

Molly McGuire

From: velooceella@gmail.com
Sent: Saturday, November 1, 2025 10:25 AM
To: Molly McGuire; Ryan Harriman
Cc: velooceella@gmail.com; winkylai@gmail.com; merkysg@gmail.com; blkship@yahoo.com
Subject: Attorney submission
Attachments: 2025 10 30 Clungeon to Mercer_Final Draft.docx

Molly – The final document and attachments were sent on October 30,(this is a Draft without attachments) Please confirm as it seems there was some confusion yesterday.

Below was my statement from yesterday's hearing.

My name is John Hall. I live at 9970 S.E. 40th Street. I am a resident of Mercerwood neighborhood and a representative of Concerned Neighbors. We have participated in this project from the beginning, including in the consolidated SEPA appeal and Conditional Use public hearing.

Concerned Neighbors has retained legal counsel who has appeared on our behalf and filed an objection to reducing parking minimums on the residential zoned Hertzl 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 a conflict in her schedule. However based on 20 years of fighting the city's approval of permits in this neighborhood, and the prior public hearing, Concerned Neighbors does not believe it will ever get a fair or neutral decision in this matter, but we do believe our position is legally correct and will prevail upon appeal on the two main issues raised which is why the city required Hertzl to sign a hold harmless:

1. The code official's discretion to reduce parking minimums found in the commercial section of the code does not apply to residentially zoned properties.
2. And even if did, the evidence in this matter including the photos of overflow parking submitted by neighbors, and the lease by the French American School that shows it will need to find an additional 62 parking stalls under its CUP when none exist in the neighborhood, prove that it would be an abuse of discretion for the code official to allow a 25% reduction in parking between the Hertzl synagogue and the school/office building on the B zone property.

Thank you.



BRICKLIN & NEWMAN LLP
lawyers working for the environment

Reply to: Seattle Office

October 30, 2025

VIA USPS & EMAIL TO: ryan.harriman@mercercisland.gov

Attn: Ryan Harriman
Attn: City of Mercer Island Hearing Examiner
City of Mercer Island
Community Planning & Development
9611 SE 36th Street
Mercer Island, WA 98040

Re: Herzl-Ner Tamid Conservative Congregation PreK-8 Project Design Standard Review 25-009 for parking reduction/variance at 3700 E Mercer Way

Mr. Harriman and Hearing Examiner,

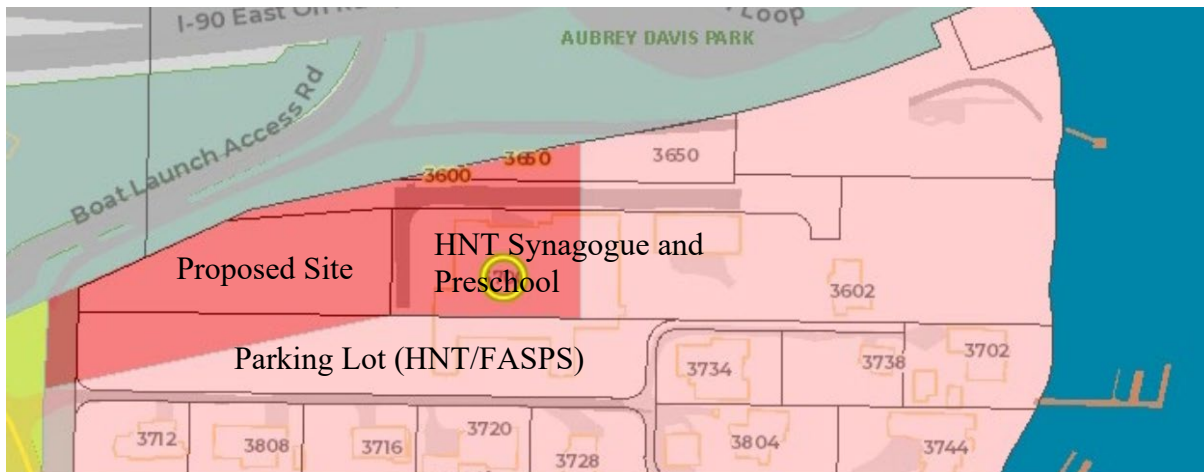
I am writing on behalf of my client, Matthew Goldbach, regarding the Design Standard Review (DSR)25-009. The Herzl-Ner Tamid (HNT) Conservative Congregation are proposing construction of a new mixed use Pre-K-8 and office building on a B zoned lot without providing any on-site parking. Instead, HNT seeks to use an adjacent undersized parking lot on an R9.6 zoned lot and seeks a deviation from the applicable parking requirements. For the reasons discussed below, we urge the City of Mercer Island and the Examiner to deny HNT's requested reduction/variance.

Background

HNT seeks to construct a 3-story mixed use building consisting of 14,051 sq ft pre-K-8 school and 12,300 sq ft of rental office space with no on-site parking nor on-site playfield. HNT plans to use an adjacent 105-stall parking lot that is used by the HRT Synagogue and the French American School of Puget Sound (FASPS) located across the street to the west. The synagogue requires 82 spaces. The FASPS leases 62 spaces for faculty and staff. *See* Attachment A. The new proposed use requires 33 parking spaces for the office and 24 spaces for the school for a total of 57 on-site parking spaces. There simply are not enough spaces and this is not an appropriate location to deviate from this requirement.

Inconsistent with Code

Deviation from the parking requirements in a residential zone is inconsistent with the code. The proposed use is on a B-zoned lot. The parking for the proposed use is on an adjacent lot that is split zoned B and R 9.6. Annotated zoning and aerial map images are provided below.



Blue-Green = Public Institutional
Red = B
Gray = Highways/streets

Pink = R-9.6
Yellow = C-O



The code provides that “[w]here a boundary between zones divides a lot into two or more pieces, the entire lot shall be deemed to be located in the first zone on the following list in which any part of the lot is located: R-15, R-12, R-9.6, R-8.4, MF-2L, MF-3, MF-2, OS, PI, PBZ, CO, TC, and B.” MICC 19.01.040.G.2. Lots 2 and 3 are split between R-9.6 and B. Therefore, pursuant to MICC 19.01.040.G.2, both are treated as R-9.6-zoned parcels. R-9.6 zone is primarily a single-family

residential zone where permitted uses include single-family residences, private recreational areas, public schools, home businesses, public parks, and some types of group housing. MICC 19.02.010.A. Private schools and places of worship are conditional uses in R-9.6. MICC 19.02.010.C.2. The development standards for residential lots state,

Except as otherwise provided in this chapter, each lot shall provide parking deemed sufficient by the code official for the use occurring on the lot; provided, any lot that contains ten or more parking spaces shall also meet the parking lot requirements set out in appendix A of this development code, except as provided below.

MICC 19.02.020.G.4. The uses require 139 spaces. The lot has 105 spaces. Chapter 19.02 MICC does not provide for variances or deviations from parking requirements in residential zones. Therefore, any such parking variance or deviation is inconsistent with the code and cannot be approved.

HNT's request for a reduction from parking requirements in this residential zone is a variance, which is a more rigorous standard set forth in MICC 19.06.110.B than the "no adverse impact" standard discussed below. Furthermore, the city has determined that a CUP on residential zoned property cannot obtain a variance from the regulatory limits other than impervious surface limits. *See* Attachment B (AI 22-004 concluding, "The MICC prohibits other variances from numerical standards for non-residential structures in residential zones."). Therefore, a variance to reduce parking on a residential lot is contrary to the code and the city's own interpretation of the code.

Design Commission/Hearing Examiner Discretion Demands Denial of Parking Reduction

We maintain that the code does not provide for parking variances and deviations in residential zones. However, should the Examiner proceed under MICC 19.04.040, the Examiner should exercise their discretion to deny the permit. The proposed location is simply one of the worst places to approve a reduction in on-site parking and the applicant cannot demonstrate that no adverse impact will occur.

The city's commercial development code, which applies to uses in B zones states,

Notwithstanding any of the minimum parking requirements set out in subsection C of this section, the code official **may** grant variances from the minimum parking requirements with the approval of the city engineer and the design commission for projects reviewable by the design commission.

MICC 19.04.040.B.9 (emphasis added). It goes on to state,

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 percent of the total combined required spaces when the applicant has demonstrated that **no adverse impact will occur** due to the reduced number of stalls.

MICC 19.04.040.E (emphasis added).¹ While the much of the applicable city code still reflects that such decisions are made by the design commission, Mercer Island City Ordinance 25C-14 delegated all design commission authority to the Hearing Examiner effective June 30, 2025.

The city and Examiner should deny the parking reduction. As my client has explained in previous communications about the proposal, the area around the proposed use and adjacent parking lot is already a high traffic problem area with parking issues. *See* Attachment C (showing consistently full street parking and illegal parking maneuvers next to school buses). Despite residential zoning and comprehensive plan goal 7 that “Mercer Island should remain principally a low-density, single-family residential community,” this area has a number of high activity land uses. These uses include HNT Synagogue, Stroum Jewish Community Center, FASPS, Oranjeschool, Yellow Wood Academy, etc. The proposed site abuts East Mercer Way right next to one of two westbound exits from I-90. Another school, office, and preschool would adversely impact an already challenging situation. Inadequate on-site parking for schools and pre-schools next to a highway exit arterial is a recipe for disaster. The safety risks of adding more activity and less parking to this already busy area are too high.

¹ Note that recent proposed planning commission amendments to this provision provides further support that parking variances are not intended in residential zones.

Notwithstanding any of the minimum parking requirements set out in subsection C of this section, the code official may grant variances from the minimum parking requirements with the approval of the city engineer ~~and the design commission for projects reviewable by the design commission~~ based on review of detailed information provided by the applicant that includes a description of the physical structure(s), identification of potential uses, and analysis of parking demand provided the parking variance is not applied on a parcel in the R-8.4, R-9.6, R-12, and R-15 zones.

PC Amendment Log #39.

Cooperative parking between two or more adjoining property owners is allowed; ~~provided, the code official. The hearing examiner,~~ with approval from the ~~design commission and~~ city engineer, may reduce the total required spaces by 25 percent of the total combined required spaces ~~when the applicant has demonstrated~~ provided that no adverse impact will occur due to the reduced number of stalls based on review of detailed information provided by the applicant that includes a description of the physical structure(s), identification of potential uses, and analysis of parking demand and the cooperative parking is not applied on a parcel in the R-8.4, R-9.6, R-12, and R-15 zones.

PC Amendment Log #71.

Additionally, approving the parking reduction to allow for one school would result in adverse impacts for another. FASPS has had cooperative agreements with HNT for 25 years, including leasing 62 parking spaces from HNT for FASPS faculty and staff. *See Attachment A.* FASPS's conditional use permit requires that FASPS have access to 30 parking spots at HNT. However, the proposed use and parking reduction request—which does not factor in FASPS's parking needs—will adversely affect FASPS. Faculty and staff will have to travel far to find available street parking which is often already full. *See Attachment C.* Faculty and staff may resort to on-site parking, taking spots from children, or FASPS may be forced to relocate. It will render FASPS unable to comply with conditions of its own CUP. That would certainly be an adverse impact warranting denial of HNT's parking reduction request.

Conclusion

For the reasons outlined above, the Examiner should deny the parking reduction. Please include me as an interested party to receive any notices or decisions related to this matter.

Sincerely,

BRICKLIN & NEWMAN, LLP

Audrey Clungeon
Counsel for Matthew Goldbach

cc: Matthew Goldbach