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TO: DSG Staff
FROM: Jeff Thomas, Interim Development Services Director
DATE: March 16, 2007
RE: Determining Whether a Lot Complies with the Lot Area

The Code Official, pursuant to Section 19.15.010(C)(5)(a) of the Mercer Island City Code (MICC), is authorized to make this administrative interpretation. Clarification is needed to determine the lot area for development regulations.

MICC 19.02.020(A)(2) states "In determining whether a lot complies with the lot area requirements, the following shall be excluded: the shorelands part of any such lot and any part of such lot which is part of a street."

MICC 19.16.010(S) defines the word "shorelands" as:
Those areas extending landward for 200 feet in all directions, as measured on a horizontal plane from the ordinary high water mark, floodways and contiguous floodplain areas landward 200 feet from such floodplains and all wetlands and river deltas associated with the streams, lakes and tidal waters subject to the Shoreline Management Act (Chapter 90.58 RCW).

The intent of 19.02.020(A)(2) was not to exclude area landward for 200 feet in all directions. The intent was to exclude any parcel area waterward of the Ordinary High Water Mark.

MICC 19.16.010(L) defines the word "Lateral Line" as:
The extension waterward of a property line into Lake Washington beyond the ordinary high water mark. How property lines extend waterward from the ordinary high water mark is an area of misconception. If the title does not clearly state the location of the property lines waterward from the ordinary high water mark, waterfront
owners are not allowed to unilaterally project the upland boundaries out into the shorelands (waterward). There are no statutes defining the direction of the lateral lines waterward from the ordinary high water mark. The Supreme Court has the final word to decide location of lateral line on case-by-case basis.

The Code Official finds that the word “shorelands” was mistakenly and incorrectly used in MICC 19.02.020(A)(2), and the work “Lateral Line” should be used in its place. Therefore, in determining whether a lot complies with the lot area requirements, the following shall be excluded: the lateral line of any such lot and any part of such lot which is part of a street.