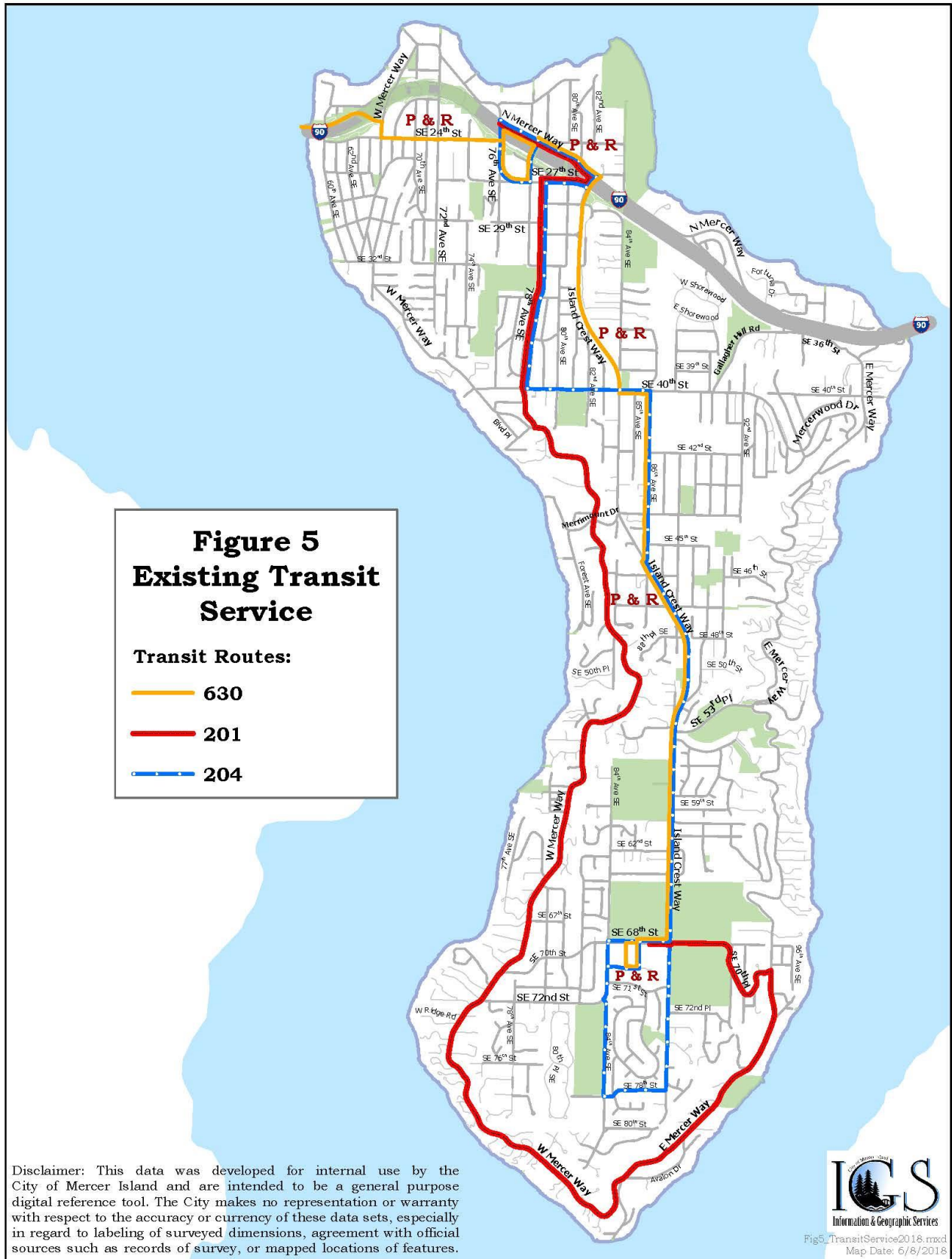
Access Service provides door-to-door transportation to elderly and special needs populations who have limited ability to use public transit. Access covers trips within the King County Metro transit service area.

Figure 45 shows the current transit routes serving the Island. ~~In September 2014, King County Metro reduced bus service throughout its service area due to revenue shortfalls. On Mercer Island, the changes reduced the number of there are three routes from six to two. Other service reductions have affected that circulate throughout the city (Metro routes 201, 204 and 630). At the Mercer Island Park and Ride, which was reduced from ten routes to three King County (201, 204 and 216), and two Sound Transit (routes 550 and 554 connect Mercer Island to Seattle, Bellevue, and Issaquah; and Metro route 216 provides service to Redmond and Seattle.) routes. Some of the remaining routes were provided with expanded service hours.~~

Route 201 serves the western portion of Mercer Island providing service from the Mercer Island Park and Ride lot, along 78th Avenue SE, West Mercer Way, East Mercer Way, SE 70th Place, and SE 68th Street to the Mercer Village Center. This route operates ~~only~~ on weekdays and has ~~only~~ two morning and one afternoon trips.

Route 204 provides service between the Mercer Island Park and Ride lot and the Mercer Village Center. This route travels on 78th Avenue SE, SE 40th Street, 86th Avenue SE, Island Crest Way, and SE 68th Street to the Mercer Village Center. The

route operates every 30-60 minutes from approximately 6:00 AM to 6:00 PM on weekdays.



[Route 630 is a community shuttle which provides service between downtown Seattle and the Mercer Village Center. It provides five trips toward downtown Seattle in the morning and five trips toward Mercer Village in the evening.](#)

[Congregational Church of Mercer Island](#) and at the Mercer Village Center. These lots are described in Table 2. Together, they provide an additional ~~698~~1 parking spaces for use by Island residents.

Park and Ride

The Mercer Island Park and Ride is located north of I-90 on N Mercer Way near Mercer Island’s Town Center. The Park and Ride has 447 spaces and is served by Metro and Sound Transit buses.

[According to the Fourth Quarter 2013-2017 Park and Ride Utilization Report](#) prepared by King County, the Mercer Island lot is typically fully occupied during weekdays. A number of the users of this lot do not reside on the Island.

School Transportation

The Mercer Island School District (MISD) provides bus transportation for public kindergarten through 12th grade students on Mercer Island. The MISD operates approximately 40 scheduled bus routes during the morning and afternoon. In addition, the District provides free Orca cards to high school students who live more than one mile from Mercer Island High School and do not have either a parking pass or are not

Table 2: Mercer Island Park and Ride Locations and Capacities

Lot	Location	Capacity	Cars Parked	% Spaces Occupied
Mercer Island Park and Ride	78 8000 N Mercer Way	447	447	100%
Mercer Island Presbyterian Church	3605 84th Ave SE	30 14	15 13	50% 93%
United Methodist Church	70th Ave SE & SE 24th St.	18	13 17	72% 96%
Mercer Village Center	84th Ave SE & SE 68th St.	21	57	24% 32%
Congregational Church of Mercer Island	4545 Island Crest Way	<u>28</u>	<u>3</u>	<u>11%</u>

[Source: Metro Transit P&R Utilization Report Fourth Quarter 2017.](#)

To supplement park and ride capacity on the Island, Metro has leased ~~three~~four private parking lots for use as park and ride lots, located at the Mercer Island Presbyterian Church, Mercer Island United Methodist Church,

assigned to a district bus.

Rail Services & Facilities

There are no railroad lines or facilities on Mercer Island. In the region, the Burlington Northern Railroad and Union Pacific Railroad companies provide freight rail service between Seattle, Tacoma, Everett, and other areas of Puget Sound, connecting with intrastate, interstate and international rail lines. Amtrak provides scheduled interstate passenger rail service from Seattle to California and Chicago. Major centers in Washington served by these interstate passenger rail routes include Tacoma, Olympia, Vancouver, Everett, Wenatchee, and Spokane.

Air Transportation

Mercer Island does not have any air transportation facilities or services. Scheduled and chartered passenger and freight air services are provided at Seattle-Tacoma International Airport in SeaTac, and at the King County International Airport in south Seattle.

Water Transportation

Mercer Island does not have any public water transportation services. The City's public boat launch is on the east side of the Island, off of East Mercer Way, under the East Channel Bridge.

IV. TRANSPORTATION SYSTEM – FUTURE NEEDS

This section describes the future transportation conditions and analysis used to identify future transportation needs and improvements.

Future Travel Demand

The future traffic volumes were forecast for the year 2035 based on the City's land use and zoning, as well as the housing and employment growth targets, as identified in the King County Buildable Lands (2014) report. More than 70 percent of new households and 76 percent of new jobs are forecasted to occur within the Town Center.

The analysis assumes the opening of the East Link light rail line in 2023, which will result in an additional travel option between the Town Center and regional destinations.

Town Center traffic growth reflects the higher potential for pedestrian and transit trips. Overall, the traffic growth in the Town Center is forecast to increase by ~~35~~an average of 28 percent between ~~2014~~2018-2035, an annual growth rate of 1.5 percent. ~~Town Center traffic growth was adjusted to reflect the higher potential for pedestrian and transit trips.~~ For areas outside the Town Center, traffic growth is expected to be ~~low~~lower with approximately 10 percent growth between ~~2014~~2018-2035, an annual growth rate of 0.5 percent. The resulting forecasted traffic volumes directly reflect the anticipated land use,

housing, and employment growth assumptions for the Island.

Baseline Traffic Operations Without Improvements

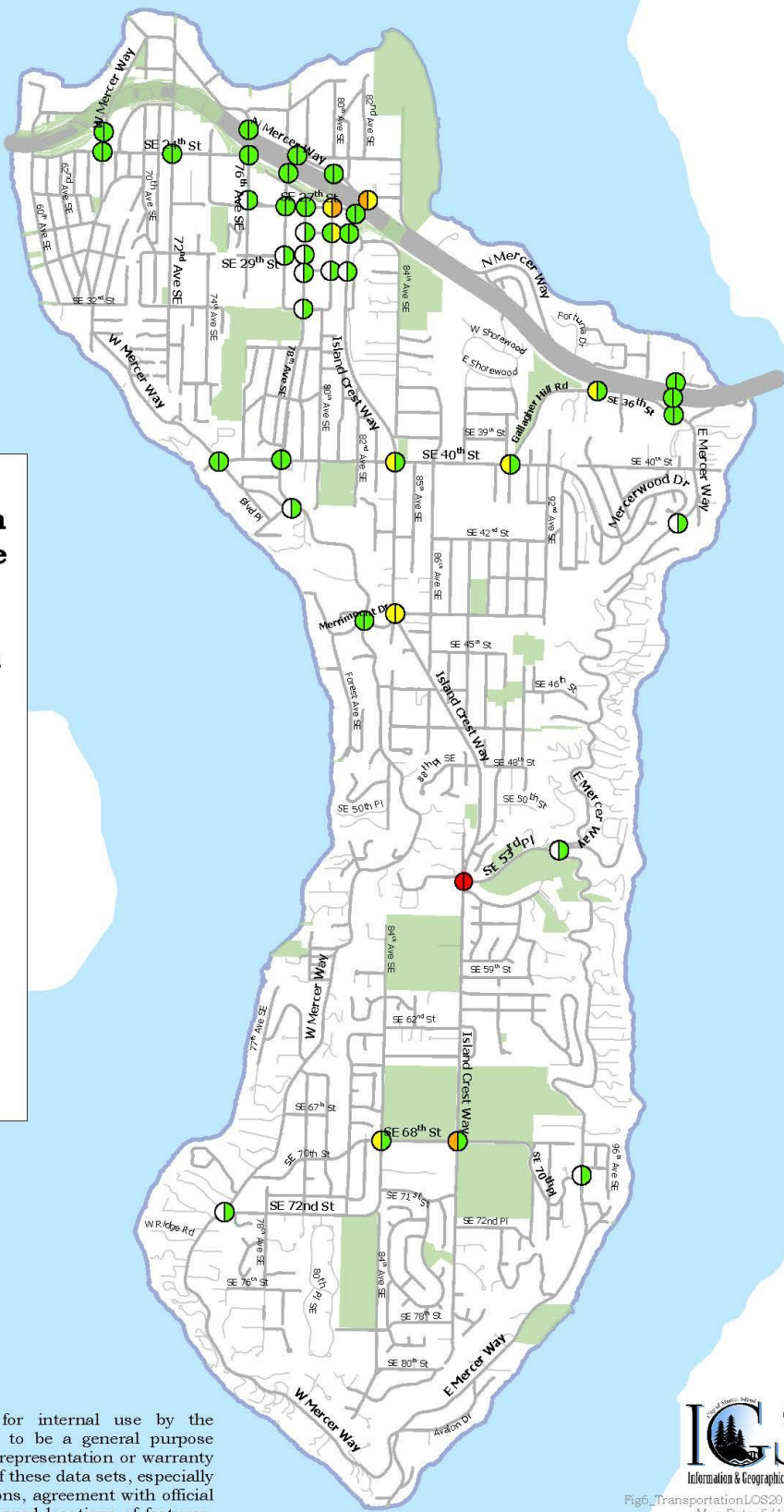
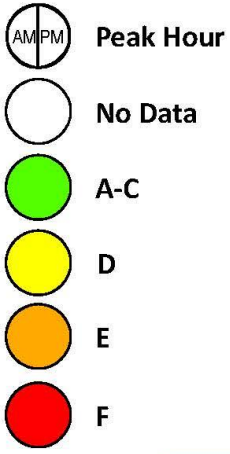
The 2035 ~~baseline~~ traffic analysis uses the forecasted growth in traffic ~~and~~ planned changes to the regional transportation system (light rail station and associated I-90 projects), ~~and the roadway and intersection improvements identified in Mercer Island's 2015-2020 Transportation Improvement Program (TIP).~~ Figure 6 shows the future baseline traffic operations at the study intersections without any changes to roadway capacity on Mercer Island.

Results of the 2035 ~~baseline~~ traffic operations analysis ~~shows~~show that ~~seven~~five intersections would operate below the LOS standards by 2035 if improvements are not made to the intersections. In the ~~vicinity of the~~ Town Center, the ~~three~~two intersections of ~~N Mercer Way/77th Avenue SE, SE 27th Street/80th Avenue SE, and SE 28th Street/80th Avenue SE,~~ would operate at LOS D or worse during ~~the~~ either ~~the~~ AM or PM peak hours, without improvements. Outside of the Town Center ~~the intersection of SE 40th Street/SE Gallagher Hill Road,~~ the intersections of SE 53rd Place/Island Crest Way and SE 68th Street/Island Crest Way would operate below the LOS D standard during either the AM or PM peak hours, ~~without improvements.~~

The WSDOT -controlled intersection at the I-90 ~~eastbound on~~ westbound off-ramp/SE 27th St N Mercer Way/Island Crest Way intersection would operate at LOS E during 2035 PM AM peak hour.

The City will work with the WSDOT to explore improvements at this intersection.

**Figure 6
Transportation
Level of Service
2035
Without
Improvements**



Disclaimer: This data was developed for internal use by the City of Mercer Island and are intended to be a general purpose digital reference tool. The City makes no representation or warranty with respect to the accuracy or currency of these data sets, especially in regard to labeling of surveyed dimensions, agreement with official sources such as records of survey, or mapped locations of features.



Fig6_Transportation LCS2035.mxd
Map Date: 6/13/2018

~~Figure 7 shows the future baseline traffic operations at the study intersections assuming only improvements identified in the 2015-2020 TIP.~~

Recommended Improvements

In addition to the ~~baseline~~ projects identified in the City's ~~2015-2020~~2019-2024 TIP, a future transportation needs analysis ~~developed a list of~~ recommended improvements. ~~The future needs analysis identified additional projects based on the long-range mobility and safety needs through 2035. These include~~ select projects from the City's Pedestrian and Bicycle Plan to improve non-motorized safety and connectivity. ~~Additional roadway and intersection improvement projects were identified based on the operational and safety needs through 2035. Facilities Plan.~~

Figure 67 shows the locations of the recommended transportation improvement projects for the next 20 years. **Table 3** provides a map identification, describes the location and details for each of the projects, and estimates a project cost. The table is divided into two main categories of project types:

Non-Motorized Projects – The listed projects include new crosswalk improvements and pedestrian and bicycle facilities. These projects are identified projects from the City's Pedestrian and Bicycle Facilities Plan that ~~connects~~connect residential areas to schools, parks, regional transit and other destinations.

Intersection/Road Projects – Roadway projects are those that increase the capacity and safety of an intersection or roadway segment. The projects include the maintenance of existing roadway segments to ensure that the City's current street system is maintained.

The recommended improvements identify a total of \$ ~~51.6~~ million dollars of transportation improvements over the next 20 years. About ~~78~~ percent (\$ ~~40.0~~ million) of the total is for street preservation and resurfacing projects to maintain the existing street system. Another ~~9~~ percent (\$ ~~4.6~~ million) is for non-motorized system improvements. About ~~10~~ percent (\$ ~~5.0~~ million) is for traffic operational improvements at intersections ~~to that~~ maintain LOS operations.

Traffic Operations W–with Recommended Improvements

With the recommended improvements, the intersection operations will meet the City's LOS standard for intersection operation and the transportation system will provide a better network for pedestrian and bicycle travel, allowing greater mobility for Island residents. In addition, improvements to regional transportation facilities will accommodate growth in housing and employment, which will to be focused in the Town Center, where residents can be easily served by high capacity transit. **Table 4** compares the 2035 intersection study locations with out baseline and with the recommended improvements for each of the AM and PM study locations. The baseline improvements include the roadway and intersection

improvements identified in Mercer Island's 2019-2024 Transportation Improvement Program. The recommended improvements are those additional improvements that are needed to meet the City's LOS standard.

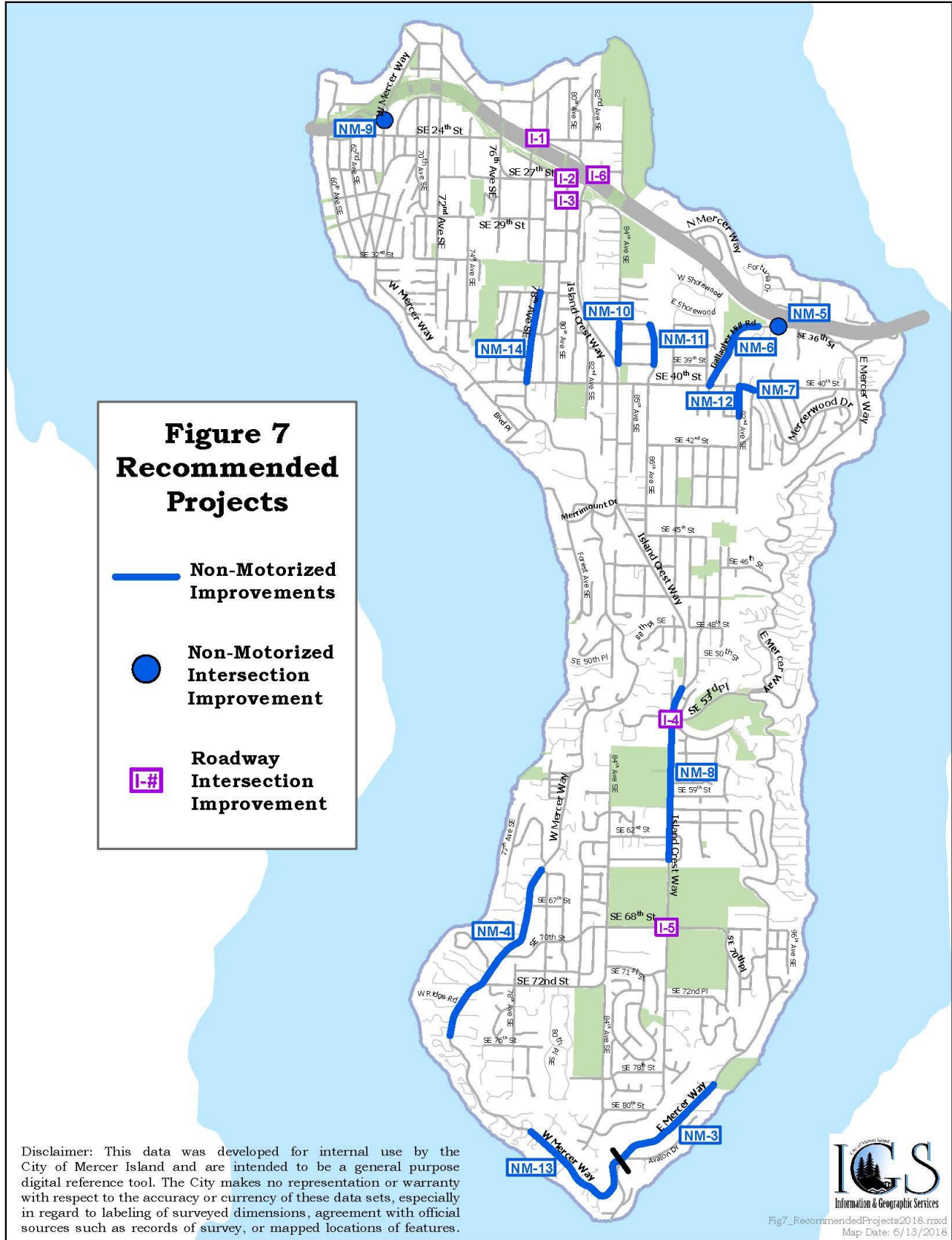


Table 3. Recommended Project List ~~2015~~2018-2035

MAP ID	LOCATION	DESCRIPTION	JUSTIFICATION	COST (\$)
Non-Motorized Projects (NM)				
NM-1	PBF Pedestrian and Bicycle Facilities Plan Implementation	Annual funding for non-motorized improvements.	2015-2020 2019-2024 TIP: Project D1-	810,000 (\$45,000 per year)
NM-2	Safe Routes to School ADA Compliance Plan Implementation - Biennial	Biennial funding for safety Design and construct improvements near schools to meet ADA compliance standards.	Ongoing 2019-2024 TIP: Project D2	100,000 675,000 (\$75,000 every other year) Every other year
NM-3	East Mercer Way Roadside Shoulders (Clarke Beach to Avalon Drive) (From 6600 block to south end of E Mercer Way) Safe Routes - Madrona Crest (86th Avenue SE) Sidewalk	Sidewalk between SE 38th to SE 39th Street. Add paved shoulders for non-motorized users.	2015-2020 2019-2024 TIP: Project D2-D3 .	483,000
NM-4	West Mercer Way Roadside Shoulders Phase 2 (SE 70th Street to 7400 Block) and Phase 3 (SE 65th Street to SE 70th Street) Safe routes to school - New Elementary School	Pedestrian improvements to support the new elementary school. Add a shoulder on the east side of West Mercer Way for non-motorized users.	2015-2020 2019-2024 TIP: Project D3-D4	454,796,000
NM-5	Island Crest Way Crosswalk Enhancement - Improvement at SE 32nd/36th Street and North Mercer Way Intersection	Add Rectangular Rapid Flashing Beacons (RRFB) at existing pedestrian crossing- with refuge island, ADA improvements, and rectangular rapid flashing beacons (RRFBs).	2015-2020 2019-2024 TIP: Project D4-D5	25 100,000
NM-6	Gallagher Hill Road Sidewalk Improvement	Construct concrete curb, gutter, and sidewalk along east side of street.	2019-2024 TIP: Project D6	540,000
NM-67	Mercerwood Drive between 92nd Avenue SE and 93rd Avenue SE 84th Avenue Path (SE 39th to Upper Luther Burbank Park)	Add a gravel shoulder Safe routes to school pedestrian facility along south side of street.	2015-2020 2019-2024 TIP: Project D5-D7	70 200,000
NM-78	Island Crest Way Bike Route between 90th Avenue SE and SE 63rd Street East Mercer Way Roadside Shoulders (From 6600 block to south end of E Mercer Way)	Add a shoulder for non-motorized users. Complete missing gap in north-south bike route.	2015-2020 East Link mitigation/ 2019-2024 TIP: Project D6-E1 (design only \$300,000)	1,067,400 2,000,000
NM-89	I-90 Trail Crossing at West Mercer Way Roadside Shoulders (7400-8000 Block)	Add a shoulder for non-motorized users. Construct enhanced trail crossing.	2015-2020 East Link mitigation/ 2019-2024 TIP: Project D7-E2	417,500 300,000
NM-10	8684th Avenue SE Sidewalk between SE 33rd Street and SE 36th Street	Construct sidewalk.	Safe routes to school	350,000
NM-110	Madrona Crest (86th Avenue SE) Sidewalk Phase 2 between SE 36th Street and SE 39th Street	Add sidewalk along east side of street	Safe routes to school	340,000

MAP ID	LOCATION	DESCRIPTION	JUSTIFICATION	COST (\$)
NM-112	92nd Avenue SE Sidewalk between SE 40th Street to SE 41st Street	Construct sidewalk along west side of street.	Safe routes to school	200,000
NM-9132	West Mercer Way Roadside Shoulders (8000-8100 block to E Mercer Way/Avalon Drive)	Add a paved shoulder (east side) for non-motorized users.	PBFP-Pedestrian and Bicycle Facilities Plan: Project WMW8	422,400TBD
NM-10	West Mercer Way Roadside Shoulders (6500 to 7400 block)	Add a paved shoulder (east side) for non-motorized users.	PBFP	676,800
NM-1143	78th Avenue SE between SE 34th 2nd Street to SE 40th Street	Improve with sidewalks, pedestrian and bicycle lanes/sharrows facilities to connect with the Town Center.	PBFP Pedestrian and Bicycle Facilities Plan: Project N15 and N16	1,131,300
Intersection Projects (I) / Road Projects (R)				
I-1	SE 24th Street/W Mercer Way	Add southbound left turn pocket (re-channelize).	East Link/Fails to meet LOS Standard	25,000
I-21	77th Avenue SE/N Mercer Way	Roundabout or traffic signal* or add center receiving lane.	East Link bus-rail integration /fails to meet LOS standard	820,000 Sound Transit Mitigation
I-32	SE 27th Street/80th Avenue SE	Traffic signal.	East Link mitigation /fails to meet LOS standard	858,000 Sound Transit Mitigation
I-43	SE 28th Street/80th Avenue SE	Traffic signal.	Fails to meet LOS standard	854,900
I-5	SE 40th Street/86th Avenue SE	Add westbound and eastbound left turn pockets and dedicated left turn signal phase.	2015-2020 TIP: Project C3.	758,800
I-6	SE 40th Street/Gallagher Hill Road	Add eastbound left turn pocket	Fails to meet LOS Standard	133,900
I-74	SE 53rd Place/Island Crest Way	Traffic signal.	Fails to meet LOS standard	602,700
I-85	SE 68th Street/Island Crest Way	Traffic signal/ Roundabout* or roundabout.*	Fails to meet LOS standard	982,500
I-6	N Mercer Way/I-90 Westbound Off-Ramp/Island Crest Way	Add exclusive westbound left turn lane at I-90 off-ramp.	Fails to meet WSDOT LOS Standard	Cost estimateTBD
I-7	Light Rail Station Access Improvements and Mitigation for I-90 Center Roadway Closure	Vehicle and non-motorized improvements to enhance access to station and address issues related to I-90 center roadway closure.	Light rail station scheduled to open in 2023	Cost estimateTBD
R-1	Street Preservation/Maintenance	Street resurfacing/Resurfacing arterial and residential streets based on PCI rating.	2015-2020/2019-2024 TIP: Projects A1, B1-B2B3 , C1-C10, E1-E3 .	4030,000,000
			Total 2015/2018-2035 Projects	51,620,200TBD

*Cost estimate reflects higher cost option of alternative actions.

Table 4. 2035 Intersection Operations – ~~Baseline Without and With~~ Recommended Improvements

Intersection	2035 AM Peak Hour		2035 PM Peak Hour	
	With Baseline Without Improvements	With Recommended Improvements	With Baseline Without Improvements	With Recommended Improvements
Town Center Intersections (LOS C Standard)				
\$E 24th St/76th Ave SE	-B	-B	CB	CB
N Mercer Way/77th Ave SE	FA	AB	FA	A
N Mercer Way/Park & Ride/80th Ave SE	C	C	C	C
SE 27th St/76th Ave SE	--	--	B	B
\$E 27th St/77th Ave SE	CB	CB	C	C
\$E 27th St/78th Ave SE	B	B	CB	CB
\$E 27th St/80th Ave SE	ED	B	E	CB
\$E 28th St/78th Ave SE	--	--	CB	CB
\$E 28th St/80th Ave SE	-B	-B	FD	CB
SE 28th St/Island Crest Way	B	B	C	C
SE 29th St/77th Ave SE	--	--	B	B
SE 29th St/78th Ave SE	--	--	C	C
SE 30th St/78th Ave SE	--	--	C	C
SE 30th St/80th Ave SE	--	--	B	B
\$E 30th St/Island Crest Way	--	--	AB	AB
\$E 32nd St/78th Ave SE	--	--	C	C
WSDOT Intersections (LOS D Standard)				
I-90 EB off-ramp/I-90 WB on-ramp/W Mercer Way	B	B	B	B
I-90 WB on-ramp/N Mercer Way/76th Ave SE	CB	CB	DA	DA
I-90 EB off-ramp/77th Ave SE	B	B	B	B
I-90 WB off-ramp/N Mercer Way/Island Crest Way	CE	C	ED	EC
I-90 EB off-ramp/77th Ave SE	B	B	B	B
I-90 EB on-ramp/SE 27th St/Island Crest Way	C	C	C	C
I-90 EB on-ramp/SE 36th St/E Mercer Way	B	B	B	B
I-90 WB ramps/100th Ave SE	C	C	B	B
I-90 EB off-ramp/100th Ave SE/E Mercer Way	B	B	AB	AB
I-90 EB on-ramp/SE 36th St/E Mercer Way	B	B	B	B
I-90 WB ramps/100th Ave SE	BC	BC	CB	CB
Outside of Town Center Intersections (LOS D) Standard				
SE 24th St/W Mercer Way	B	B	C	C
\$E 24th St/72nd Ave SE	-B	-B	B	B
\$E 36th St/N Mercer Way	ED	ED	DC	DC
\$E 40th St/W Mercer Way	-B	-B	AB	AB
\$E 40th St/78th Ave SE	-B	-B	B	B
\$E 40th St/Island Crest Way	D	D	DC	DC
\$E 40th St/SE Gallagher Hill Rd	D	ED	EC	DC
Mercerwood Dr/E Mercer Way	--	--	B	B
W Mercer Way/78th Ave SE	--	--	B	B
Merrimount Dr/W Mercer Way	-C	-C	BC	BC
Merrimount Dr/Island Crest Way	-D	-D	ED	ED
\$E 53rd Place/Island Crest Way	F	B	F	AB

SE 53rd Place/E Mercer Way	--	--	A	A
SE 72nd St/W Mercer Way	--	--	AB	AB
SE 68th St/84th Ave SE	ED	ED	B	B
SE 68th St/Island Crest Way	FE	EA	DC	A
SE 68th St/70th Place /E Mercer Way	--	--	B	B
SE 72nd St/W Mercer Way	--	--	B	B

Commented [

V. FINANCIAL ANALYSIS

Since incorporation in 1960, the City has consistently made (or required through private development) transportation investments that have preceded and accommodated population growth and its associated traffic growth. This strategy has enabled the City to make significant improvements in the community's neighborhood streets, arterial roads, pavement markings, streets signs, pedestrian, and bicycle facilities.

In 2017, the City's primary funding sources for local transportation projects included: gas tax revenues (\$510,000), real estate excise tax (\$2,845,000), Transportation Benefit District vehicle fees (\$370,000) and transportation impact fees (\$237,000). In total, the City received between approximately \$2.7 million (2016) and \$4.0 million (2017) in annual transportation revenues.

In recent years, the City has relied on gas tax revenues (\$450,000 in 2014) and real estate excise tax (\$1,500,000 in 2014) to fund local transportation projects.

In 2014, the City established a Transportation Benefit District that added a \$20 per vehicle fee to provide an estimated \$350,000 annually to

support transportation needs. Combined the City anticipates approximately \$2.3 to \$2.6 in annual revenues. In 2016, the City adopted transportation impact fees to provide another funding source.

In addition, Sound Transit mitigation for the closure of the I-90 center roadway is providing up to \$5.1 million in matching funds for operational and safety improvements.

Combined with supplemental federal and state grant funding, Mercer Island has sufficient resources to maintain and improve its transportation system over the next twenty years and will be able to accomplish the following:

- Maintain the City's arterial street system on a twenty-25-year (average) life cycle;
- Maintain the City's residential system on a thirty-five-35-year (average) life cycle.
- Maintain, improve and expand the City's pedestrian/bicycle system over the next twenty20 years.
- Maintain and improve the transportation system to meet the forecasted housing and employment growth targets.

VI. IMPLEMENTATION STRATEGIES

The following actions by the City of Mercer Island and other jurisdictions will be necessary to effectively implement the program and policy elements of this transportation element:

Transportation System - Streets, Transit, Non-Motorized

- Develop local neighborhood traffic control plans as necessary to address specific issues.
- Develop a program for monitoring transportation adequacy to compare projections to actual conditions and identify locations where improvement may become necessary.
- Implement Transportation System Management techniques to control traffic impacts.

Planning - Standards, Policies, Programs

- Periodically update the City's inventory of transportation conditions, functioning level of service and projected levels of service.
- Complete the plan for non-motorized transportation improvements consistent with the City's Comprehensive Plan, including a review of the Pedestrian and Bicycle Facilities Plan and its design standards.
- Develop a neighborhood parking program to address parking

overflow impacts from schools, businesses, parks and multi-family housing.

- Revise design standards as necessary to comply with ADA requirements.
- Continue to involve the public in transportation planning and decisions.
- ~~Develop~~[Create](#) "transit friendly" design guidelines for ~~project developers to follow~~[new development projects in the Town Center](#).
- Develop policies, criteria and a process to determine when, and under what conditions, private roads and privately-maintained roads in public rights of way should be accepted for public maintenance and improvement.
- Implement the City's adopted Commute Trip Reduction program.

Financial Strategies

- Secure funding to implement the adopted six-year Transportation Improvement Program.
- Actively pursue outside funding sources to pay for adopted transportation improvements and programs.

Transit Planning

- Work with Metro to reinstate and improve fixed route transit services. Work with Metro to

explore alternative methods of providing service to island residents, such as developing a demand responsive service throughout the Island.

- Work with Metro and Sound Transit to site, design and construct high capacity transit and parking facilities consistent with Land Use and Transportation Policies contained in the Comprehensive Plan that will be available for use by Mercer Island residents.

VII. CONSISTENCY WITH OTHER PLANS & REQUIREMENTS

The Growth Management Act of 1990 requires that local comprehensive plans be consistent with plans of adjacent jurisdictions and regional, state and federal plans. Further, there are several other major statutory requirements with which Mercer Island transportation plans must comply. This section briefly discusses the relationship between this Transportation Element and other plans and requirements.

Other Plans

The Transportation Element of the Mercer Island Comprehensive Plan is fully consistent with the following plans:

Mercer Island Comprehensive Plan — The Transportation Element is based on the needs of, and is fully consistent with the Land Use Element.

King County and Multicounty Planning Policies — Mercer Island's proposed transportation policies are fully consistent with PSRC's multi-county and King County's countywide planning policies.

Vision 2040— Vision 2040 builds upon Vision 2020 and Destination 2030 to articulate a coordinated long-range land use and transportation growth strategy for the Puget Sound region. Mercer Island Comprehensive Plan's Land Use and Transportation Elements supports this strategy by accommodating new growth in the Town Center which is near existing and proposed future transportation improvements along the I-90 corridor.

Metropolitan Transportation Plan — The Puget Sound Regional Council (PSRC) has updated its long-term vision of the future transportation system through the Vision 2040 and Transportation 2040 plans. The Transportation Element is consistent with these plans.

Regional Transit System Plan — Sound Transit's Regional Transit System Plan (RTP) lays out the Puget Sound region's plans for constructing and operating a regional high capacity transit system. Both the Land Use and Transportation Elements directly support regional transit service and facilities, and are consistent with the RTP.

Plan Requirements

The Transportation Element of the Mercer Island Comprehensive Plan meets the following regulations and requirements:

Growth Management Act — The Growth Management Act, enacted by the Washington State Legislature in 1990 and amended in 1991, requires urbanized counties and cities in Washington to plan for orderly growth for 20 years into the future. Mercer Island's Transportation Element conforms to all of the components of a comprehensive transportation element as defined by GMA.

Commute Trip Reduction — In 1991, the Washington State Legislature enacted the Commute Trip Reduction

Law which requires implementation of transportation demand management (TDM) programs to reduce work trips. In response to these requirements, Mercer Island has developed its own CTR program to reduce work trips by City employees. There are two other CTR-affected employers on the Island; both have developed CTR programs.

Air Quality Conformity — Amendments to the federal Clean Air Act made in 1990 require Washington and other states to develop a State Implementation Plan (SIP) which will reduce ozone and carbon monoxide air pollutants so that national standards may be attained. The Central Puget Sound area, including King County and Mercer Island, currently meets the federal standards for ozone and carbon monoxide. The area is designated as a carbon monoxide maintenance area, meaning the area has met federal standards, but is required to develop a maintenance plan to reduce mobile sources of pollution.



DEVELOPMENT SERVICES GROUP

9611 SE 36TH ST., MERCER ISLAND, WA 98040

(206) 275-7605

TO: Planning Commission

FROM: Evan Maxim, Interim Director of Development Services

DATE: June 20, 2018

RE: **2018 Comprehensive Plan Amendments Nos. 14**

Summary

On April 18, 2018, the Planning Commission a draft amendment language that would create a policy basis to support new development regulations that would provide flexibility and facilitate the creation of less housing options.

Following discussion, the Planning Commission requested that staff provide further information on different types of housing options and focus the policy language further on the creation of “pilot program” development regulations. Staff is seeking further guidance and discussion on June 20, related to this amendment.

Background

Amendment #14. The City Council has requested that the Planning Commission create goals and policies that support the development of regulatory tools that would provide flexibility and facilitate the creation of less expensive housing options. Staff understands that the policy support should include language that both: A) supports the use of innovative regulatory approval mechanisms (e.g. PUDs, pilot program ordinances, etc.); and B) allows for increased flexibility in the design standards applied to a proposed subdivision (e.g. reduced lot sizes, modified setbacks, etc.) in return for a specified public benefit (e.g. increased vegetated open space, accessible homes, sustainable home design, etc.)

The specific docket item refers to “Planned Unit Development” or PUD regulations. PUDs are used generally to allow for additional flexibility in the design of a subdivision or short subdivision; for example, by allowing for smaller lot sizes and integrated design of the lots and buildings. Additional information related to PUDs is attached as Attachment A. The additional flexibility in design typically requires that the developer commit to public amenities of the sort described above (e.g. open space preservation, sustainable design, etc.) While PUDs are a good approach to this type of discussion, there may be other tools (e.g. a pilot program ordinance) that would work better for the City of Mercer Island.

A pilot program ordinance may be useful tool to “testing” several different types of regulatory tools to

determine what approach best suits the community of Mercer Island. To explore different types of regulatory tools, the City Council could adopt a pilot program ordinance which allows for limited implementation of a PUD ordinance, or a similar development regulation approach, with the understanding that the development regulation's effect would be evaluated after a couple of projects are built. For example, a pilot program ordinance could limit the number of lots created through a new program to a maximum of 20 lots, preventing further development without City Council action. This approach allows the community to determine whether the resulting public benefits are appropriately balanced with the increased flexibility. Attachment B, describes a variety of different program types and implementation strategies for further context; some of these housing types are clearly not suitable for Mercer Island, however the article illustrates a number of different approaches that may be of interest.

The above information is intended to provide context for the Planning Commission's evaluation of the proposed Comprehensive Plan policy language, which would serve to guide the development of a program at a later date. The **yellow highlighted** language in the draft amendment below, identifies edits to the proposed amendment following the Planning Commission's original review in April.

Amendment 14

Amend Goal 16 of the Land Use Element, to read:

GOAL 16: Achieve additional residential capacity in single family zones through flexible land use techniques and land use entitlement regulations.

Create a new Policy 16.6 in the Land Use Element, to read:

Policy 16.6 Explore flexible residential development regulations and entitlement processes that support, and create incentives for, subdivisions that incorporate public amenities **through the use of a pilot program.** The use of flexible residential development design should be used to encourage public amenities such as vegetated open space, accessible homes, and sustainable development.

Next Steps

Presuming no further Planning Commission review is required prior to the public hearing, item No. 14 will be queued up for a final review with the Planning Commission in August 2018.

I welcome questions you may have at this stage of the process, as well as topics that you would like covered during the April 18th meeting. If you provide questions in advance, staff will attempt to address them at the meeting. I can be reached at evan.maxim@mercergov.org or 206-275-7732.

Attachments:

- A. "Planned Unit Developments – Real World Experiences" by Bob Bengford (MRSC), 11/2012
- B. "Encouraging Neighborhood-Friendly, Residential Infill Development" by Steve Butler (MRSC), 5/2018

Planned Unit Developments - Real World Experiences

November 1, 2012 by [Bob Bengford](#)

Category: [Subdivisions and Planned Developments](#) , [Planning Advisor](#)

By **Bob Bengford, AICP, [MAKERS](#)**

Introduction

The concept of planned unit developments has been around now for quite some time. Most cities and counties in Washington have adopted planned unit development ordinances. Much has been written over the years about the technical and legal nature of PUDs. This article, however, takes a look at how some of these ordinances are working in the real world. What are the major issues and challenges? Are PUD ordinances even necessary?

What is a Planned Unit Development (PUD)?

A PUD is both a type of development and a regulatory process. Individual definitions can vary greatly depending on the community or jurisdiction and its goals. The purpose of a PUD is generally to allow greater flexibility in the configuration of buildings and/or uses on a site than is allowed in standard zoning ordinances. A major goal of PUDs is often to encourage unified plans that provide a more complete and integrated package (hopefully including special amenities) over piecemeal development. A typical PUD would include a cluster of small lots in conjunction with a common usable open space with some recreational amenities and a protected natural area functioning as permanent open space. This arrangement can benefit both sides: A developer gets extra flexibility in configuring lots and buildings and perhaps a density bonus and/or reduced infrastructure cost, while the city/county gets permanent open space and/or other desired amenities.

The most common PUD applications occur in suburban cities and rural county areas. Flexibility is the key principle for applications in both types of areas. The protection of critical areas is a common theme of many city PUDs. The protection of larger tracts of open space is a common theme for rural PUDs. Flexibility in clustering small lots in rural areas, however, is more challenging in Washington State under Growth Management Act provisions. Planned unit developments can range in size from large master planned communities (Snoqualmie Ridge, Issaquah Highlands, and Redmond Ridge are the three largest King County examples) to 1-2 acre projects containing a handful of lots. Many of the master planned residential developments are classified as Planned Residential Developments (PRD), a variant of PUD.

Three Case Studies

This article is based on an examination of three case studies, including Bonner County (ID), Ellensburg (WA), and Bayview Ridge Subarea (Skagit County, WA).

Bonner County, Idaho

Bonner County is a large rural county in northern Idaho, stretching from the Washington to Montana borders. I served as an assistant planner in the mid 1990's processing a broad range of development permits, including PUDs. Most PUDs were recreational-based properties near lakes, rivers, or Schweitzer Mountain Ski Area. Nearly all sites included wetlands, steep slopes, or other sensitive lands. Some notable provisions of the ordinance in effect at the time included:

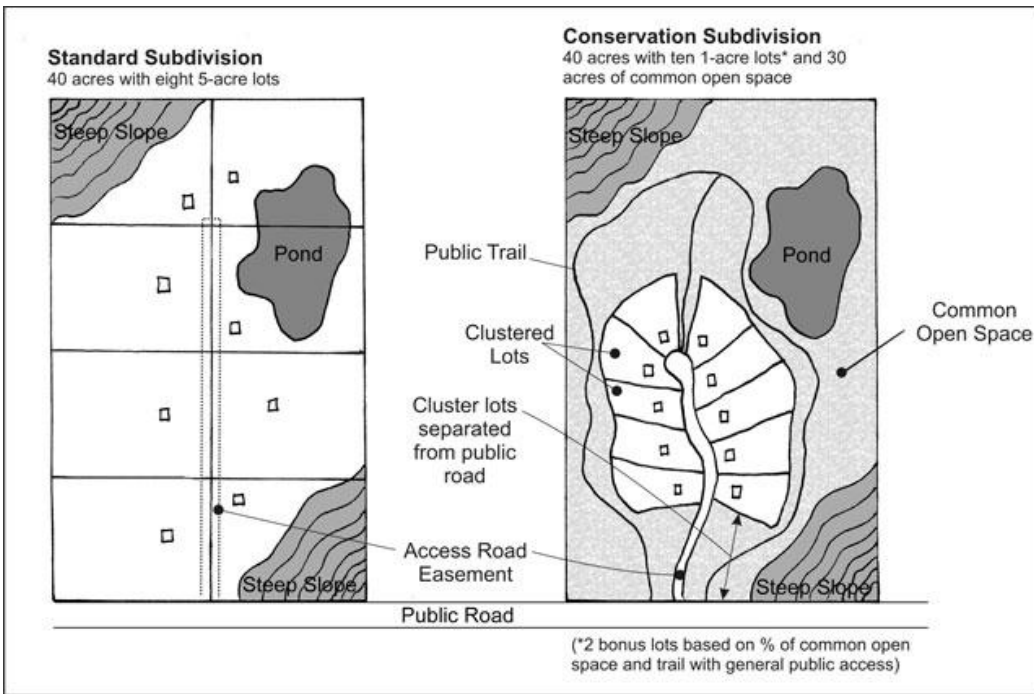
- PUDs functioned as a conditional use permit submitted in conjunction (or prior to) with a subdivision application (preliminary plat).
- Large scale PUDs (more than 5 acres) had extra flexibility to add commercial uses provided they were designed to support "primarily" the needs of the residents of the development. Flexibility with the types of housing units were allowed in all PUDs provided the project met the density provisions and other applicable standards.
- A minimum common open space requirement (10%).
- Up to 25% density bonus based on an increase in the amount of common open space provided.
- Projects required a pre-application meeting, simple environmental analysis and land capability report, a homeowners association, and covenants/articles of incorporation to be recorded with the final plat (as an enforcement tool).

While I processed a handful of PUDs during my two years with the county, the great majority of new lots were created through the standard subdivision process. Most of these were simple land divisions - for example, dividing a 20 acre parcel into four-five acre lots, surveyed into perfect rectangles, regardless of the site's features.

Several years later, working as a consultant with MAKERS, I had the chance to help the county update their entire land use code - to comprehensively examine objectives, issues, and opportunities. In the PUD/subdivision area, changes were sought that would promote clustered development, greater design flexibility, and environmental protections. While the code update only resulted in some relatively minor PUD ordinance updates, the most notable change was to allow lot clustering as part of the regular subdivision process (as part of a "Conservation Subdivision"). The resulting "Conservation Subdivision" provision allowed for "meaningful" density bonuses while it enhanced the standards for common open space and offered density bonuses for other public amenities (most notably public access and trails). The density bonuses were increased over existing PUD provisions to provide a greater incentive for their use. The open space in the conservation subdivision has to be valued as wildlife habitat, wetlands, timberland, active recreation, and/or include other unique vegetative qualities.

Bonner County Land Use Code illustration comparing a standard subdivision with a conservation subdivision.

It's noteworthy that had Bonner County been under GMA jurisdiction, the ordinance would have run up against GMA's laws governing urban and rural development. The conservation subdivision option allows urban-sized lots in rural areas, provided projects met the overall density provisions - in addition to other applicable



requirements. The issue (urban lots in rural areas) was a concern amongst participants, but it was determined that the potential benefits of clustered development outweighed the drawbacks in this case - particularly after factoring in other standards and approval criteria. This included compatibility issues, adequate infrastructure, and access to services.

Project Status: *Economic conditions in the region have substantially decreased the*

number and types of development applications since the updated code was adopted (2008). Planning Director Clare Marley noted that only three PUD applications have been processed (mostly in more urbanized areas) and the conservation subdivision provision hasn't been used yet (though several developers and property owners have expressed interest).

City of Ellensburg, WA

Ellensburg is a small city of 20,000 in central Washington featuring a historic downtown and Central Washington University, surrounded by farms at the foothills of the Cascades. My firm (MAKERS) was hired in 2010 (along with O'Brien & Company, Transpo Group, and Cascadia Green Building Council) to update the city's land use code following the update of its comprehensive plan.

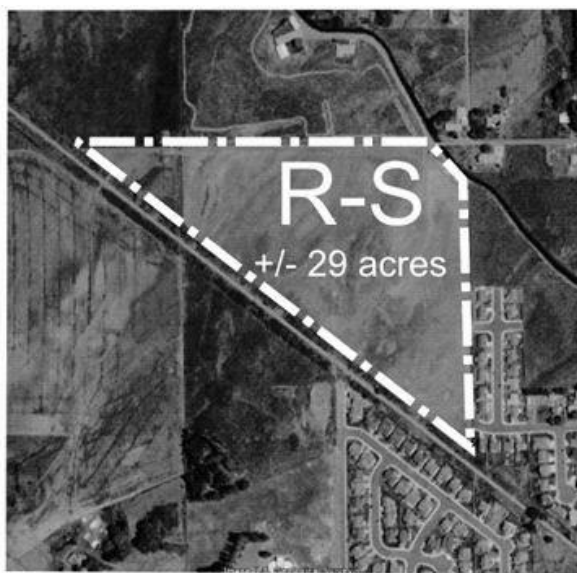
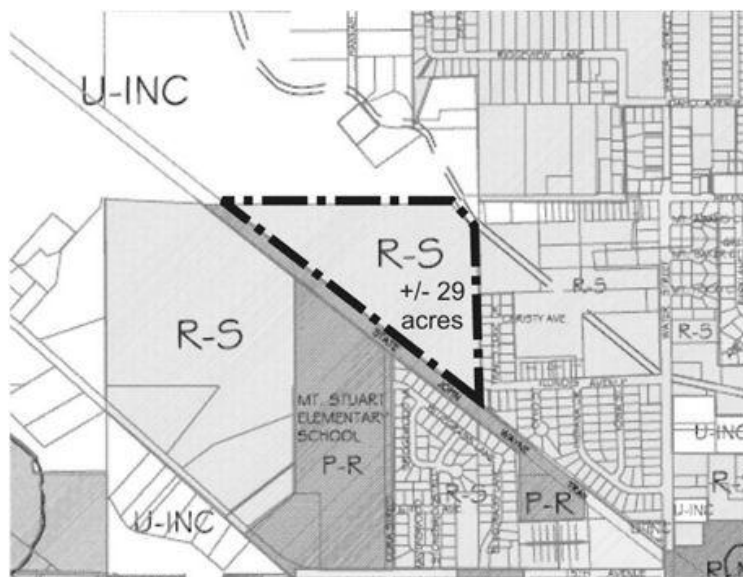
During the early visioning/analysis stage, we learned that the city's extensive PUD ordinance (adopted in 2001) had only been used once. Planning Director Mike Smith noted that the ordinance was perceived as too complicated and the incentives too small to encourage its use. Developers were utilizing the standard subdivision process in piecemeal fashion. Most of the newer subdivisions were simple, monotonous, and often poorly coordinated. The community sought code changes that would promote a more compact and connected development pattern that promoted walking and bicycling, and enhanced the character of Ellensburg.

After a targeted outreach process with public officials and stakeholders, we ultimately decided to eliminate the PUD provision altogether. The solution was two-fold: Integrate design flexibility (clustering and density bonuses) into the subdivision process and update subdivision and street design standards to meet community objectives. Perhaps the biggest change was to eliminate the lot size minimum requirement in favor of the density averaging concept. Other notable changes:

- Allow a small increase in overall density in most districts combined with new design standards (house/garage frontage standards, streetscape design, better road and trail connectivity, and fence location and design standards).
- Adopt a density bonus system for key suburban zones - with generous bonuses (some up to 50% increase and beyond) for desired design and/or amenity features (trails, extra parkland, mix of housing types, energy efficient design, etc.).

- Allow for flexible lot design (zero lot line, courtyard access, etc.).
- Illustrate desirable subdivision layout examples.

The biggest challenge with these changes was to craft the density bonus system in a way that met community policy objectives AND was simple enough (for a small city) to administer. In this case, we employed prescriptive, measurable benchmarks wherever practical - to provide a level of certainty and predictability. Measures eligible for density bonuses included a mixture of housing types (measured by percentages), integrating trails (measured by linear foot), and park/open space (measured by area). Another key bonus provision emphasized increased energy efficiency. Project teammate Katie Spataro (Cascadia Green Building Council) recommended specific environmental certification levels tied to a tiered system of density bonus levels. This requires third party verification and helps to simplify enforcement for staff. For example, proof of ongoing certification is required during construction and project certification must be completed prior to final occupancy. The most challenging density bonus provisions to craft were the affordable housing, historic preservation, and transfer of development rights (TDR) provisions. All were high priorities among project stakeholders and public officials and each includes specific benchmarks to help ensure compliance. Each, however, include their own unique implementation challenges. The TDR provision is subject to the city adopting a TDR program.



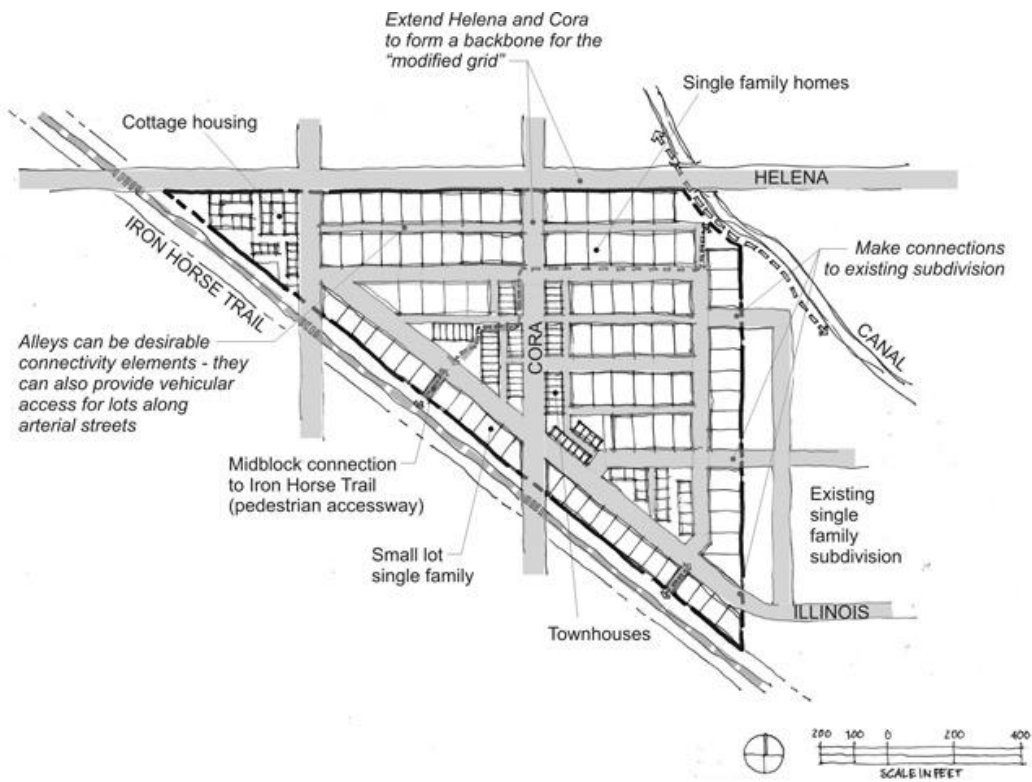
As part of the code

update, we took an undeveloped site and illustrated how it could be developed consistent with the code and integrating key density bonus provisions. The case study was particularly useful during the process as it resulted in reduced density bonus percentages for most of the features.

Project Status: *The Ellensburg provisions, in the works since mid 2010, are now being refined and are scheduled for Planning Commission and City Council review during Winter 2013.*

Bayview Ridge Urban Growth Area (Skagit County, WA)

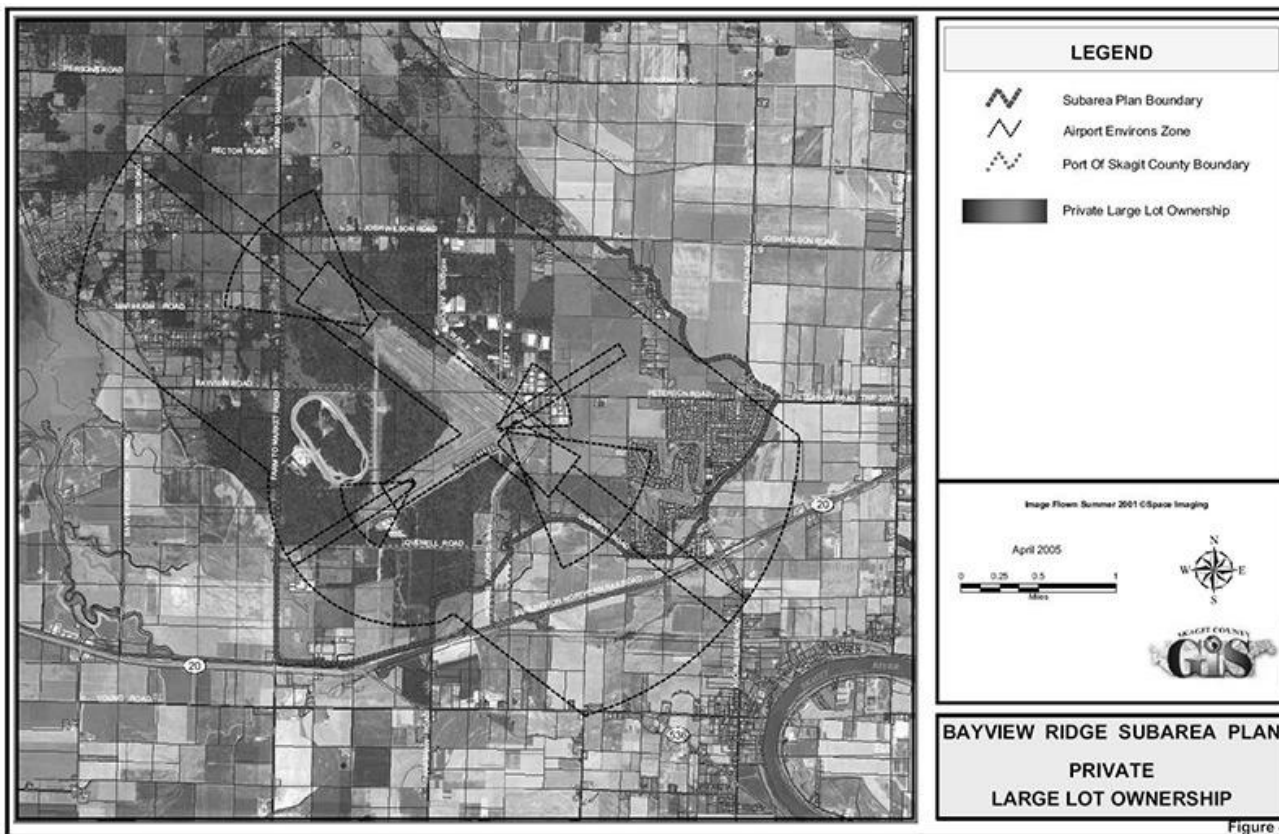
MAKERS was hired to work with the Port of Skagit County, property owners, and Skagit County to write a PUD ordinance that would implement a recently adopted subarea plan. The project site is within an "island" urban growth area surrounding the Skagit County Airport, northwest of Mount Vernon and west of Burlington, in northwest Washington. The Urban Growth Area (UGA) includes industrial port lands surrounding the airport with large vacant tracts, scattered residential development, and subdivisions surrounding a golf course. The UGA sits on a bluff and is separated from nearby cities (Mount Vernon and Burlington) by farmland and



floodplain.

The focus of the work was large tracts of vacant land owned primarily by a single property owner. Most of the land was designated for residential development between 4-6 dwelling units per acre, with a small village center

(retail/mixed-use), a school (hopefully), and some additional light industrial land closer to the airport.



The focus area of the ordinance is the land highlighted in green and other color coded larger parcels to the east of the airport.

Project participants assumed that a PUD would be the regulatory mechanism

needed to implement the plan and integrate with the county's land use code. Since Skagit County did not have an existing PUD ordinance, a decision was needed on whether such an ordinance would or could apply countywide, be area-specific, or some combination of both. In developing a proper solution, it was necessary to examine all the components and issues. The chart below identifies some of the key issues together with the solution that the committee came up with.

Table 1: Key Issues and Solutions for Bayview Ridge

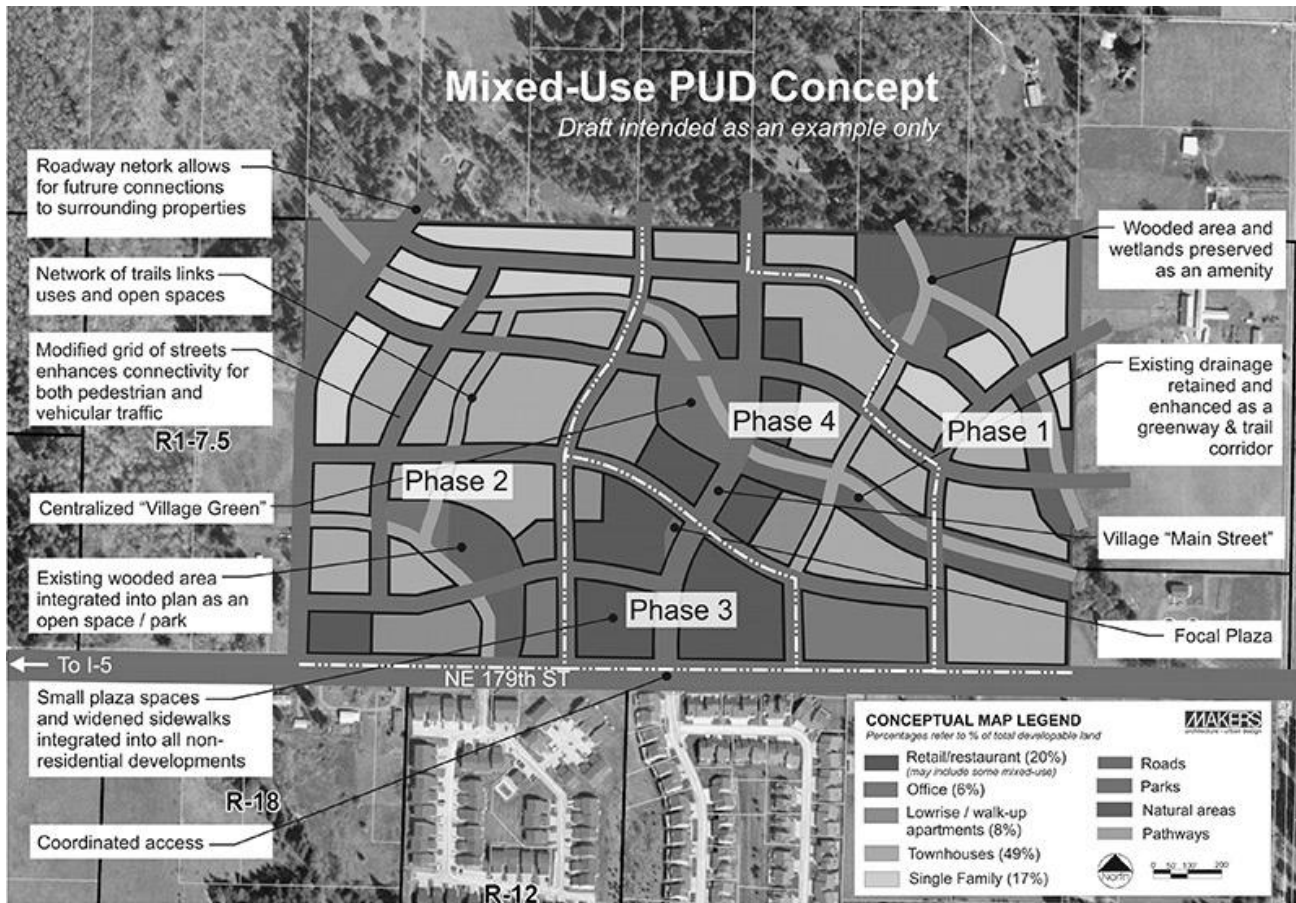
Issue	Proposed Solution
Permit processing	Require a PUD for new land divisions in the planning area. PUD must include a conceptual development plan illustrating circulation, land use(s), design features, and planned phases. Applicants may submit a PUD prior to subdivision or binding site plan or one "integrated" application. Thus a PUD could cover a large site with multiple phases - including one or more subdivisions. Like all subdivision ordinances, the PUD ordinance includes provisions involving the alteration of PUDs and time limits.
Community outreach and design review	Prospective PUD applicants must conduct a pre-submittal neighborhood meeting to present and discuss the conceptual development plan and hear issues and concerns by area residents. Otherwise, PUDs follow similar review process for subdivisions. The County may hire outside design review consultant to assist with the projects' review (subject to a reimbursement agreement made between the County and the applicant).
Zoning provisions - update per subarea plan	Zoning district provisions were updated to meet density and design goals. Zoning provisions allow lot size variety (density averaging).
Community design	Adopt community design standards for planning area addressing street design, road and trail connectivity, school and park integration, and block frontage standards.
Project design	Adopt project design standards for new development in planning area. This includes standards for permitted housing types, site and building design standards, and landscaping and fencing standards.

While the PUD provision was a major discussion topic of the group and ultimately included in the proposed code provisions for Bayview Ridge, it was ultimately just one component of the proposed "Bayview Ridge Development Standards." The proposed new chapter encompasses a purpose statement, application/review process, zoning provisions, and design standards. The most important PUD component used in the draft ordinance is the "conceptual development plan." While development standards were crafted to ensure that new subdivisions and binding site plans met the road and trail connectivity provisions and other key community design provisions, the county advocated for a **conceptual development plan** - as a means to ensure that property owners/applicants are looking at the big picture. This required applicants (of the key larger parcels) to illustrate how contiguously-owned parcels would be developed over a number of phases (see example below). The level of detail could vary depending on the size of the property and the number of phases. For example, a shadow plat could be shown for second phases, while more conceptual "bubble" maps could be used in longer term phases. These conceptual plans would be a useful tool for all participants, particularly the county and interested citizens.

Project Status: *The Bayview Ridge provisions, in the works since late 2011, are scheduled for Planning Commission and City Council review during Winter 2013.*

Example of a conceptual development plan map illustrating multiple anticipated phases. The concept includes plans for streets and trails, parks and open space corridors, and land uses/housing types. Such plans would be accompanied by sketches and photos of development examples, and numbers and/or parameters for the types and amount of development. A detailed subdivision application for Phase 1 could be submitted simultaneous with the PUD application, or within a specified time frame after PUD approval.

Other Case Studies



As part of the research for this article, I sought a variety of case studies and resources that might be instructive. They include a full range of development contexts from an urban city (Bellevue, WA) to a small resort town in central Washington (Chelan, WA). I wanted to

include a rapidly growing suburban community (Marysville, WA) as well as a large county (Whatcom County, WA). I also spoke with a planner and an attorney from the planning law firm Van Ness Feldman GordonDerr who have considerable experience with PUD ordinances.

Table 2, available in [PDF](#) or [Word](#), provides a comparison of the PUD ordinances of these four communities, documenting the purpose and emphasis of each, whether there are any bonuses, use flexibility, or street design flexibility, and unique provisions of each. Conclusions from each case study include:

Bellevue (based on discussion with Matthews Jackson, Neighborhood Development Planning Manager):

- Since Bellevue is largely built-out, there have only been six projects completed since the last PUD ordinance update in 2006. Most projects have been relatively small and all involve critical areas. While some projects have utilized density bonuses, the primary reason for doing a PUD is to get relief from strict lot size minimums in applicable zones.
- Bellevue has adopted special critical area subdivision provisions - that allow for reduced lot sizes, setbacks, lot coverage, and impervious area in exchange for larger conservation/open space areas. This provision reduces the number of projects that would otherwise use the PUD concept to achieve the desired flexibility.
- There is interest in updating the code to allow more administrative flexibility with lot sizes and housing types (cottage housing, for example) in applicable districts, perhaps without going through a PUD process. Redmond and Kirkland were cited as good code examples - both feature innovative housing demonstration projects.

Whatcom County (based on discussion with Amy Keenan, Senior Planner):

- Nearly all of the PUDs are in Birch Bay, an unincorporated UGA island. Most are single family developments and none have used the density bonus provision; All are impacted by critical areas - thus asking for reduced setbacks and changes to road standards.
- The county has been slow to enforce specific PUD conditions of approval.

Marysville (based on discussion with Gloria Hirashima, Chief Administrator and Community Development Director):

- The current (planned residential) ordinance, adopted in 2006, has been used three times, and only once since 2008 (economic slowdown). The ordinance offers flexibility in housing types (such as townhouses), which has been the primary draw for each use.
- In one example, owners were able to reconfigure a county-approved subdivision to integrate multiple housing types.
- The subdivision ordinance allows considerable flexibility in design, so it often reduces the need or desire to do a PRD.
- City should revisit density bonus provisions (increase density bonus percentages) to better incentivize high quality design and community amenity features.

Chelan (based on discussion with Craig Gildroy, Planning Director):

- While "innovative" provisions in the ordinance are good, the lack of parameters and design criteria make the ordinance difficult to administer.
- Most applicants appear to use the PUD process to circumvent code, but the city is not getting innovative development and desirable amenities in large part due to the lack of "teeth" in the code.

Conclusions/Lessons Learned

While there are a great number of conclusions and lessons learned from analysis of these case studies, below are three primary conclusions:

- **PUDs can be a good tool** for jurisdictions, particularly where the land use code doesn't offer a lot of flexibility. For communities with existing PUD ordinances, it's important to continually reassess the ordinance over time to examine what's working, what isn't, and draft/review possible amendments.
- **In urbanized cities, PUD ordinances may not be needed at all**, particularly if the code integrates use and design flexibility, and master planning/phasing provisions in other sections of the code.
- **Consider integrating PUD design and flexibility features into code as "by right" features and part of the design standards for new development.** The flexibility provisions could reduce regulatory burden on applicants and encourage greater use of more innovative design techniques. Cities and counties are increasingly realizing the importance of setting good minimum design standards - to ensure that the most critical features are incorporated into all developments.

Additional conclusions and lessons learned:

- **Identify primary goals and objectives** when examining an existing PUD ordinance or creating new ordinances. Examine the range of regulatory and other options to help meet those goals and objectives. A

new or revised PUD ordinance may be one of those tools that help to meet those objectives. Maybe a combination of flexible zoning, design standards, and master planning provisions will be sufficient to meet those goals.

- **Test it.** Take possible development sites (preferably a site where an owner is interested in developing) and sketch development plans under the proposed code to see how it might work (or not work). For provisions affecting height, density, and land uses, it's essential to factor in the local economics to make sure the ordinance can be viable.
- **Involve the development community** in PUD ordinance changes or consideration of a new ordinance. This was particularly valuable in the three case studies above, notably in the Bayview Ridge project.
- **Key PUD ordinance issues** warrant close examination:
 - Pre-application conference between the applicant and key staff is essential and should typically be a requirement.
 - Concept plans. Since PUDs can involve projects with multiple phases, where only the near term phases are detailed and certain, the ordinance should define what information is needed to illustrate the later phases of development. Such concept plans are often referred to as sketch or "bubble" plans and typically include general circulation elements, land uses/mix, and special features.
 - Vesting. Make sure that the provisions for vesting are very clear, particularly in multi-phase developments. For example, while the concept plans mentioned above can be very useful planning and communication tools, they may not have enough detailed information to warrant vested rights in terms of density or other key features.
 - Phasing and time limits. In both Washington State case studies discussed above, the code ties the time limit for the initial phase to State requirements for final plats (RCW 58.17.170). For subsequent phases, the code references time limits set forth by RCW 58.17.140 or "other" approved phasing plan for the development. How are infrastructure and amenities phased in? Bayview's PUD ordinance requires implementation on a proportional basis, as reflected in Skagit County's concurrency ordinance (completing infrastructure and amenities on a basis roughly proportional to percentage of the completed development, where possible).
 - Clear conditions of approval need to be recorded with the approved development plan - so that the applicant and staff understand the rules as time goes by. Good record-keeping by staff over time will be immensely helpful as well.
 - Plan amendments. Multi-phased development projects change more often than not, and PUD ordinances need to identify what the procedures and standards are for any amendments.

Resources

APA Zoning Practice: PUDs, June, 2007:

<http://www.planning.org/zoningpractice/2007/pdf/jun.pdf>

PSRC webpage: Tool: Planned Unit Development:

<https://www.psrc.org/planned-unit-development-pud>

University of Wisconsin Extension: Planning Implementation Tools Planned Unit Developments:

<ftp://ftp.wi.gov/DOA/public/comprehensiveplans/ImplementationToolkit/Documents/PUD.pdf>

State of Georgia: Planned Unit Development "How to" Guide:
http://www.dca.state.ga.us/intra_nonpub/Toolkit/Guides/PUD.pdf

Sequim PUD webpage:
<http://www.sequimwa.gov/index.aspx?NID=377>

Article titled "Planned Unit Developments" by attorney Mary McMaster:
<http://www.planningreports.com/wfiles/w490.html>

Article titled "Planned Unit Developments" by Michael Murphy, Senior Research Associate and Joseph Stinson, Senior Research Associate:
<http://landuse.law.pace.edu/landuse/documents/PublishedArticle/PlanUnitDevel.doc>

A Guide to Planned Unit Development - prepared by the NYS Legislative Commission on Rural Resources:
http://www.dos.ny.gov/lg/publications/Planned_Unit_Development_Guide.pdf

Redmond Innovative Housing Demonstration Project:
<http://www.codepublishing.com/wa/redmond/cdg/rcdg20c/RCDG20C3062.html>

Planned Unit Development, by Daniel Mandelker, PAS Report No. 545, APA, 2007
Available from MRSC library - [Library Loan Request Form](#)



About Bob Bengford

Bob Bengford writes for MRSC as a [Planning Advisor](#).

Bob Bengford, AICP, is a Partner with [MAKERS architecture](#), planning and urban design firm. Bob's community design work encompasses all transects, from urban downtowns and transit-oriented development to rural area planning. Since joining MAKERS 13 years ago, Bob's specialty has been helping communities craft usable development regulations and design guidelines. The combination of growing up in a sprawling Orange County (CA) tract home subdivision, reviewing development plans against antiquated and inconsistent codes in rural Bonner County (ID), and working with a great mentor at MAKERS (John Owen) have helped Bob recognize the critical importance of good development regulations and design guidelines in shaping vital and healthy communities. As a resident of Bellevue, Bob has been active in various community planning issues. He's also an active four-season bicycle commuter, hiker, gardener, and urban explorer.

The views expressed in Advisor columns represent the opinions of the author and do not necessarily reflect those of MRSC.

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Comments

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Encouraging Neighborhood-Friendly, Residential Infill Development

May 31, 2018 by Steve Butler
Category: Development Types



If your community is experiencing a moderate or high rate of residential development activity, you have probably grappled with the question of how to accommodate the new growth. Or perhaps you want to create a diversity of housing options to accommodate the differing needs and household income levels of your residents.

For communities with lots of vacant land within its boundaries, it is primarily an issue of proper zoning

and finding a way to pay for the needed infrastructure. For a city or town that is more built-out, however, the focus often shifts on how to accommodate the new growth within its existing borders.

While upzoning of land is always one tool that can be used by a local government, it is often a **very** controversial approach due to the public's concern about the compatibility of multifamily next to single-family homes. As an alternative, several communities are looking at "gentler" methods to encourage residential infill development that is smaller scale and more compatible with adjacent properties.

The Missing Middle

This gap between single-family residences and mid-rise, multifamily development is often referred to as "Missing Middle Housing." This concept includes accessory dwelling units, duplexes, triplexes, fourplexes, townhouses, and other types of low-scale development that could occur within single-family areas and along the edges of commercial/mixed use areas, thereby serving as a transition between those districts and single-family residential neighborhoods.

But encouraging infill residential development carries its own challenges. It is critical that the reasons for considering actions to encourage this type of development be clearly articulated and explained to the public in order to address citizens' concerns about changes to their neighborhood. Olympia created a useful Missing

[Middle Housing webpage](#), which has links to a lot of information, including numerous photographs and visual examples of hypothetical cases.

It is also very important that infill development regulations be paired with some type of design standards/guidelines in order to ensure that new infill development enhances the physical and visual character of a neighborhood or community.

Taking a phased approach may be appropriate in some cases. For example, Tacoma has established a [Residential Infill Pilot Program](#) to test out how regulations will work for a limited number of infill development projects before deciding whether to have them apply citywide.

If you are interested in promoting neighborhood-compatible infill development in your community, the following options are some different approaches to consider.

Accessory Dwelling Units



Encouraging construction of accessory dwelling units, sometimes referred to as “ADUs” or “mother-in-law apartments,” is one approach used by several communities to add additional dwelling units in single-family, residential areas. State law (see [RCW 43.63A.215](#) and [RCW 36.70A.400](#)) requires that certain cities and counties adopt ordinances to encourage the development of ADUs in single-family zones, but there is some latitude about how to do so.

Attached ADUs — when the extra unit is within or attached to a primary residence — is the most common approach taken by Washington cities, towns, and counties. Detached ADUs, sometimes referred to as “backyard cottages,” are increasingly being allowed by local governments such as [Ferndale](#), [Bellingham](#), and [Portland, Oregon](#).

Many of the issues and details related to the regulation of ADUs may be found in my prior blog post, [Accessory Dwelling Units under the Microscope](#), and MRSC’s publication, [Accessory Dwelling Units](#).

New Houses on Small, Existing Lots

In most communities, there are always some existing, small lots that were created prior to current minimum lot size standards, with the result being that they are now nonconforming lots.

Instead of having those small lots stand vacant, some cities have taken steps to encourage development on them. Portland has been evaluating its standards for infill development, including those on small, skinny lots (see Portland’s [Residential Infill Project Summary](#)). Some cities, such as [Spokane](#), allow for housing units on individual lots to be built with their frontage on a private drive, rather than a street, which allows for a more compact development pattern.



Duplexes, Triplexes, and Fourplexes

Many people think of multifamily development as mid-rise buildings of 3-5 stories, with 10-60 dwelling units, but there is a lot of opportunity for smaller-scale, residential development (such as duplexes, triplexes, and fourplexes) to fill in the gaps between this mid-rise type of multifamily development and single-family residential areas.



Good design can soften the visual impact of the extra number of dwelling units. As demonstrated in the photograph above, this is an example of a well-designed, residential fourplex that would visually fit in and be accepted within most single-family neighborhoods. Gig Harbor's [Design Manual](#) includes design standards for duplexes, as does Sammamish's [development regulations](#) (which also address townhouses, cottages, and

multifamily dwellings).

Townhouses



In certain parts of the U.S., a large percentage of a city's multifamily dwelling units are made up of townhouses. Until recently, this housing type has not historically been as popular in Washington State.

Townhouses are usually individual dwelling units that share walls with other residential units but have their own front stoop/porch and backyard, and are usually owner-occupied. To maximize a positive connection with

the surrounding neighborhood, it is important that townhouses be oriented towards the public street: For

example, having the primary entrance doors face the street and not towards an interior parking area.

SeaTac has some good [townhouse regulations](#).

Cottage Houses



Cottage housing usually consists of a grouping of small, single-family dwelling units clustered around a common outdoor space and developed as part of a master site plan. Early successful examples of this development type in Washington State may be found in the cities of Langley, Shoreline, and Redmond. [Spokane](#) recently amended its [development regulations](#) to encourage the development of cottage housing.

Courtyard Housing



Some cities allow the development of “courtyard apartments,” which consist of several attached dwelling units (either rentals or owner-occupied) arranged on two or three sides of a central courtyard or lawn area. This type of housing is usually one or two stories in height and sometimes serves as a buffer between arterial roadways and single-family neighborhoods.

Conclusion

Taking steps to increase options for infill development by a local government may sound easy, but that is usually not the case. Neighborhood concerns about density, increased traffic, and parking impacts are likely to be voiced. Development costs for these new types of infill development may be greater than expected, resulting in a low number of units being constructed.

However, if you have want to diversify your housing options and/or accommodate new residents into your community, exploring ways to achieve well-designed infill development is an important task to undertake.

If you are interested in hearing more about this topic, be sure to register for [Encouraging Neighborhood-Compatible, Residential Infill Development](#). This webinar is scheduled for June 21, 2018, from 12:00-1:00 p.m., and will feature the cities of Ferndale and Olympia as case studies.

Questions? Comments?

If you have thoughts about this blog post, please comment below or [email me](#). If you have questions about this or other local government issues, please use our [Ask MRSC form](#) or call us at **(206) 625-1300** or **(800) 933-6772**.



About Steve Butler

Steve joined MRSC in February 2015. He has been involved in most aspects of community planning for over 30 years, both in the public and private sectors. He received a B.A. from St. Lawrence University (Canton, New York) and a M.S. in Urban and Regional Planning from the University of Wisconsin-Madison. Steve has served as president of statewide planning associations in both Washington and Maine, and was elected to the American Institute of Certified Planner's College of Fellows in 2008.

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Comments

3 comments on Encouraging Neighborhood-Friendly, Residential Infill Development

"I'm surprised that this article completely overlooked form-based codes as an elegant policy model to make the missing middle possible to develop. Is that covered in the webinar at all? What I see of the examples in Olympia and Tacoma appear to be implemented as overly verbose euclidean zoning, whereas form-based codes could provide a more elegant and flexible regulatory model. Reference:

<http://missingmiddlehousing.com/about/how-to-regulate/>"

Rodney Rutherford on Jun 4, 2018 10:51 PM

"Hi Steve - nice article. I wanted to share a report that a consultant prepared for Everett a few years ago that did a great job of identifying a lot of infill redevelopment strategies. It can be viewed on our website at <https://everettwa.gov/DocumentCenter/View/798/June-2013-Infill-Measures-Report-PDF>. This report received a Vision 2040 Award."

Allan Giffen on Jun 1, 2018 11:03 AM

"Thanks Steve, Very timely, we are in the process of examining infill opportunities in Spokane County and this article is helpful. Keep up the good work."

Steve Davenport on May 31, 2018 3:01 PM

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