

## Appendix A

Mercer Island Herzl-Ner Tamid Conservative Congregation PreK-8 Project – DSR25-009

October 31, 2025 Hearing Transcript

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Olbrechts: [\(00:00:05\)](#):

Okay, perfect. Alright, welcome everybody. It is October 31st, 2025, 9:00 AM I'm Phil Olbrechts Hearing Examiner for the City of Mercer Island holding a hearing this morning on a design review application for filed GSR 25 dash nine, the Hersel Conservative Congregation pre-K eight project at kind of a school and office building development project. The hearing format today, as in all our permit hearings, it will start off with presentation from the applicant's. Not required, but if the applicants want to make any comments in favor of their project, they certainly can. That's how we'll start off. After applicant comments, then we'll move on to staff to give us an overview of the project and their staff report. After that's all done, then we'll move on to the purpose of the hearing today, which is to hear from members of the public and we'll make sure that everyone who wants to speak today will have that opportunity.

[\(00:01:00\)](#):

After the public comments are done, we'll go back to staff to answer any questions and provide any rebuttal evidence they find necessary. Then applicant's is a matter of due process, get final opportunity to present rebuttal evidence and final comments and I get 10 business days. Usually that's about a couple of weeks to issue a final decision. Now by state law, I'm only allowed to consider evidence that's put in the record today. I can't talk to staff or the applicant, anybody about the project or read any documents that aren't put into the record for review. What I do get in advance of the hearing though, is of course the staff report as well as the exhibits that staff use to come up with their recommendation, which in this case was a recommendation for approval. Quite a lot of work goes into these recommendations, as I'm sure you can imagine, and pages one through three of the staff report. I'm going to share my screen if I'm allowed. Let's see here.

[\(00:02:04\)](#):

Alright, yeah, so what you see there right now is pages one through three of the staff report that, as I mentioned before, includes and encompasses all the exhibits used to make the staff recommendation, which includes, well the staff report itself, the applications. There's a lot of prior history involved with this project. Prior conditional use permits used to approve the project design, that kind of thing. And then the environmental review that was involved. Let's see, just trying to get a lot of public comments. We also had traffic impact analysis, the zoning map engineer, parking reduction approval, parking memorandum for cooperative parking, and as I said, a lot of historical records. So in total there's a total of 33 documents with a bunch of sub documents. At this point, I just want to ask if anyone needs to see any of those documents or has any objection to their entry.

[\(00:02:58\)](#):

And the record objections would be based on the fact that they're not relevant or not authentic documents. If you disagree with the content of the document, that's something you can just address when it's your turn to speak. So if anyone needs to see any of those documents or has any objections, just click on your virtual hand and we'll call on you not seeing any takers. That's pretty standard. This is kind of a technical evidentiary part of the hearing. I'll go ahead and admit exhibits one through 33, so we're done with that part. Let's move on to applicant comments. At this point, is there any representative of the applicant who wants to speak on the application?

Mr. Friedman: [\(00:03:34\)](#):

Good morning, Mr. Alexander. Josh Friedman here. I'm land use counsel for applicant. I'll give a brief introduction and then I think as you mentioned, we'll, well, I should ask, does the examiner prefer for the projects design architect to give her presentation following the staff report or prior to the staff report?

Examiner Olbrechts: [\(00:04:01\)](#):

Well, I guess I might as well do it now since we've got the applicant on board. Yeah, yeah, if you're comfortable with that, let's hear from the architect at this point. And I should mention too, other than the attorneys, all other testimony, this is sworn testimony. The attorneys don't provide any evidence. They're just providing an argument, so their testimony isn't required to be sworn, but everyone else is. So yeah, let's bring up the architect if you want at this point.

Mr. Friedman: [\(00:04:24\)](#):

Great. And I'll give a brief introduction.

Examiner Olbrechts: [\(00:04:26\)](#):

Okay, sure. Go ahead, take it over. Alright,

Mr. Friedman: [\(00:04:29\)](#):

Good morning everyone. Today is part of this design review and city arborist review, open record hearing process. You'll hear presentations from the projects design and development team, most notably including its architects, Angelique Grant, and its tree consultants from the Davey Resource Group. These experts are exceedingly well qualified practitioners in school design and construction and trade impacts respectively. And in today's open record hearing, we understand that the examiner will be filling the role of the city's design commission pursuant to MICC 3 34 0 0 5, and also the role of the city arborist under 19 16 0 1 0. That's also RC Island City Code. This site is located outside of the city center in this location. The design standards and design review process is not intended to slow or restrict development, but to add consistency and predictability to the permit review process. That's from a statement of intent that's at MICC 19 12 0 1 and similarly, the purpose of the tree code the city AIST administers is to quote, encourage building and site design to minimize tree removal and to establish standards and procedures that will result in the retention of trees on Mercer Islands.

[\(00:06:07\)](#):

Subsection F of that same purpose statement provides that tree protection, enhancement and maintenance should be balanced with reasonable use of private property by the property owner. Over the course of the hearing today, we hope the examiner will not let it hesitate to let the design team know if he has any questions about the proposal to specifically include its design and the applicant's

requested approach to tree replacement for that design as authorized by the applicable code provisions. If the examiner and city have no objection, we will likely use the Zoom platform to display documents and exhibits up on the screen. And if there are these documents and exhibits will be the same information as already has been entered in the record, we may request the examiner's leave to include essentially different renderings of the same information that have Boulder or less bold lines to make it clearer to see on PowerPoint what's going on. But there will be no new information that's not on the record. It's just different depictions so that people don't have to straight their eyes as much. And then if there are no further procedural or code related questions that folks want to dispense with, I'll be more than happy to turn it over to Ms. Grant who will present the project's design at a high level after she's sworn in, including the specific design requests that have been marked by staff for the examiner's specific consideration. And then following Ms. Grant, we will turn to trees.

Examiner Olbrechts: ([00:07:48](#)):

Okay. Alright. Ms. Grant, just raise your right hand. Do you swear or affirm to tell the truth nothing but the truth in this proceeding?

Ms. Grant: ([00:07:54](#)):

I do.

Examiner Olbrechts: ([00:07:55](#)):

Okay, great. Go ahead.

Ms. Grant: ([00:07:58](#)):

Good morning. My name is Angel Grant. I'm the architect on this project. I'm a licensed architect in the state of Washington with a master of a architecture degree from the ub. I have 29 years of experience with commercial and institutional buildings and I've led my own practice since 2013 focusing on buildings for education and learning. I served on the downtown Seattle Design Review Board for four years. I'm a member of the Association for Learning Environments and the American Institute of Architects. I've also served as a volunteer technical advisor on behalf of the Washington State Department of Children, youth and Families in efforts to perform and resolve issues with the state building code around early learning. I've taught design studios at the University of Washington and served on countless studio review panel. We began this project when the process for design review was via commission with a study session at a subsequent hearing.

([00:08:50](#)):

That process envisioned a conversation with the design commission to resolve design issues before the final determination. In lieu of that, we have reviewed the letter and intent of the code as well as receive written feedback from staff planners in the form of the report in order to arrive at our current design and the request that you will review today. Most of what I'm presenting today, as Josh mentioned, has been pre-filed as an exhibit. I will ask the hearing examiner's discretion for ides have been revised for added clarity. I'll point those out to make it absolutely clear. The information provided is the same as what was pre-filed. The site as you can see from this diagram here is at 3,700 East Mercer Way and encompasses three separate parcels and a shared tract to the north is property owned by PSEA boat launch access road and a public park underneath the freeway to the south is a private drive in a row of single family residences. To the west is East Mercer Way a major arterial and to the east is the lake on the left of this site 3D site diagram or some of the existing commercial and institutional buildings in the area.

[\(00:10:09\)](#):

The project is a three story preschool to eighth grade school with offices for compatible nonprofits. The design is meant to compliment the existing synagogue building and the surrounding landscape with muted colors and forms that step down to the north. A recessed entry provides a focal point for the entry. A large parking lot separates the building from the residences to the south. The building is set back more than 77 feet from the west property line on East Mercer Way and more than 85 feet from the property line south of the parking lot. The building includes classrooms, a large gym and multipurpose room and offices. School functions are limited to the lower two stories and the basement. I would like to correct one small item in the package. For the record. We are planning to use standing seam cladding for the second level, but it does not meet structural requirements for cladding. So we'll be using similarly sized panels with reveal instead of a sanding scene. We feel it will provide an equivalent level of visual interest, tactility and variation. The colors will be the same.

[\(00:11:20\)](#):

I'm going to just jump right ahead into the request for relief so that we don't go through every single land use requirement. We really dive into the heart of this hearing. The first request was around compact vehicles per MICC 19 0 4, 0 7 oh 0.7. Up to 50% of the required off street parking spaces may be designated for accommodating compact vehicles. The design commission may increase the percentage of compact stalls permitted if the applicant can demonstrate that no adverse impacts will occur. There are 105 parking spaces on site. Of those parking spaces, 50 are standard size stalls. 55 are compact stalls. We are increasing the number of compact stalls from 50%, which is the code to 52%. The existing h and t campus has 110 parking spaces. Based on the information that we have from the survey, none of them meet the current definition of a standard stall, so we are creating 50 newly striped standard stalls, thus improving the current parking layout. Given that the current parking lot is used in its present condition without adverse impacts, we feel that the addition of 50 standard stalls will not create additional adverse impacts.

[\(00:12:53\)](#):

The second request for relief is around a loading space per MICC 19 0 4 0 4 oh B eight, an off street loading space. Having access to a public street shall be required adjacent to each building hereafter, erected or enlarged per 19 0 4, 0 4 0 9, the code official may grant variances from the minimum parking requirements with the approval of the city engineer and design commission for projects reviewable by the design commissions. The staff in the report finds that it is infeasible and ineffective to create a loading space on East Mercer Way and impractical to create a loading space on the boat launch access road due to the steep rays. The staff also finds that there are adequate opportunities for loading on site. In fact, loading has been occurring on the site for the existing uses for many years, probably in fact decades. During weekdays, there will be approximately 30 parking spaces that will be unused and there is sufficient width and existing is for one vehicle to safely pass another. There is also an existing loading area adjacent to the synagogue

Speaker 2 [\(00:14:09\)](#):

Kitchen.

Ms. Grant: [\(00:14:15\)](#):

Cooperative parking, that's number request for relief number three per 19 0 4 0 4 oh e. Cooperative parking between two or more adjoining property owners is allowed, provided the code official with approval from the design commission and city engineer may reduce the total required spaces by 25% of the total combined required spaces. If the applicant has demonstrated that no adverse impact will occur

due to the reduced number of stalls. Page five of the staff report states that the city engineer has determined that the applicant has demonstrated that no adverse impact would occur with this 25% reduction. What you see here is a table with a projected uses throughout the week. For example, on weekdays the parking use would be between 60 and 70 spaces and the total that are available are 105. A 25% reduction in the required number of parking spaces is a modest reduction. Given that the uses do not overlap, our transportation management plan updated on an annual basis would regulate uses so that the parking capacity continues to be adequate for the uses proposed. We have other folks who will be presenting some of this information with a hearing examiner. Prefer that the architect continue with my presentation or hand this over to our arborist, actually to Josh and then to our

Examiner Olbrechts: ([00:16:06](#)):

We can jump over the arbor. That's fine. Yeah. Yeah.

Ms. Grant: ([00:16:08](#)):

Okay, so I'm going to hand it over to Josh.

Examiner Olbrechts: ([00:16:11](#)):

Okay,

Ms. Grant: ([00:16:11](#)):

Great. Thank you.

Examiner Olbrechts: ([00:16:12](#)):

Okay sir. Oh, sorry. Go ahead

Ms. Grant: ([00:16:14](#)):

First to Josh and then he'll hand it to

Examiner Olbrechts: ([00:16:16](#)):

The arbor. And then

Mr. Friedman: ([00:16:16](#)):

The arbor. Yes. I will provide the quick code backgrounds so that the arborist is free to focus on the trees.

Speaker 2 ([00:16:25](#)):

Okay.

Mr. Friedman: ([00:16:27](#)):

As mentioned in the staff report, the applicant proposes to remove 82 regulated trees. 78 of these trees have been defined as exceptional or grove trees. The codes prescriptive default standard for tree replacement would require six replacement trees. For each of those removed, the applicant requests that the examiner exercise the discretion reserved to the city arborist by the code and accept our site specific modeling approach. Rather than imposing the code's prescriptive default approach, six of the

trees to be removed have been classified as priority one by the project arborist, which means that those trees have defects that cannot be cost effectively or practically treated, have a high amount of dead wood or pose an immediate hazard to property or persons. In the record. Specifically exhibit number 14, I believe the arborist report, the project arborist has recommended that these trees be removed immediately. We posit that due to the imminent failure or otherwise low value of these trees, their replacement value should be reduced to zero again for those six trees due to their current condition.

[\(00:17:52\)](#):

This leaves 441 total replacement trees that would be required under the codes prescriptive six to one default section 19 10 0 0 5 provides the tree code's acknowledgement that the value of protecting, enhancing and maintaining the amount of trees on the island should be balanced with other community goals such as reasonable enjoyment and use of private property by the property owner. The applicant has asked the city through the hearing examiner to consider the following with regard to reasonable enjoyment of the property by its nonprofit owner. At its most fundamental level, this is a challenging site to develop. As shown on the previous slides, it's long and narrow and slopes down to the west and north in order to develop the property for the desired nonprofit use, the design team has proposed removing trees beyond the building footprint due to three design factors. These factors are large footings that are required for seismic safety rating required for wheelchair accessibility and consideration for the safety of young children in a preschool play area.

[\(00:19:07\)](#):

If the city arborist's discretion were not applied to this scenario and the city's default prescriptive six to one standard were strictly applied, the applicant would be mandated to replace 441 trees at the required spacing of 10 feet. This would require 57,600 square feet of land, which is more than double the size of the parcel that the trees themselves are on the city. Arborist is specifically granted authority by the code to reduce the number of replacement trees where other measures designed to mitigate tree loss by restoring tree canopy coverage are considered effective and consistent with the purposes of the chapter today. The arbor will present to you, excuse me, the method, sorry, backstepping, the method of direct numeric replacement found in the code that is six to one is appropriate and makes sense for individual trees and small projects where the project owner may not be able to bring on an our risk for detailed calculations.

[\(00:20:21\)](#):

However, the area in question for this project has a large number of overlapping tree canopies. As will be discussed, these overlapping trees do not produce the same amount of environmental services as if they the trees, same trees were spaced on a 10 feet grid and I will let our walk you through that methodology in greater detail as our arbitrage presents. I'm hoping the examiner can also keep two key doctrines in mind when evaluating the decision of whether to apply the city's prescriptive six to one replacement ratio approach or exercise the codified discretion to mitigate tree loss by other effective and consistent means. The first of these doctrines is RCW 82 0 2 0 2 oh. I won't rehash that one because I don't want to put anyone else here to sleep, but I know the examiner knows it well. Essentially this law holds that cities cannot impose charges or fees in kind or in lieu on development beyond the demonstrated specific impacts of the development. The second doctrine is the US Nolan Dolan doctrine, which is specifically applicable to the codes tree replacement calculus under the recent bipartisan sheets case.

[\(00:21:54\)](#):

The sheets case verified that legislative enactment like the tree code here must be proportional in fees and charges on development impacts. Regardless of whether those fees and charges are in kind or in the

context of 82 0 2, 0 2 oh and Nolan Doland, the project's arborist has modeled the tree replacement ratio that would be proportional to the number and condition of trees that are actually being removed. Now, I'll give everyone a break from the law. Let Mr. Scott walk through his analysis and either of us will be happy to answer any follow up questions that they examine or others may have.

Examiner Olbrechts: [\(00:22:38\)](#):

Okay, great. Alright sir, and I didn't quite catch you. What's the last of your last name?

Mr. Scott: [\(00:22:43\)](#):

Ian Scott is my

Examiner Olbrechts: [\(00:22:44\)](#):

Full name. Scott. Okay. Mr. Scott, just raise your right hand. Do you swear affirm to tell the truth, nothing but the truth in this proceeding?

Mr. Scott: [\(00:22:50\)](#):

Yes, I do.

Examiner Olbrechts: [\(00:22:50\)](#):

Okay, great. Go ahead.

Mr. Scott: [\(00:22:52\)](#):

Sure. Yeah, so I guess to introduce myself is Ian Scott. I'm with the Davy Resource Group. I've been working as an arborist and an urban forestry specialist for over 25 years in the Pacific Northwest. I have a degree in forestry. I'm a board certified master arborist and a registered consulting arborist with the American Society Consulting Arborists. The majority of projects that I do involve tree preservation planning to some degree. When I was tasked with this challenge to look at the issues of fee and lie and replacement trees for this parcel, we took a closer look at the intent of an interpretation of Mercer Island municipal code and looked at the intent maybe being that the environmental services being provided by the subject parcel could be mimicked with an equivalent that would be fewer trees than maybe required on a practical consideration or interpretation of the code.

[\(00:24:07\)](#):

So the method that we took to show the environmental services uses the IRE suite of software tools. It's a model developed by the US Forest Service and has been implied to understanding the environmental benefits of trees in many cities, including as I understand Mercer Island have looked at their urban forest canopy. Under this I took, I think one of the exhibits we'll show, we did a random sampling of the aerial imagery to basically model out what that site is, that it's a hundred percent canopy site. And so the table you see before you here is the environmental benefits provided by that hundred percent canopy site. And we said, well, okay, if we take that a hundred percent canopy site and model it out for 20 years, and we can talk a little more about why we chose that number, but we model out 20 years of benefits provided by there.

[\(00:25:11\)](#):

We wind up with that number of some \$26,553 in environmental benefits. And so to achieve those equivalent benefits we modeled in using a generic maple tree, recognizing that fee and lu the city could be planting any trees that prefers, we selected one that as broadly deciduous tree and the tree itself at

one individual tree provides \$183 and 39 cents in modeled environmental services. And so in a 20 year timeframe, so we took the total value of the environmental services being provided divided by the value of an individual tree and came up with the proposed number of 145 trees. I think that's about it. Welcome questions.

Examiner Olbrechts: ([00:26:15](#)):

Okay. No, it looks pretty straightforward. Thank you.

Mr. Friedman: ([00:26:19](#)):

I think the exhibitors,

Examiner Olbrechts: ([00:26:20](#)):

Yeah, I had muted myself. I was coughing, but yeah, no, pretty straightforward. Thank you.

Mr. Friedman: ([00:26:24](#)):

Okay,

Ms. Grant: ([00:26:27](#)):

So I just wanted to point out on this slide, this is one of those slides where the pre-filed exhibits are on the bottom. The image on top is the same exact information. It's a little easier to read and we kind of highlighted the trees in green, so we wanted to point that out to be transparent. And then I'm going to hand it over to Karen, our landscape architect.

Examiner Olbrechts: ([00:26:51](#)):

Alright. Okay. Ms. Ket, I'll have to swear you in. Just raise your right hand. Do you swear affirm to tell the truth, nothing but the truth in this proceeding?

Ms. Ket: ([00:26:58](#)):

I do.

Examiner Olbrechts: ([00:26:58](#)):

Okay, great. Go ahead.

Ms. Ket: ([00:27:01](#)):

Hi, I am Karen Ke. I'm a landscape architect with my own practice in Seattle. I've practiced my own firm for 20 years. Before that I managed a firm here. I have over 37 years of experience, an undergraduate degree in biology, specialty in botany and a graduate degree in landscape architecture, both from Harvard University and have similarly sat on various review boards including the landmarks board in Seattle, which was tasked with preserving city landmarks. For a period of five years I was on that board and I was member and chair of the Seattle Design Commission, which had responsibility for all public lands and public investments in the city and also have been the vice president for the National Landscape Architecture Licensing Board called Klar. And in terms of this particular site, I have a background of working adjacent working for the French school, which is across the way had that as one of her initial slides.

[\(00:28:11\)](#):

For this particular site, we have been working to design a landscape that responds to the building and the improvements that are proposed on site. As you can see in the improved colored plan, we are indicating where replacement trees could be located on site. I believe we're asked to respond to item five, which is providing fee in lieu MIC 19 10, 0 7 oh C. And if the city arborist determines that there's insufficient area to replant on the site or within the adjacent public right of way, the city arborist may authorize payment of a fee in lieu. Provided that there's insufficient area on the lot item A and that tree replacement item B within the public right of way would be a greater benefit to the community. Item C, the fees that are provided in lieu of onsite tree replacement would be determined based on the expected tree replacement costs and the most current cancel of tree and landscape appraisers guide for plant appraisal and item D, any fee in lieu is also optional for the applicant and requires an explicit written agreement.

[\(00:29:37\)](#):

I bring this up only in the regard that as we've been discussing, we're considering what number of trees will be required to be replaced on site. It's a number that could be quite high as we show on this plan. The requirement to have a 10 foot offset from utilities, property lines, I'm sorry, utilities, fences, buildings, et cetera, is a significant offset on this particular site. The site is majorly constrained by public utilities that run on the north side of the property, including beyond the property and on the property and on the south side of the building there are new utilities required and on the south side of the entire parcel there is public utilities that are running in the easement on the private driveway and roadway that is located there. So we have worked with the owners since day one to figure out where we could place necessary required trees.

[\(00:30:51\)](#):

And you can see with the 10 foot spacing that the trees might number, I should be able to count them, but I can't see it here. The range will vary a little bit, but this is about the extent of trees. It's nowhere near a number known as 400 plus trees as indicated in the original requirements. And I'm purposely vague because every so often I could squeeze in another tree, but frankly the offsets are significant for the tree replacement requirements. But even more so, this site is hugely constrained by utilities that are running east to west adjacent to the freeway, et cetera. So this is the reason that we would be proposing to need fee in lieu of placement on site. As there's been a discussion, there are adjoining public lands, they are similarly constrained. The adjacent right of way is where all the public utilities are running, so it's constraining our project considerably to place trees in the public right of way. Do you have any questions?

Examiner Olbrechts: [\(00:32:04\)](#):

No,

Ms. Grant: [\(00:32:06\)](#):

Thank

Ms. Ket: [\(00:32:06\)](#):

You.

Examiner Olbrechts: [\(00:32:07\)](#):

Okay, thanks Ms.

Ms. Grant: [\(00:32:10\)](#):

Our next request for relief is modulation guidelines. I want to be very clear here. The pre-filed exhibit is on the upper right hand corner. That orange arrow is pointing to a drawing error. So I've got a replacement sheet in there, but again, it is the same information. So per MICC 19 12 0 3 0 2 B, horizontal building facade modulation should occur at no less than every 50 feet of wall length. Forms of both vertical and horizontal building modulation may include but are not limited to facade, indentations and extrusions, actual building separation, connecting atriums courtyards and plazas, variable roof forms and overhangs and decks and balconies. And must note, when a standard uses the word should, the standard is mandatory unless the applicant can demonstrate to the satisfaction of the design commissioner code official an equal or better means of satisfying the standard and objection that objective.

[\(00:33:16\)](#):

So per 19 12 0 3 0 2, a building facade modulation shall break up the overall bulk and mass of the exterior of buildings and structures. Such modulation should always be addressed on the horizontal plane and the vertical plane. Large or massive buildings should integrate features along their facades that are visible from the public right of way, pedestrian roots and nearby structures to reduce the apparent building mass and achieve an architectural scale consonant with other nearby structures. We are only seeking relief on the south and east facades, which are seen here. Neither of these two facades are adjacent to a public way. The south elevation faces a parking lot that is owned by HNT. The owner, the east facade faces the existing HNT synagogue building. The north and west facades both face the public way and they both meet the standard in the code. Per the staff report. The applicant accomplishes the intent of this section by providing an upper level setback along the entire length of the south facade in order to reduce the apparent bulk and mass.

[\(00:34:27\)](#):

The east facade would include window shrouds and a stepping roof line to create texture and modulation. The greatest horizontal measurement at the east facade would be 56 feet. In order to accentuate large window and provide a quiet backdrop to a densely landscaped area on the south facade, we achieve the intent of the code by breaking up the facade into three sections and creating a deep indentation at the entry with a projecting canopy. As noted, the entire level three is set back from level two. In order to reduce bulk and scale from lower elevations or from pedestrian eye level, the upper story will be recessed and foreshortened. If we were to add horizontal modulation, we would bring levels of portions of the level one and three facades forward, thus increasing the apparent size and bulk of the building on the east facade. As noted, the facade is modulated by a protruding shroud around the window at the large window and the stepping of the building down to the north.

[\(00:35:36\)](#):

The seventh request for relief is roof line variation per MICC 19 12 0 3 0 6. A roof line variation interest in detail shall be used to reduce perceived building height and mass and increase compatibility with smaller scale and or residential development. Roof line variation, interesting detail may be achieved through some roof line features such as dormers, step roofs and gables that reinforce a modulation or articulation interval incorporation or variety of vertical dimensions such as multipl and intersecting roof lines or flat roofed designs that include architectural details such as harnesses and decorative facings. Roof line variation, numeric standard shall occur at all. Commercial offices or public structures will exceed, which exceed 70 feet in length and shall be achieved using one or more of the following methods. Vertical offset ridge or cornice line, horizontal offset ridge or cornice line variations of roof pitch or any other approved technique which achieves the intent of this section per the staff report.

[\(00:36:50\)](#):

The intent of the section is to use roofline variation to reduce the perceived building height and mass. The applicant has requested the hearing examiner approval of a technique that achieves the intent of this section by providing a north facade that steps back at each level and facade modulation over all four elevations. The design would also include projecting canopies and varying materials to provide visual interest and depth through shadows. So the design intent here is to draw the eye towards the lower two levels and to deemphasize the upper level. If we were to add a ridge or a cornice, it would increase the apparent bulk of level three. As noted, we have added detail and interest at the lower levels with varying cladding projecting canopies and cut out metal signage.

[\(00:37:49\)](#):

We request number eight is regarding the fence per 19 12 0 4 oh B three B. Fences should be made of ornamental metal or wood masonry or some combination of the three. The use of razor wire, barbed wire chain, link plaster or wire fencing is prohibited ably visible from a public way or adjacent properties unless there are security requirements which cannot be feasibly be addressed by other means. Safety and security is very important to this project for families, children, and congregants. HNT has been recently subjected to targeted defacement of their property and both schools and Jewish organizations in this region and throughout the country have been subject to violent attacks. That said, fencing along the west side and around the preschool play area will comply with current codes along the north side of the property and the shared tract. We are proposing a combination of coated chain link and composite fencing. In conversations with PSE, they have stated that any fencing within the power line easement and parallel to the power lines be constructed from non-conductive material, which is typically plastic composite portions of this fence scope may be deferred until funding is available.

[\(00:39:20\)](#):

Request number nine, impervious surfaces. Oh, Josh reminds me that PSE, for those of you who don't know it is short for Puget Sound energy and that is the energy utility on Mercer Island. Request number nine is around impervious surfaces per MICC 19 12 0 4 0 4 B for all zones, area landscape by impervious surfaces should constitute no more than 25% of the total required ING area. And then I need to repeat this phrase, what a standard uses the word should. The standard is mandatory unless the applicant can demonstrate to the satisfaction of the design commissioner code official and equal or better means of satisfying the standard and objective. Okay. The code requires that 6,720 square feet is landscaped and that no more than 25% of that is impervious. I just want to define impervious. Impervious is any kind of surfacing that does not allow water to percolate through to the ground.

[\(00:40:36\)](#):

Below pervious is any kind of surfacing that does allow water to percolate through to the underlying ground. The impervious surface should be no more than 1680 square feet. We are proposing an additional 462 square feet of impervious surfacing plus 620 square feet of place surfacing, which does allow water into the soil below, but not at the rate of natural conditions for a total of 1084 additional impervious surface as defined by the Mercer route code to offset the added impervious. We are proposing more pervious landscape than is required by code. The required pervious surface would be 75% of 600, 6,720 square feet or 5,040 square feet. We are providing 6,263 square feet of pervious landscaping or an additional 1,223 square feet to support this request. We offer the following per 19 12 0 4 oh B one design review shall be primarily concerned with areas of the site of required landscaping in order to address the impact of development on adjoining properties or public ways and parts of the development that are visible from adjoining properties or public ways. Most of Milan's landscape is not adjacent to public ways or other properties per 19 12 0 4 oh B2B. Onsite recreation areas appropriate to the users should be provided for residential and public projects. DCYF or the Department of Children,

youth and Families requires play areas for preschool. We have included appropriate surfaces for this activity. A concrete tri school track, an artificial turf, which is required for fall protection.

(00:42:34):

And then three, we are required to provide an accessible route between the existing and new building, a concrete pad for trash pickup and egress from the building, all of which add to the impervious surfaces. All three of these surfaces are concrete for accessibility and stability over time. The city of Mercer Island does not consider pervious concrete as a pervious surface. Number 10, is that the last one? It is surface parking lot planting per MICC 19 12 0 4 0 9. The requirements for surface parking lot planting for additions or remodels may be waived or modified if the applicant can demonstrate that these standards would reduce the amount of parking below the minimum required for the site. With regard to the site, this can be considered a remodel. We have endeavored to provide as much parking within the existing parking footprint as possible while meeting the requirements for accessibility, fire access, stall size, and limits on impervious surfaces, both new and existing. Given all of these requirements, we have provided 105 parking spaces on site as demonstrated earlier, 105 stalls are required to meet the parking requirements for the project, even with a 25% reduction as permitted for cooperative parking. In summary, thank you very much for your consideration and we are happy to address any questions that you have. We have all of the exhibits keyed up if you want to see any of those. Okay? Okay.

Examiner Olbrechts: (00:44:24):

Thank you. Alright. And Mr. Friedman, anything else?

Mr. Friedman: (00:44:28):

Nothing else from this time at this time. Again, if there are questions or specific items that the examiner or the city staff would like us to speak to, we're certainly happy to.

Examiner Olbrechts: (00:44:40):

Okay, sounds good. Yeah, sounds like I have my work cut out for me on this one. Let's move on to city then. At this point, I think Ms. McGuire will be giving us the staff overview on this project. Is that correct?

Speaker 2 (00:44:52):

Yes.

Examiner Olbrechts: (00:44:53):

Alright. Ms. McGuire, let me swear you in. Just raise your right hand. Do you swear affirm and tell the truth nothing but the truth in this proceeding?

Mr. McGuire: (00:44:59):

I do.

Examiner Olbrechts: (00:44:59):

Okay, great. Go ahead.

Mr. McGuire: (00:45:02):

Okay, thank you. My name is Molly McGuire as senior letter with the Mercer Island. I'll be providing the staff recommendation and overview. So this is a request for the design team review for the construction of new pre-K through eight school and office building on a property within the business zone for fee zone and associated site improvements including parking lot, reconfiguration, installation of utilities, pedestrian pathways, and renewable and replacement of trees on built this property and the adjacent properties within the single family residential R 0.6 zone. So this project is subject to the design standards for zones outside of the Techon Center in chapter 1912 MICC. The B zoned property is currently undeveloped and contains a grove of trees. And the three adjacent are 9.6. Zoned properties contain a synagogue, caretakers cottage and multi-use building currently used as religious school. These buildings will not be modified or worked on as part of the proposed development, so they're not subject to design review.

[\(00:46:06\)](#):

A new conditional use permit was required for the site containing the place of worship and associated improvements on the R zone properties due to the significant changes to an already issued conditional use permit. And this new conditional use permit was granted on July 18th, 2025. As shown in exhibit five. The proposed work is still subject to design review, both full and partial application of the design standards in chapter 1912. The new building would be subject to full application of design requirements and it's a major new construction. And the minor modifications to the site would be subject to partial design review, but only those portions of the project that are already being worked on as part of the proposed development.

[\(00:46:51\)](#):

A statement of mitigated determination of non-significant was issued by the hearing examiner on July 18th, 2025 as part of an appeal ruling. So those conditions of approval are also included in the recommended conditions of approval for this design review application. I'll cover vesting quickly. So this design review application is vested to the code prior to Mercer Island City Council's adoption of Ordinance 25 c dash 11, which requires locally adopted design standards. To be clear and objective, those went into effect on June 30th, 2025. And this design review was submitted on June 18th and determined to be complete on June 27th. So the city council also amended chapter 3.34 to dissolve the design commission and reassign all quasi-judicial duties to the hearing examiner. So that is the reason that the hearing examiner has decision making authority for this application. Because this application is vested to the code prior to the requirements for clear and objective design standards, the code contains several requirements that may be reduced, waived, or modified by the design commission.

[\(00:48:01\)](#):

Now hearing examiner. So in addition to the standard design review required of the hearing examiner, the application includes those 10 requests for relief summarized beginning on page five of the staff report. I won't go over each of these individually again, but I'm happy to answer any questions about any specific requests or what is being asked of the hearing examiner Recommended conditions of approval 25 through 34 would likely only apply if any of the corresponding requests for relief were denied or modified to ensure that these are addressed prior to issuance of construction authorization for the proposed development. So staff have reviewed the proposed development application and accordance with the applicable development standards, which include those related to development within the B Zone, single family residential zone design standards for zones outside of the town center and true regulations. And based on the findings in the staff reports, staff recommend approval with conditions of city file number DSR 25 dash 0 0 9. And that is it from me. Happy to answer any

Examiner Olbrechts: [\(00:49:11\)](#):

Questions. Okay. Nope, pretty straightforward. Thank you Ms. McGuire. Alright, I guess we can finally move on to public comments at this point. If anyone wants to speak at this point, go ahead and click on the raised hand button at the bottom of your screen and I'll just call people in order of the raised hands that show up. And let's see, I'm not seeing any takers yet at this point. Ms. McGuire, do you see any takers on your end? Anyone who's raising their hand? Oh good. We got at least one person there. All right, John, come on up. Let's see here. And Mr. McGuire, do you know, do they need to unmute themselves? Is that how the city controls this or do I need to be talking to Ms. Estrada about that?

Speaker 8 ([00:49:55](#)):

Yes, I will need to elevate them to

Examiner Olbrechts: ([00:49:58](#)):

Participant. Alright.

Speaker 8 ([00:49:59](#)):

So if you'll give me just one moment, I'll take care of that.

Examiner Olbrechts: ([00:50:01](#)):

Oh, great. Okay.

Speaker 8 ([00:50:03](#)):

So I've asked them to speak and I've asked them to unmute. So as soon as they accept those authorizations, they'll be able to do both.

Examiner Olbrechts: ([00:50:12](#)):

Okay.

Speaker 8 ([00:50:13](#)):

You hear me?

Examiner Olbrechts: ([00:50:14](#)):

Yep, we hear you Now, John and John, could you tell us your last name and how to spell it for the transcripts?

Mr. Hall: ([00:50:21](#)):

My name's John Hall.

Examiner Olbrechts: ([00:50:23](#)):

Okay.

Mr. Hall: ([00:50:24](#)):

HALL.

Examiner Olbrechts: ([00:50:25](#)):

Great. Okay. Mr. Hall, let me, you swear you in. Just raise your right hand. Do you swear affirm to tell the truth, nothing but the truth in this proceeding?

Mr. Hall: [\(00:50:32\)](#):

Yes, I do.

Examiner Olbrechts: [\(00:50:33\)](#):

Okay. And just to let you know, your video's not on and that's perfectly fine. That's up to you. Join

Mr. Hall: [\(00:50:37\)](#):

As panelists.

Examiner Olbrechts: [\(00:50:40\)](#):

Pardon? Oops. Oh, he's joining us as a panelist, I guess.

Speaker 8 [\(00:50:50\)](#):

Yes. Which is what all of you are.

Examiner Olbrechts: [\(00:50:52\)](#):

Yeah.

Speaker 8 [\(00:50:54\)](#):

And so I've,

Examiner Olbrechts: [\(00:50:55\)](#):

Okay.

Speaker 8 [\(00:50:57\)](#):

John does not usually I'm going to ask to unmute him again and see if that works. He may have accidentally muted himself.

Examiner Olbrechts: [\(00:51:03\)](#):

There we go. Okay, now we can here you, John, can't see you Mr. Hall, if you want to be seen, what you just have to do is move your cursor to the bottom of your screen and a panel pop up and there's a little video camera on the left bottom and you just need to click on that and your video will turn on if you want to be seen. There you go. Okay. We see you now too. We're set. Alright, go ahead.

Mr. Hall: [\(00:51:29\)](#):

My name is John Hall. I live at 99 70 Southeast 40th Street. I'm a resident of Mercer Wood Neighborhood and a representative of the Concerned Neighbors. We've participated in the project from the beginning, including in the consolidated CPA appeal and a conditional use public hearing. Concerned neighbors have retained legal counsel who has appeared on our behalf and filed an objection to the reduced parking minimums on the residence residential zone Herzl synagogue property that the hearing examiner reserved until the design hearing and the city code official and city engineer have not yet

formally ruled upon. Our attorney could not participate in this hearing due to conflict and schedule. However, based on 20 years of fighting the city's approval of permits in this neighborhood and prior public hearings concerned neighbors do not believe it will get a fair or neutral decision in this matter. But we do believe our position legally is correct and will prevail upon appeal on two main issues raise, which is why the city required Herzl to sign an old harmless agreement.

(00:52:45):

Number one, the code officials discretion to reduce parking minimums found in the commercial section. The code does not apply to residential zone properties. Number two, and even if it did, the evidence in the matter, including the photos of the overflow parking submitted by neighbors and the lease by the French American school shows it needs to find additional 62 parking stalls under its cup, which none exists in the neighborhood, prove that it would be abuse of discretion for the code officials to allow a 25% reduction in parking between the Herzl synagogue and the school office building of the B Zone property. Thank you.

Examiner Olbrechts: (00:53:29):

Okay, thank you Mr. Hall. I'll certainly look at that issue very closely. Alright, anyone else want to say anything at this point? Again, this is your one chance to speak on the design review application. Just need to click on that raise hand button. If for whatever reason your internet's not working, you can't figure out how to be heard, I'll take email comments until 5:00 PM tomorrow. Just for those of you who can't participate because of technical problems and your email, be sure to start off by identifying your internet wasn't working, or whatever reason you couldn't participate today. And then you can go ahead and make your comments. If we do get any comments coming in by email, I'll give staff and the applicant some time to respond to those. And Ms. Estrada, is there a email address you can post at the chat that people can email their comments to?

Speaker 8 (00:54:21):

Yes, sir.

Examiner Olbrechts: (00:54:22):

Okay. She'll go ahead and do that. And while she's doing that, I'll move back to Ms. McGuire. Did you have any response you wanted to make to the public comments? I do. Okay, go ahead.

Mr. McGuire: (00:54:41):

I'm sorry. I said I do not.

Examiner Olbrechts: (00:54:42):

Oh, you do not. I didn't get the knot there. Okay. And just to make sure that Mr. Hall mentioned that there was an objection over the code interpretation for reduced parking. Is that in the exhibits that have been admitted into the record? Do you know

Mr. McGuire: (00:54:58):

The public comment of the objection?

Examiner Olbrechts: (00:55:00):

Yeah, or the

Mr. McGuire: (00:55:01):

Yes.

Examiner Olbrechts: (00:55:01):

Okay. That I just want to make sure it was there. Yeah. Okay, perfect. Alright, well let's move on to, yeah,

Mr. Friedman: (00:55:08):

This is Josh Friedman for the applicant.

Examiner Olbrechts: (00:55:12):

Yeah, we're moving on to applicant comments, his final word at this point. So go ahead.

Mr. Friedman: (00:55:17):

Sure. To the previous question, I'm not sure the applicant has seen or had a chance to review any notice of appearance or correspondence from an attorney. If one is in the record, could the city let us know what exhibit that is?

Examiner Olbrechts: (00:55:38):

Yeah. Right. Yeah. Cause I don't recall seeing it either, so that's why I asked Ms. McGuire, could you identify where that is for us?

Mr. Friedman: (00:55:46):

I have seen three timely public comments. I know those were submitted and I reviewed those in the record, but I haven't seen anything from another attorney.

Examiner Olbrechts: (00:55:54):

Yeah, there was from Ms. Fletcher and there was a joint comment from three individuals beyond that. I don't recall seeing any objection.

Mr. McGuire: (00:56:03):

I'm sorry, I misunderstood the question. I thought just the parking issue in the comments. We did receive a public comment earlier this morning. It was emailed to myself and I'll make sure that's distributed from an attorney. Let's see.

Mr. Friedman: (00:56:29):

I guess we would posit that that exhibit would be out order because we haven't had the opportunity to review it. We can't see it now, so it does not seem appropriate to expect us to respond to something that we can't and haven't seen.

Examiner Olbrechts: (00:56:49):

Yeah. Well I'll have to take a look at the, I don't recall the rules for Mercer Island specifically. I'm trying to think because I know there is, I think it's Mercer Island has the rule that says that when it comes to legal brute, no, that was another city. Yeah, I mean what I'll do is I'll let the document come in, but give

the applicant an opportunity to provide written response staff and applicant Mr. Friedman. And if you can point to any hearing exam, rule of procedure that prohibits it, I'll still consider the admissibility as well. That can be part of your response. And if it does violate the adoptive rules, then I'll reject it. But absent a hearing exam rule that prohibits the admission of something that's a written document that's filed up until the end of the public hearing, they're generally admissible. So let's see. So I'll admit that document. Let's see. Mr. Estrada, what exhibit numbers should we give that at this point?

Speaker 8 ([00:57:49](#)):

I don't have a list of the exhibit numbers. I would, if you would just,

Examiner Olbrechts: ([00:57:54](#)):

I'll just say it's submitted. You want to? Yeah, and we will assign a number then later. That's just fine. And I'll give Mr. Friedman, how much time do you need to prepare a response to that document? I know we haven't seen it yet, so that makes it a little difficult. But

Mr. Friedman: ([00:58:09](#)):

Yeah, it's tough to know how much time it'll take to respond to a document I haven't seen.

Examiner Olbrechts: ([00:58:15](#)):

Well, I'll tell you what I'll give you until next Thursday at five. And if it turns out this is a horribly complicated and you need additional time just to ask and I'll extend it, I'll give you a chance to respond. And since it also may involve an evidentiary objection, if you do object to its admissibility, I'll allow of course the author of the document to respond to that objection as well. And Ms. McGuire, do you want to provide any response to that document?

Mr. McGuire: ([00:58:44](#)):

I'm not at this time.

Examiner Olbrechts: ([00:58:45](#)):

Okay. Alright, so I'll just leave it up to Mr. Friedman then we'll give you till next Thursday. Again, if you have any evidentiary objection in terms of admissibility, I'll allow the author to respond to that. And beyond that, if you need more than next Thursday, just let us know and we'll give you additional time, most likely. So

Mr. Friedman: ([00:59:04](#)):

I appreciate that. I hope we'll need to get you something in response much more properly than that.

Examiner Olbrechts: ([00:59:10](#)):

Okay.

Mr. Friedman: ([00:59:12](#)):

And it looks like Ms. Estrada has something.

Examiner Olbrechts: ([00:59:16](#)):

Okay, Ms. Estrada?

Speaker 8 ([00:59:17](#)):

Yes. Thank you. Earlier Hearing Examiner, you requested that we provide something in the comments, an email address where people could send in comments or questions. I believe we have that disabled where our webinars are concerned

Examiner Olbrechts: ([00:59:33](#)):

To.

Speaker 8 ([00:59:33](#)):

Yeah, so I would ask that Molly provide a email that she wants individuals to send comments or questions to.

Examiner Olbrechts: ([00:59:43](#)):

Okay. Ms. McGuire, can you tell us what the email, that email address would be?

Mr. McGuire: ([00:59:48](#)):

Yeah, so it's Molly, M-O-L-L-Y, dot McGuire, M-C-G-U-I-R e@mercerisland.gov.

Examiner Olbrechts: ([00:59:57](#)):

Okay, perfect. And if somebody out there didn't get that, you can just call the planning department and ask and they'll tell you what Molly's email address is there over the phone. So, okay. I think with that, I have more than enough work on this one. It looks like a lot of information to review and digest there as in addition to the comment that came in today, as I mentioned before, I have 10 business days. Once the hearing is closed, which would be I guess next Thursday or when the applicant comments come in to issue that final decision, if any of you want a copy of that decision and your email address, you haven't submitted a comment before, go ahead and email Ms. McGuire that you want a copy of the decision and she'll email. Is that okay Ms. McGuire? Yeah, that's the way we do it. Okay, sounds good. Thank you all. And like I said, I have a lot, oh, sorry.

Mr. Friedman: ([01:00:48](#)):

Just in addition to responding to that new document, I just have a brief closing number

Examiner Olbrechts: ([01:00:56](#)):

If that's okay? Oh, of course. Yeah, yeah. Sorry, go ahead.

Mr. Friedman: ([01:00:58](#)):

No problem. And appreciate staff's flexibility in that new incoming document. If you could let me know where and when to find that so that I can start responding to it, that would be great. I don't even know if that's online yet, so as soon as I know where to find it, I can start to work responding to it. In brief closing and response to Mr. Hall's spoken comment a few moments ago, just to correct a few factual items, the parcel on which the school is located is not a residential zone property. That's one important distinction that I want to make sure a correct. And further, as mentioned a couple times in the staff report, the city engineer has reviewed and recommended approval of the parking as proposed today

that the statement in the comment that the city engineer has not reviewed or has not approved is not right.

[\(01:02:09\)](#):

So that the staff report details, the engineer's review and I believe recommendation of approval with respect to the more general comment about sufficiency of parking that Mr. Hall made. I think the critical piece to keep in mind from the perspective of a non-par professional myself, I'm a lawyer, not a parking counter, is that the parking needs of the site vary depending on what day of the calendar year. So the synagogue has, and this is all set forth in the staff report and the record, the synagogue has elevated parking needs on days when there are Jewish holidays. Those are also the days that the school will be closed. It's a Jewish day school, it's not open on Jewish holidays. So the school and the synagogue will not be effectively competing for the majority of the parking. The synagogue's, existing parking needs are generally on holidays. The school is not open on holidays. So although there are a lot of cars, they're not all coming at the same time. And to reiterate, the synagogue's parking needs are existing parking needs. The use has been established for many decades. Those holidays have been going on in this location for quite a while and are not anticipated to be changed or increased by the presence of the school during non-holiday days.

[\(01:03:58\)](#):

I think that's all we have. I hope this presentation was not too exhaustive, but was informative in the examiner's decision.

Ms. Grant: [\(01:04:09\)](#):

I have something to add on the parking if that screen.

Mr. Friedman: [\(01:04:11\)](#):

Okay. And one more

Ms. Grant: [\(01:04:12\)](#):

Comment from our architect on parking, if that's okay.

Examiner Olbrechts: [\(01:04:14\)](#):

Alright, sure.

Ms. Grant: [\(01:04:16\)](#):

I understand that Mr. Hall mentioned that there are conflicts with parking when the French American school, which is currently renting parking, is using the parking lot. The French American school does not follow a Jewish calendar, so we anticipate that the parking situation will get better, not worse because the Jewish Day School and the synagogue will share the same calendar. So those conflicts that may be arising at the present time because of the rental parking from French American school will actually go away.

Examiner Olbrechts: [\(01:04:58\)](#):

Okay, good point. Alright, thank you. No, your presentations were very helpful. I mean, this is what I know. I'm going to be relying quite a bit on the hearing transcripts. This is a very fact specific case. Like I said, I have quite a bit of work ahead of me on this one and I'll be paying close attention to all these issues. So really appreciate the work that's been done on this. It's been a very informative and I think

productive hearing. And yeah, we'll get that decision out soon. So thanks all for your effort and your time today, and we're adjourned for this morning. Have a great day. I.