
CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

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CONDITIONAL USE PERMIT

STAFF REPORT CUP23-002 (Exhibit 1)

Project Number: CUP23-002

Project Name: AMI Water Meter Location 3

Land Use

Review Type: Type IV

Description: A request for a Conditional Use Permit (“CUP”) for installation of water meter data collection equipment. The Proposed development is considered an Essential Public Facility pursuant to Mercer Island City Code (“MICC”) 19.16.010(E). An Essential Public Facility requires a Conditional Use Permit in all zones (MICC 19.06.100(D)).

Applicant/ Owner: Alaine Sommargren / City of Mercer Island

Site Address: 5701 Island Crest Way, Mercer Island, WA 98040
Identified by King County Assessor tax parcel number: 1924059013.

Zoning District: R-9.6

Key Project Dates:

Date of Application:	December 15, 2023
Determined to Be Complete:	December 29, 2023
Bulletin Notice:	January 8, 2024
Date Mailed:	January 8, 2024
Date Posted on the Subject Property:	January 8, 2024
Comment Period Ended:	5:00 PM on February 7, 2024
Notice of Public Hearing Issued:	April 15, 2024
Notice of Public Hearing Bulletin Notice:	April 15, 2024
Notice of Public Hearing Date Mailed:	April 15, 2024
Notice of Public Hearing Date Posted on the Subject Property:	April 15, 2024
Date of Open Record Public Hearing:	2:00 PM on May 16, 2024

Staff Contact: Ryan Harriman, EMPA, AICP, Planning Manager

Exhibits:

1. CUP23-002 Staff Report, dated May 16, 2024;

2. Development Application and Project Narrative;
3. Pre-Application Meeting Notes, dated August 29, 2023;
4. Determination of Complete Application;
5. Notice of Application;
6. Public Participation Plan;
7. Plan Set;
8. Public Comments;
9. Public Comment Response Letter;
10. Zoning Map;
11. SEPA Optional Determination of Nonsignificance, issued February 26, 2024;
12. Notice of Public Hearing, issued April 15, 2024.

I. APPLICATION OVERVIEW

Project Overview: The Applicant is proposing to install water meter data collection equipment on utility poles or other structures located across Mercer Island. The proposed locations were identified due to their ability to capture transmissions from water meters across Mercer Island.

The data collection equipment at Location 3 is proposed for installation at Island Crest Park (5701 Island Crest Way), a public park near the center of the island. The data collection equipment would include two elements: a coated aluminum box approximately 22-inches by 22-inches by 10.5-inches in size (data box) and a fiberglass antenna approximately 9 feet tall and 1.5 inches in diameter. The data box would be installed in the control room of the Water Reservoir Pump Station, with cable leading to the antenna. The antenna would be installed approximately 110-feet from the ground on an existing city-owned lattice tower.

Installation of the data box and antenna would take over 1-2 days and include up to three construction workers. The staging and construction area would be approximately 40 feet by 40 feet (160 square feet). Installation machinery would include a manlift. All construction would occur during daylight hours; no nighttime work is proposed.

Background: The City operates a water utility meter reading program that involves reading 82 percent of meters manually and reading the remaining 18 percent through a radio read system. Water metering information is used in the City's utility billing system, from which utility billing statements are generated. Approximately 64 percent of the City's water meters are 15 years old or more.

In 2018, the City began evaluating options to improve its water metering practices, which led to a comprehensive Water Meter Replacement Program (the Program). The Program includes implementation of an Advanced Metering Infrastructure (AMI) system to replace the 7,900 existing water meters with new smart meters, standardized in type and technology. This will enable a meter-reading approach that will best support reduced water loss and improved water resource management. The new meters will automatically transmit water usage data to the City on an hourly basis via data collection equipment on utility poles or other structures in a total of seven locations throughout Mercer Island.

Location: The subject property is located at 5701 Island Crest Way (King County parcel number 1924059013), situated in the NW 1/4 of Section 19, Township 24 north, and Range 5 east, W.M., in the City of Mercer Island, King County, WA.

Existing Conditions: The existing site is pre-disturbed ground cover; no vegetation is anticipated to be removed or altered. Likewise, no trees are proposed for removal or alteration. There are no anticipated stormwater runoff or surface water issues as the data box will be indoors and the antenna will not create any ground disturbance or impervious surfaces.

Access: Access to the subject property is from Island Crest Way.

Contact Information:

Contact	Applicant:	Engineer
Alaine Sommargren City of Mercer Island 9611 SE 36th Street Mercer Island, WA 98040 (206) 275-7879	Same as Contact	Bush, Roed, & Hitchings, Inc. 15400 SE 30th Place, STE 100 Bellevue, WA 98007 (206) 323-4144

Terms used in this staff report:

Term	Refers to, unless otherwise specified:
Applicant	Alaine Sommargren / City of Mercer Island
Proposed development	City of Mercer Island Water Meter Data Collector Installation Project; Location 3 – Island Crest Park
Subject property, site	The subject property or site where the proposed development is located as defined in this staff report
City	City of Mercer Island
MICC	Mercer Island City Code
Code Official	City of Mercer Island Community and Planning Development Director or a duly authorized designee
Conditional Use Permit approval	The application request by the Applicant.
EPF	Essential Public Facility

II. PROCEDURE AND NOTICE REQUIREMENTS

1. Review Type: Applications for Conditional Use Permit (“CUP”) approvals are required to be processed as a Type IV land use review pursuant to MICC 19.15.030. Type IV land use reviews require a notice of application, a 30-day public comment period, and a notice of decision. Processing procedures and requirements for Type IV land use reviews are further detailed in MICC 19.15.030. CUP approval criteria are located within MICC 19.06.110(A) and Essential Public Facility (“EPF”) criteria are located within MICC 19.16.010(E).

Staff Finding: The application for the proposed development was correctly classified and processed as a Type IV land use review.

2. Application: The application for the proposed development (**Exhibit 2**) was submitted on December 15, 2023. On December 29, 2023, the application for the proposed development was deemed complete for the purpose of review, pursuant to MICC 19.15.070 (**Exhibit 4**).

Staff Finding: The application for the proposed development is consistent with the procedures of MICC 19.15.070.

3. Notice of Application: The City issued a notice of application for the proposed development on January 8, 2024, consistent with the provisions of MICC 19.15.090, which include the following methods: a mailing sent to neighboring property owners within 300-feet of the subject property; a notice sign posted on the subject property; and publication in the City’s weekly permit bulletin. The notice of application began a 30-day comment period, which took place on January 8, 2024 through February 7, 2024 (**Exhibit 5**).

Staff Finding: The notice of application and comment period are consistent with the provisions of MICC 19.15.090.

4. Preliminary Plan Set: The Applicant provided a preliminary plan set (**Exhibit 7**) for the proposed development.

5. Opportunities for Public Comment: The 30-day public comment period took place on January 8, 2024 through February 7, 2024.

Staff Finding: One public comment was received during the public comment period contained in **Exhibit 9**.

6. Response to Public Comment:

Staff Finding: The City provided a response to the public comment received. See **Exhibit 10**.

7. SEPA Review: An Optional Determination of Nonsignificance (ODNS) was issued on February 26, 2024.

8. Public Hearing: Pursuant to MICC 19.15.030 Table A and B, a public hearing is required for a CUP. A Notice of Public Hearing (**Exhibit 12**), for the May 16, 2024 public hearing, was provided to the public as required by MICC 19.15.100(D) on April 15, 2024.

Staff Finding: The public hearing was noticed appropriately pursuant to the provisions of MICC 19.15.100.

III. ZONING AND COMPREHENSIVE PLAN DESIGNATIONS

9. Site Zoning & Land Use: The subject property is zoned Single Family Residential, R-9.6. According to MICC 19.02.010, essential public facilities are allowed within the R-9.6 zone by a CUP.

Staff Finding: The proposed development is consistent with the permitted uses provided in MICC 19.02.010.

10. Comprehensive Plan Policies: The City of Mercer Island Comprehensive Plan is a forward-looking plan for the development of the City, fulfilling the Washington Growth Management Act (GMA) requirements. The subject property is zoned R-9.6 and the use, though allowed by a CUP, is consistent with the MICC. The proposed development conforms to the MICC, which ultimately means it complies with the spirit of the comprehensive plan since these regulations have been created to ensure the vision of the plan is met. The proposed development is consistent and compatible with the Single Family Residential, R-9.6, land use designation and the policies of the City of Mercer Island Comprehensive Plan: Planning for Generations 2015-2035, adopted in 2016.

Staff Finding: The proposed development is consistent with the Comprehensive Plan.

11. Adjacent Zoning and Comprehensive Designations: The proposed development is compatible with the surrounding zoning and Comprehensive Plan designations as follows:

	Zoning Designation	Comprehensive Plan Designation
North	R-9.6	Single Family Residential R-9.6

South	R-9.6	Single Family Residential R-9.6
East	R-9.6	Single Family Residential R-9.6
West	R-9.6	Single Family Residential R-9.6

Staff Finding: The proposed development is consistent with the Comprehensive Plan.

IV. CONSISTENCY WITH THE ESSENTIAL PUBLIC FACILITY STANDARDS

12. MICC 19.06.100 establishes a process for identifying, siting and regulating essential public facilities (EPFs).

A. *MICC 19.06.100(B) Preapplication meeting required.* Prior to submitting a conditional use permit application, an EPF applicant is required to attend a preapplication meeting consistent with the preapplication provisions of Chapters 19.09 and 19.15 MICC. The preapplication meeting is required as a means for applicants to present facility and siting proposals, seek information about potential sites, and proposed possible mitigation measures.

Staff Finding: A preapplication meeting was held on August 29, 2023. Alaine Sommargren was present to represent the applicant, and representatives from the City’s Building and Planning Departments were present. Notes were provided to the applicant at the close of the preapplication meeting (**Exhibit 3**).

B. *MICC 19.06.100(C) Public participation.* The applicant shall present a public participation plan for city review and comment as part of the preapplication meeting. Applicants shall conduct local outreach efforts with early notification to prospective neighbors to inform them about the project and to engage residents in the development of the proposal, site planning and mitigation design prior to submittal of a conditional use permit application.

Staff Finding: The applicant submitted a public participation plan (**Exhibit 6**) that describes local outreach efforts to prospective neighbors to inform them about the project and engage residents. The applicant sent letters and door hanger notifications to property owners within a 300-foot radius of the base station location on November 13, 2023, which informed residents about the project and conditional use permit process. The applicant also published details regarding the project on the City of Mercer Island’s Let’s Talk webpage.

C. *MICC 19.06.100(D) Conditional use permit required.* An EPF shall require a conditional use permit in all zones. Outside of the Town Center zone, an application for a conditional use permit shall follow the procedure and meet the criteria in [chapter 19.15](#) MICC. Within the Town Center zone, an application for a conditional use permit shall follow the procedure and meet the criteria in [chapter 19.15](#) MICC and [MICC 19.15.040](#). In addition, regardless of the proposed location of the EPF, materials showing compliance with the following items must be submitted:

Staff Finding: The applicant submitted a conditional use permit application to the City of Mercer Island on December 15, 2023. The application was deemed complete on December 29, 2023 (**Exhibit 4**).

1. The applicant must demonstrate the need for the proposed EPF. Included in the analysis of need should be the projected service population, an inventory of existing and planned comparable facilities and projected demand for this type of essential public facility.

Staff Finding: The City operates a water utility meter reading program that involves reading 82 percent of meters manually and reading 28 percent of meters through a radio read system.

Water metering information is used in the City's utility billing system, from which utility billing statements are generated. Approximately 64 percent of the meters are 15 years old or more.

Staff Finding: In 2018, the City began evaluating options to improve its water metering practices, which led to a comprehensive Water Meter Replacement Program (the Program). The Program includes implementation of an Advanced Metering Infrastructure (AMI) system to replace the 7,900 existing water meters with new smart meters, standardized in type and technology. This will enable a meter-reading approach that will best support reduced water loss and improved water resource management. The new meters will automatically transmit water usage data to the City on an hourly basis via data collection equipment placed in a total of seven locations throughout Mercer Island. The proposed meter is located at Location 3.

2. The proposal shall be consistent with the applicant's own long-range plans for facilities and operations.

Staff Finding: The project is part of the implementation of the Program and will contribute to the goal of improved water resource management, which is the overall long-range plan for facilities and operations.

3. The proposal shall be consistent with the Mercer Island Comprehensive Plan.

Staff Finding: The Mercer Island Comprehensive Plan calls for the City to provide adequate water supply and improved water quality to the water service area now and in the future. The meter replacement program is a capital project designed to fulfill that requirement through implementing the City of Mercer Island's Comprehensive Plan, Chapter 6, Capital Facilities Goals and Policies, Goal 1 (1.1, 1.2, 1.3, 1.9, 1.15, and 1.18).

4. The applicant shall submit documentation showing the minimum siting requirements for the proposed facility. Site requirements may be determined by the following factors: minimum size of the facility, access, support facilities, topography, geology, and mitigation needs. The applicant shall also identify future expansion needs of the facility.

Staff Finding: The site requirements that informed the location of the project were primarily based on the AMI system performance requirements in which a certain percentage of meters must be read within a certain number of days. The site requirements that were analyzed in the selection of the site included tree canopy cover, proximity to other utilities and meters, topography, and the existing characteristics of the site. There are no future expansion needs anticipated.

5. The applicant shall search for and investigate alternative sites before submitting a proposal for conditional use permit approval. The proposal shall indicate whether any alternative sites have been identified that meet the minimum site requirements of the facility.

Staff Finding: Once the performance system requirements were identified, the equipment system was designed to be configured for the specific location at Island Crest Park, therefore, alternative site locations were not required to meet site selection requirements. The proposed location was selected due to the ability to capture transmissions from water meters across Mercer Island.

6. The proposal must include adequate, appropriate and reasonable mitigation measures for the impacted area(s) and community. Mitigation measures may include, but are not limited to, natural features that will be preserved or created to serve as buffers, other site design elements used in the development plan, and/or operational or other programmatic measures

contained in the proposal. The proposed measures shall be adequate to substantially reduce or compensate for anticipated adverse impacts created by the proposed facility.

Staff Finding: The project would not cause any permanent impact to the natural or built environment. The applicant provided documentation addressing mitigation sequencing which includes methods proposed to minimize impacts to the seismic hazard area. The development proposal is minor in nature and would not increase the risk of landslide, erosion, or harm from seismic activity.

- D. *MICC 19.06.100(E) Design review required.* In addition to conditional use permit approval, design review pursuant to chapter 19.15 MICC is required for any regulated improvements. Design review may be consolidated with the conditional use permit review pursuant to chapter 19.15 MICC.

Staff Finding: The proposed development is not a regulated improvement pursuant to MICC 19.16.010 and does not require design review.

V. CONSISTENCY WITH CONDITIONAL USE PERMIT APPROVAL CRITERIA

13. MICC 19.06.110(A) lists criteria for approval of Conditional Use Permits.

A. *Purpose.* A use may be authorized by a conditional use permit for those uses listed in chapters 19.02 and 19.11 MICC. The intent of the conditional use permit review process is to evaluate the particular characteristics and location of certain uses relative to the development and design standards established in this title. The review shall determine if the development proposal should be permitted after weighing the public benefit and the need for the use with the potential impacts that the use may cause.

B. *Criteria for conditional use permits that are not located in Town Center.* An applicant must demonstrate how the development proposal meets the following criteria:

1. The permit is consistent with the regulations applicable to the zone in which the lot is located.

Staff Finding: Per MICC 19.06.100(D), Essential Public Facilities are permitted in all zones with the approval of a conditional use permit.

2. The proposed use is determined to be acceptable in terms of size and location of site, nature of the proposed uses, character of surrounding development, traffic capacities of adjacent streets, environmental factors, size of proposed buildings, and density.

Staff Finding: The proposed location of the water meter at Island Crest Park was identified due to the ability to capture transmissions from water meters across Mercer Island. The subject site is currently developed with several utilities, including wireless communication facilities, well facilities, and reservoir tanks. The proposed water meter would be consistent with the development on the site and would not alter the site beyond the existing nature, character, and uses.

3. The use is consistent with policies and provisions of the comprehensive plan.

Staff Finding: Policies 2.1 and 2.7 of the Utilities Element in the Comprehensive Plan encourage cost-effective and reliable water supply. The project contributes to water conservation and efficiency by improving water metering practices. The project enables a meter-reading approach that will best support reduced water loss and improved water resource management.

4. Conditions shall be attached to the permit assuring that the use is compatible with other existing and potential uses within the same general area and that the use shall not constitute a nuisance.

Staff Finding: Conditions of approval have been attached below.

VI. CONSISTENCY WITH CONDITIONAL USE CRITERIA IN SINGLE-FAMILY ZONES

14. MICC 19.02.010(C)(1) lists conditions for government services, public facilities, utilities, and museums and art exhibitions located in single-family zones.

- A. All structures shall be located at least 20 feet from any abutting property.

Staff Finding: The proposed structure would be located at least 20 feet from any abutting property (**Exhibit 7**).

- B. Off-street parking shall be established and maintained at a minimum ratio of one parking space for each 200 square feet of gross floor area.

Staff Finding: The project does not result in the increase of gross floor area on the subject property.

- C. Utilities shall be shielded from abutting properties and streets by a sight obscuring strip of trees or shrubs.

Staff Finding: The proposed utilities would not alter the character of the subject property, which contains other utilities including a wireless communication facility. The data box would be installed on a pole approximately 5 feet from the ground, and the antenna would be installed at the top of an 80-foot pole, reaching a total height of 89 feet. The proposed location of the utilities is screened from abutting properties and streets by sight obscuring trees and shrubs. Additional screening of the utility from abutting properties and streets would not be necessary.

VII. RECOMMENDED CONDITIONS OF APPROVAL

1. The project shall be in substantial conformance with (**Exhibit 7**) and all applicable development standards contained within Mercer Island City Code (MICC) Title 19.
2. The applicant shall obtain any permits from state and federal agencies that are applicable to this project. The applicant is also responsible for documenting any required changes in the project proposal due to conditions imposed by any applicable local, state, and federal government agencies.
3. A City of Mercer Island Building Permit may be required for construction of this project proposal.
4. Construction of this project proposal shall only occur during approved construction hours by the City of Mercer Island and/or as otherwise restricted by the Building Official.
5. Per MICC 19.15.200, revisions that result in substantial changes, as determined by the code official, shall be treated as a new application for purposes of vesting. For the purposes of this section, "substantial change" includes the creation of additional lots, the elimination of open space, substantial changes in access, or changes to conditions of approval. Additionally, the need for the modification was not known and could not have been reasonably known before the approval was granted.
6. Per MICC 19.15.150, land use review approvals shall expire three years from the date of notice of decision if the development proposal authorized by the land use review is not commenced. For the purposes of this section, the development proposal shall be considered established if construction or substantial progress toward construction of a development proposal for which a

land use review approval has been granted must be undertaken within two years of the date of notice of decision of the land use review. Where no construction activities are involved, the use or activity shall be commenced within three years of the date of notice of decision of the land use review.

VIII. DEVELOPMENT REGULATION COMPLIANCE – DISCLOSURE

1. Compliance with all local, state and federal regulations is required.

IX. RECOMMENDATION

Staff reviewed the proposed development application in accordance with standards for essential public facilities and criteria for conditional use permits. The staff report and recommendations to the Hearing Examiner are based on the application and all supplemental information. The Hearing Examiner may approve, approve with conditions, or deny the proposal. Staff recommends that the Hearing Examiner **Approve with Conditions**, City File Number CUP23-002.

Recommended this 16th day of May 2024.



Molly McGuire
Planner
City of Mercer Island
Community Planning & Development Department