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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 CAO23-010

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<b>Project No:</b>	CAO23-010
<b>Description:</b>	A request to construct a bike skills facility at Deane’s Children’s Park. The bike skills facility will include construction of new trails and installation of wood and steel bike skills equipment within geologically hazardous areas.
<b>Applicant / Owner:</b>	City of Mercer Island – Public Works Department
<b>Site Address:</b>	5701 Island Crest Way, Mercer Island WA 98040
<b>Zoning District</b>	R-9.6
<b>Staff Contact:</b>	Andrew Leon, Planner
<b>Exhibits:</b>	<ol style="list-style-type: none"><li>1. Development Application, dated May 23, 2023</li><li>2. Geotechnical Report and Critical Area Study prepared by Geotech Consultants, Inc., dated May 10, 2023</li><li>3. Review of Grading Plan prepared by Geotech Consultants, Inc., dated August 30, 2023</li><li>4. Site Plan, received by the City of Mercer Island on May 23, 2023</li><li>5. Project Narrative, received by the City of Mercer Island on May 23, 2023</li><li>6. Project Narrative Supplemental, received by the City of Mercer Island on May 23, 2023</li><li>7. Arborist Report prepared by the City of Mercer Island Public Works Department, dated October 2, 2022</li><li>8. Tree Protection Memo, received by the City of Mercer Island on June 9, 2023</li><li>9. SEPA Checklist, dated May 23, 2023</li><li>10. SEPA Determination of Nonsignificance issued by the City of Mercer Island on September 11, 2023</li><li>11. Public comment from Nathan Dudley, received by the City of Mercer Island on June 20, 2023</li><li>12. Public comment from Bonnie Godfred, received by the City of Mercer Island on June 20, 2023</li><li>13. Public comment from James Taylor, received by the City of Mercer Island on June 20, 2023</li><li>14. Public comment from Scott Flynn, received by the City of Mercer Island on July 17, 2023</li></ol>

## INTRODUCTION

### I. Project Description

The applicant is proposing to construct an enclosed bike skills area at Deane's Children's Park. The proposed bike skills area is to have an area of 15,000 square feet and will include a mountain biking skills course featuring a combination of wood and dirt jump and features, reinforced rock berms, and dirt trails. New fencing is proposed on the east side of the enclosure and existing fencing on the west side of the enclosure is proposed to be modified. An existing ADA-compliant path is proposed to be used to access the bike skills facility and two new access trails are proposed to be installed: One from Island Crest Way and one from the parking lot to the west of the nearby ballfields and tennis courts.

### II. Site Description and Context

The subject site is currently developed as a city park with ballfields, tennis courts, playgrounds, and trails. The subject site is zoned Single-Family Residential in the R-9.6 zone and is bordered by Island Crest Way to the east and 84<sup>th</sup> Ave SE to the west. Neighboring properties to the northeast, east, and south are also within the R-9.6 zone and contain residential uses. Neighboring properties to the west, across 84<sup>th</sup> Ave SE, are within the R-15 zone and contain residential uses. The property bordering the eastern half of the northern property line is the Public Institution (PI) zone and contains a school. The project area contains mapped landslide and erosion hazard areas.

## 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 May 25, 2023. The application was determined to be complete on June 13, 2023.
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 June 20, 2023, and the public comment period ran from June 20, 2023 to July 20, 2023. 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. The city received comments from five neighboring property owners.
  - a. Four of the comments (Exhibits 11 through 14) expressed support for the project and requested approval.

- b. One comment letter (Exhibit 15) expressed concerns about safety at Island Crest Park. All life safety issues related to this project will be reviewed as a part of the building permit for this project.

#### **IV. SEPA Finding of Fact and Conclusions**

5. A Determination of Nonsignificance (DNS) is being issued concurrently with the approval of this Critical Area Review 2 following the optional DNS process per Washington Administrative Code (WAC) 197-11-355 (Exhibit 10). The SEPA application is identified By City of Mercer Island permit number SEP23-013.

#### **V. Consistently with the Critical Areas Code**

6. MICC 19.07.160(A) When an alteration within a landslide hazard area, seismic hazard area or buffer associated with those hazards is proposed, the applicant must submit a critical area study concluding that the proposal can effectively mitigate risks of the hazard. The study shall recommend appropriate design and development measures to mitigate such hazards. The code official may waive the requirement for a critical area study and the requirements of subsections (B)(2) and (B)(3) of this section when he or she determines that the proposed development is minor in nature and will not increase the risk of landslide, erosion, or harm from seismic activity, or that the development site does not meet the definition of a geologically hazardous area.

**Staff Analysis:** The provided geotechnical report (Exhibit 2) and review of the grading plan (Exhibit 3) by Geotech Consultants, Inc. reviewed the proposal and has confirmed the plans include relevant recommendations from the Geotechnical report to effectively mitigate risks of the hazard. The findings of the geotechnical report underwent peer review with the city's geotechnical consultant, who found that it is consistent with the standards of MICC 19.07.160.

#### **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 CAO23-010, 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 11<sup>th</sup> day of September, 2023.**

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**Andrew Leon**  
**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.*