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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

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## DECISION

### CRITICAL AREA REVIEW 2 CAO20-003

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<b>Project No:</b>	CAO20-003
<b>Description:</b>	Request to reduce piped watercourse setback from 45 feet to 10 feet pursuant to MICC 19.07.180(C)(6)(d) to accommodate future construction of a single-family home.
<b>Applicant/ Owner:</b>	Johan Luchsinger (Baylis Architects) / Sellapriya Ramaiyah & Subu Sankara Subramanian
<b>Site Address:</b>	7466 E Mercer Way / Mercer Island WA 98040
<b>Zoning District</b>	R-8.4
<b>Staff Contact:</b>	Robin Proebsting, Senior Planner
<b>Exhibits:</b>	<ol style="list-style-type: none"><li>1. Development Application sign October 25, 2020</li><li>2. Critical Area Study prepared by The Watershed Company, dated October 21, 2020</li><li>3. Letter prepared by Ages Engineering, LLC dated October 7, 2020</li><li>4. Site plan prepared by Baylis Architects, dated October 26, 2020</li><li>5. Memorandum prepared by ESA, dated January 15, 2021</li></ol>

## INTRODUCTION

### I. Project Description

The applicant has applied for a Critical Area Review 2 to reduce the 45-foot piped watercourse setback on the subject property to 10 feet in order to accommodate a planned single-family home (Exhibit 4).

### II. Site Description and Context

The subject site is currently developed with a one-story single-family home and is within the R-8.4 zone. It is bound by E Mercer Way to the east and surrounded by single-family homes on all sides. The subject site contains mapped landslide, erosion, and seismic hazard areas, as well as portions of a dripline of a large (approx. 60 in diameter at breast height (DBH)) Redwood tree on a neighboring property.

The existing piped watercourse is conveyed under E Mercer Way to the subject property, then flows toward the southern property line of the subject property to the property to the south, where it daylights briefly south of the house on the property to the south (7618 E Mercer Way).

## Findings of Fact & Conclusions of Law

### III. Application Procedure

1. The application for a Critical Area Review 2 was received by the City of Mercer Island on October 27, 2020. The application was determined to be complete on November 24, 2020.
2. According to MICC 19.15.030, Table A, applications for Critical Area Review 2 must undergo Type III review. Type III reviews require notice of application (discussed below). A notice of decision is issued once the project review is complete.
3. A notice of application was issued on February 16, 2021, and the public comment period ran from February 16, 2021 to March 18, 2021. Public notice was issued via a mailing to neighboring property owners within 300 feet of the subject site, a sign posted on the subject property, and a posting in the City's weekly permit bulletin.
4. No public comment was received.

### IV. SEPA finding of fact and conclusions

5. The proposal is exempt from SEPA Review pursuant to WAC 197-11-800(1)

### V. Consistently with the Critical Areas Code

6. MICC 19.07.180(C)(6)(d) Piped watercourse setback widths shall be reduced to: (i) 10 feet on lots with a lot width of 50 feet or more, and (ii) five feet on lots with a width of less than 50 feet, when daylighting is determined by qualified professional(s) to result in one or more of the following outcomes:[...] ii. Increased risk of environmental damage (e.g., erosion, diminished water quality) that cannot be mitigated;

**Staff Analysis:** The piped watercourse is within the canopy and critical root zone of the neighboring property's Redwood tree. The Redwood tree has a DBH of 60 inches and would be considered exceptional as defined in MICC 19.16.010. As an exceptional tree, the Redwood would need to be retained under MICC 19.10.060(A)(3). The applicant's critical area study notes that daylighting the piped watercourse within the subject property would necessitate the removal of the Redwood tree, causing an environmental impact—in the form of a loss of habitat, soil stabilization, evapotranspiration functions—that could not be mitigated (Exhibit 2). Daylighting the watercourse would also increase the risk of erosion and site instability, according to the project geotechnical engineer (Exhibit 3). The City's third-party reviewer agreed that a 10-foot setback from the piped watercourse is appropriate (Exhibit 5).

## CONDITIONS OF APPROVAL

1. The project proposal shall be in substantial conformance with Exhibit 4 and all applicable development standards contained within Mercer Island City Code (MICC) Chapter 19.07.
2. The applicant is responsible for documenting any required changes in the project proposal due to conditions imposed by any applicable local, state and federal government agencies.
3. Construction or substantial progress toward construction of a development for which a permit has been granted must be undertaken within three years after the approval of the permit or the permit shall terminate. The code official shall determine if substantial progress has been made.

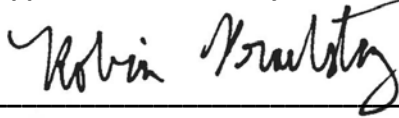
## DEVELOPMENT REGULATION COMPLIANCE – DISCLOSURE

1. Compliance with all applicable codes, including but not limited to zoning, critical areas (including Fish & Wildlife Habitat Conservation Areas), and building code, will be required as part of building permit review.

## DECISION / RECOMMENDATION

Based upon the above noted Findings of Fact and Conclusions of Law, Critical Area Review 2 application CAO20-003, as depicted in Exhibit 4, is hereby **APPROVED**. This decision is final, unless appealed in writing consistent with adopted appeal procedures, MICC 19.15.020(J), and all other applicable appeal regulations.

Approved this 22nd day of March, 2021



**Robin Proebsting**  
**Senior Planner**  
**Community Planning & Development**  
**City of Mercer Island**

*If you desire to file an appeal, you must submit the appropriate form, available from the department of Community Planning and Development, and file it with the City Clerk within fourteen (14) days from the date after the notice of decision is made available to the public and applicant pursuant to MICC 19.15.130. Upon receipt of a timely complete appeal application and appeal fee, an appeal hearing will be scheduled. To reverse, modify or remand this decision, the appeal hearing body must find that there has been substantial error, the proceedings were materially affected by irregularities in procedure, the decision was unsupported by material and substantial evidence in view of the entire record, or the decision is in conflict with the city's applicable decision criteria.*

*Please note that the City will provide notice of this decision to the King County Department of Assessment, as required by State Law (RCW 36.70B.130). Pursuant to RCW 84.41.030(1), affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation by contacting the King County Department of Assessment at (206) 296-7300.*