



CITY OF MERCER ISLAND

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PRELIMINARY LONG PLAT APPROVAL

Staff Report

October 26, 2018

Project Numbers:	SUB17-015/CAO17-015/SEP17-026
Description:	The proposal is a request to subdivide the subject site into five residential lots and one private recreation tract. The proposed subdivision would contain an internal private street serving the five lots, which would range in size from 9,273 to 32,049 square feet. The site is encumbered by three Category III wetlands and Type 3 watercourse, which will be protected by use of a Native Growth Protection Easement. The applicant also proposes to reduce the buffers that apply to the on-site wetlands and watercourse.
Applicant:	Jayson Taylor
Owner:	Alan Chiu
Site Address:	4320 and 4332 Island Crest Way, Mercer Island WA 98040
Zoning:	R-9.6
Staff Recommendation:	Approve with conditions
Staff Contact:	Robin Proebsting, Senior Planner

I. FINDINGS OF FACT

Preliminary Long Plat Approval is listed in Mercer Island City Code (“MICC”) 19.15.040 as a Type IV land use review, requiring review and a decision by the Hearing Examiner. The following is an analysis of the proposal against the applicable criteria for approval.

- 1. Site Description and History:** The subject site is located on Island Crest Way between SE 43rd and SE 44th St, and is approximately 1.67 acres in area, rectangular, and gently sloping downward from east to west. The site currently contains one single family residence and one accessory dwelling unit, which are proposed to be demolished prior to development of the future residences. The site is sparsely treed and contains three Category III wetlands connected by a Type 3 watercourse.

The site is the subject of an open code enforcement case (CE16-0014) for removing approximately ten trees and filling one of the wetlands on site with wood chips (Exhibit 6). Proposed restoration, together with proposed mitigation for the requested wetland and watercourse buffer reduction, are both analyzed and addressed separately in the Critical Areas Study submitted by the applicant (Exhibit 5d) and are incorporated into the subdivision design.

During review of the subdivision and critical areas determination applications, the City adopted Ord. 18C-08, which updated the City Code by modifying land use review and approval procedures. The adopted changes became effective on October 1, 2018. In order to remain consistent with all applicable codes, this staff report reviews documents compliance with procedural standards adopted under Ord. 18C-08 and zoning standards in place at the time the applicant submitted a complete application.

2. **MICC 19.08.020(E)(2):** Public notice of an application for a long subdivision shall be made in accordance with the procedures set forth in MICC 19.15.020 provided notice shall also be published in a newspaper of general circulation within the city.

Staff analysis: *Notice of application (Exhibit 4) was mailed to property owners within 300 feet, posted on the subject site published in the weekly DSG bulletin, and published in the Mercer Island Reporter, consistent with this code requirement.*

3. **MICC 19.08.020(F)(1):** All preliminary approvals or denials of long subdivisions or short subdivisions shall be accompanied by written findings of fact demonstrating that: a. The project does or does not make appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; b. The public use and interest will or will not be served by approval of the project; and c. The project does or does not conform to applicable zoning and land use regulations.

Staff analysis: *The proposed subdivision has made appropriate provisions to address this code section as demonstrated by the analysis that follows in this staff report.*

Safe walking conditions to each of the schools serving the subject site have been demonstrated in Exhibit 5c).

The proposed subdivision conforms to zoning and land use regulations applicable to subdivisions; future development will be reviewed for zoning compliance at the time of permit application.

4. **MICC 19.08.020(F)(3):** a. At an open record hearing the hearing examiner shall review the proposed long subdivision for its conformance with the requirements of MICC 19.08.030, the comprehensive plan, and other applicable development standards. b. The hearing examiner shall make written findings of fact and conclusions.

Staff Analysis: *An open record hearing has been scheduled for November 27, 2018, consistent with this standard.*

5. **MICC 19.08.020(F)(4):** Conditions for Preliminary Approval. As a condition of preliminary approval of a project, the hearing examiner in the case of a long subdivision, or the code official in the case of a short subdivision, may require the installation of plat improvements as provided in MICC 19.08.040 which shall be conditions precedent to final approval of the subdivision.

Staff Analysis: *Plat improvements meeting the standards in MICC 19.08.040 are recommended, and recommended conditions of approval have been added to this staff report requiring installation of plat improvements prior to final plat approval. Plat improvements include a new internal private street, water and sewer lines, and storm drainage.*

6. **MICC 19.08.020(F)(5)(a):** Expiration of Approval: Once the preliminary plat for a long subdivision has been approved by the city, the applicant has five years to submit a final plat meeting all requirements of this chapter to the city council for approval.

Staff Analysis: *A recommended condition of approval has been added to this staff report requiring submittal of a final plat within five years of preliminary approval.*

7. **MICC 19.08.020(F)(6):** No construction of structures, utilities, storm drainage, grading, excavation, filling, or land clearing on any land within the proposed long subdivision, short subdivision, or lot line revision shall be allowed prior to preliminary approval of the application and until the applicant has secured the permits required under the Mercer Island City Code.

Staff Analysis: *A recommended condition of approval has been added to this staff report prohibiting construction prior to preliminary approval of this application and before the required permits have been secured.*

8. **MICC 19.08.030(A):** Compliance with Other Laws and Regulations. The proposed subdivision shall comply with arterial, capital facility, and land use elements of the comprehensive plan; all other chapters of the development code; the Shoreline Management Act; and other applicable legislation.

Staff Analysis: The applicant has documented compliance with the required elements of the comprehensive plan in Exhibit 5b. The preliminary plat has been reviewed for compliance with the applicable legislation, documented in items 9 through 43 below.

9. **MICC 19.08.030(B)(1):** The subdivision shall be reconciled as far as possible with current official plans for acquisition and development of arterial or other public streets, trails, public buildings, utilities, parks, playgrounds, and other public improvements.

Staff Analysis: *The current City of Mercer Island official plans for acquisition and development of arterial or other public streets, trails, public buildings, utilities, parks, playgrounds, and other public improvements do not designate any portion of the subject property for future development.*

10. **MICC 19.08.030(B)(2):** If the preliminary plat includes a dedication of a public park with an area of less than two acres and the donor has designated that the park be named in honor of a deceased individual of good character, the city shall adopt the designated name.

Staff Analysis: *The preliminary plat does not propose the dedication of a public park (Exhibit 2). This standard does not apply.*

11. **MICC 19.08.030(C)(1):** Where the project may adversely impact the health, safety, and welfare of, or inflict expense or damage upon, residents or property owners within or adjoining the project, other members of the public, the state, the city, or other municipal corporations due to flooding, drainage problems, critical slopes, unstable soils, traffic access, public safety problems, or other causes, the city council in the case of a long subdivision, or the code official in the case of a short subdivision or lot line revision, shall require the applicant to adequately control such hazards or give adequate security for damages that may result from the project, or both.

Staff Analysis:

- *Unstable soils and geologic hazards—The applicant has provided a letter from the project geotechnical engineer providing an analysis of site conditions and concluding that the subject site does not meet the definition of landslide hazard areas, but that the site does contain erosion hazard areas (Exhibit 5f). Recommendations for managing the erosion potential are included in the report, as is a statement of risk meeting the requirements of the City’s critical areas code. A condition of approval has been added to this recommendation, requiring that future construction incorporate the project geotechnical engineer’s recommendations.*
- *Drainage and stormwater control—conceptual stormwater design plans (Exhibits 2 and 5g) have demonstrated the ability of the proposed subdivision design to meet stormwater design standards at construction.*
- *Traffic access—preliminary traffic analysis (Exhibit 5e) has demonstrated that proposed subdivision design is feasible. A recommended condition of approval has been added to this staff report, requiring a final traffic memorandum documenting the trip generation and sight distance evaluation.*

12. MICC 19.08.030(C)(2): If there are soils or drainage problems, the city engineer may require that a Washington registered civil engineer perform a geotechnical investigation of each lot in the project. The report shall recommend the corrective action likely to prevent damage to the areas where such soils or drainage problems exist. Storm water shall be managed in accordance with the criteria set out in MICC 15.09.030 and shall not increase likely damage to downstream or upstream facilities or properties.

Staff Analysis: *Recommendations for managing the erosion potential are included in Exhibit 5f, as is a statement of risk meeting the requirements of the City’s critical areas code. A condition of approval has been added to this recommendation, requiring that future construction incorporate the project geotechnical engineer’s recommendations. Conceptual stormwater design plans have demonstrated the ability of the proposed subdivision design to meet stormwater design standards (Exhibits 2 and 5g) and the City’s senior development review engineer has recommended preliminary approval of the subdivision (Exhibit 9b). A recommended condition of approval has been added to this staff report requiring final stormwater design and installation of stormwater drainage improvements at Site Development Permit.*

13. MICC 19.08.030(C)(3): Alternative tightline storm drains to Lake Washington shall not cause added impact to the properties, and the applicant shall submit supportive calculations for storm drainage detention.

Staff Analysis: *The application does not propose to construct a tightline system (Exhibit 2). A condition of approval has been added to this staff report, requiring the drainage system from the subject site to connect to the City drainage system and to provide stormwater drainage improvements that meet the applicable standards.*

14. MICC 19.08.030(D)(1): The width and location of rights-of-way for major, secondary, and collector arterial streets shall be as set forth in the comprehensive arterial plan.

Staff Analysis: *No public rights-of-way are proposed to be dedicated as part of the proposed subdivision. This standard does not apply.*

MICC 19.08.030(D)(2): Public rights-of-way shall comply with the requirements set out in MICC 19.09.030.

Staff Analysis: No public rights-of-way are proposed to be dedicated as part of the proposed subdivision. This standard does not apply.

- 15. MICC 19.08.030(D)(3):** Private access roads shall meet the criteria set out in MICC 19.09.040.

Staff Analysis: Compliance with the standards in MICC 19.09.040 is addressed in items 30 through 36 of this staff report.

- 16. MICC 19.08.030(D)(4):** Streets of the proposed subdivision shall connect with existing improved public streets, or with existing improved private access roads subject to easements of way in favor of the land to be subdivided.

Staff Analysis: The proposed subdivision includes a private access road connecting to Island Crest Way, and existing improved public street (Exhibit 2, Sheet C9), consistent with this standard.

- 17. MICC 19.08.030(E)(1):** The area, width, and depth of each residential lot shall conform to the requirements for the zone in which the lot is located. Any lot which is located in two or more zones shall conform to the zoning requirements determined by the criteria set out in MICC 19.01.040(G)(2).

Staff Analysis: The subject property is contained entirely within the R-9.6 zone. The standards for lot area, width, and depth are contained in MICC 19.02.020. The standards for the R-9.6 zone are an area of at least 9,600 square feet, lot width of at least 75 feet and lot depth of at least 80 feet.

The applicant is proposing to utilize the Optional Standards for Development contained in MICC 19.08.030(G), which allows the minimum lot area, width and depth to be 75 percent of the dimension that otherwise would be required for the zone in which the subdivision is located. In the R-9.6 zone, this translates to an area of at least 7,200 square feet, lot width of at least 56.25 feet and lot depth of at least 60 feet.

As a result of the proposed subdivision, the resulting lots would have the following dimensions, which meet this standard (Exhibit 2, Sheet 4 of 4):

	Lot Area	Lot Width	Lot Depth
Lot 1	9,636 sq ft	88 ft	61.25 ft
Lot 2	10,197 sq ft	Approx. 56.5 ft	291.62 ft
Lot 3	9,273 sq ft	56.25 ft	Approx. 160 ft
Lot 4	10,400 sq ft	Approx. 56.25 ft	188 ft
Lot 5	32,049 sq ft	Approx. 180 ft	188 ft

- 18. MICC 19.08.030(E)(2):** Each side line of a lot shall be approximately perpendicular or radial to the center line of the street on which the lot fronts.

Staff analysis: All side lot lines are perpendicular to the private access road that the lots front (Exhibit 2).

- 19. MICC 19.08.030(F)(1):** Subdivisions abutting an arterial street as shown on the comprehensive arterial plan shall be oriented to require the rear or side portion of the lots to abut the arterial and provide for internal access streets.

Staff analysis: *The subject site abuts Island Crest Way, which is classified as a Secondary Arterial in the comprehensive plan at the location of the subject site. The two lots adjacent to Island Crest Way meet this standard by having their rear (Lot 1) and side (Lot 3) yards abutting Island Crest Way (Exhibit 2). The subdivision contains an internal access street, consistent with this code standard.*

- 20. MICC 19.08.030(F)(2):** Where critical areas meeting the criteria set out in Chapter 19.07 MICC are present within the subdivision, the code official or city council may: a. Require that certain portions of the long subdivision or short subdivision remain undeveloped with such restrictions shown on the official documents; b. Increase the usual building set-back requirements; and/or c. Require appropriate building techniques to reduce the impact of site development.

Staff analysis: *The site contains wetlands and a watercourse, which are critical areas meeting the criteria set out in Chapter 19.07. The applicant proposes to protect the critical areas and associated buffers by designating these areas as a Native Growth Protection Area (NGPA), in which certain activities are prohibited and maintenance is required by property owners. The recommended conditions of approval require the identification of a NGPA, or equivalent restriction approved by the City, on the face of the final plat.*

- 21. MICC 19.08.030(G)(1):** The use of the land in the long subdivision or short subdivision shall be one permitted in the zone in which the long subdivision or short subdivision is located.

Staff analysis: *The proposed subdivision would create five single family lots and a recreational tract (Exhibit 5a), which are allowed uses in the R-9.6 zone (MICC 19.02.010).*

- 22. MICC 19.08.030(G)(2):** The number of lots shall not exceed the number that would otherwise be permitted within the area being subdivided, excluding the shorelands part of any such lot and any part of such lot that is part of a street.

Staff analysis: *Five lots are proposed, and the area being subdivided is approximately 72,900 sq ft, which would allow seven lots of 9,600 sq ft to be created under R-9.6 zoning. The number of proposed lots therefore does not exceed the number that would otherwise be permitted.*

- 23. MICC 19.08.030(G)(3):** An area suitable for a private or public open space tract shall be set aside for such use.

Staff analysis: *The area to be designated as recreational space in Tract A is suitable for recreational uses and will include a landscaping to provide screening from Island Crest Way and a picnic table for recreational use (Exhibit 5a).*

- 24. MICC 19.08.030(G)(4):** The lots may be of different areas, but the minimum lot area, minimum lot width, and minimum lot depth shall each be at least 75 percent of that otherwise required in the zone in which the long subdivision or short subdivision is located. In no case shall the lot area be less than 75 percent of that otherwise required in the zone. Lot size averaging must be incorporated if lot width or depth requirements are 75 percent of the minimum that would otherwise be required for the zone without utilizing the optional development standards. Any designated open space or recreational tract shall not be considered a lot.

Staff analysis: *The lot dimensions conform to the standards in this code provision, as demonstrated in #17 above. The recreational tract is designated as Tract A on the preliminary plat and is not considered a lot.*

- 25. MICC 19.08.030(G)(5):** The ownership and use of any designated open space or recreational tract, if private, shall be shared by all property owners within the long subdivision or short subdivision. In addition, a right of entry shall be conveyed to the public to be exercised at the sole option of the city council if such area shall cease to be an open space or recreational tract.

Staff analysis: *The ownership of the recreational tract is proposed to be divided equally among the owners of lots 1-5, consistent with this standard (Exhibit 2, sheet 2 of 4).*

- 26. MICC 19.08.030(G)(6):** The open space or recreational tract must remain in its approved configuration and be maintained in accordance with approved plans. Any deviation from the foregoing conditions must receive expressed approval from the planning commission.

Staff analysis: *A recommended condition to appear on the face of the final plat has been added to this staff report, requiring express approval from the City if any change is proposed to the configuration or maintenance of the recreational tract.*

- 27. MICC 19.02.010(A):** Uses Permitted in Zones R-8.4, R-9.6, R-12, R-15. (1) Single-family dwelling [...] (3) Private recreation areas.

Staff analysis: *The proposed subdivision would create five single family lots and a recreational tract (Exhibit 5a), which are allowed uses in the R-9.6 zone.*

- 28. MICC 19.07.070(B)(2)(a):** The code official may allow the standard buffer width to be reduced to not less than the above listed minimum width in accordance with an approved critical area study when he/she determines that a smaller area is adequate to protect the watercourse, the impacts will be mitigated by using combinations of the below mitigation options, and the proposal will result in no net loss of watercourse and buffer functions. However, in no case shall a reduced buffer contain a steep slope.

Staff analysis: *The applicant has demonstrated that the proposed smaller buffer area is adequate to protect the watercourse, and with the recommendations of the City's consulting biologist, will result in no net loss of watercourse and associated buffer functions. In addition, impacts caused by the unauthorized tree removal and wetland filling, which was the subject of code enforcement case CE16-0014, have been adequately mitigated (Exhibits 5d and 9a). A condition of approval has been added to this staff report, requiring that mitigation performance standards be updated to require 30% cover of emergent plants by Year 3 and 60% cover by Year 5, based on the recommendation of the City's consulting biologist.*

- 29. MICC 19.07.080(C)(2):** The code official may allow the standard wetland buffer width to be reduced to not less than the minimum buffer width in accordance with an approved critical area study when he/she determines that a smaller area is adequate to protect the wetland functions, the impacts will be mitigated consistent with MICC 19.07.070(B)(2), and the proposal will result in no net loss of wetland and buffer functions.

Staff analysis: *The applicant has demonstrated that the smaller buffer area is adequate to protect the wetlands, and with the recommendations of the City's consulting biologist, will result in no net loss of wetland and associated buffer functions. In addition, impacts caused by the unauthorized*

tree removal and wetland filling, which was the subject of code enforcement case CE16-0014, have been adequately mitigated (Exhibits 5d and 9a). A condition of approval has been added to this staff report, requiring that mitigation performance standards be updated to require 30% cover of emergent plants by Year 3 and 60% cover by Year 5, based on the recommendation of the City's consulting biologist.

- 30. MICC 19.09.040(A):** The following are the minimum requirements for private access roads. To accommodate fire suppression and rescue activities, the Mercer Island fire chief may require that the widths of private access roads or the size of turn-arounds be increased or that turn-arounds be provided when not otherwise required by this section.

Staff analysis: *The Mercer Island Fire Dept. has not required an increase in width or turnarounds for the private access road.*

- 31. MICC 19.09.040(B):** All private access roads serving three or more single-family dwellings shall be at least 20 feet in width. All private access roads serving less than three single-family dwellings shall be at least 16 feet in width, with at least 12 feet of that width consisting of pavement and the balance consisting of well compacted shoulders.

Staff analysis: *The private access road serving the five proposed lots within the subdivision are proposed to be 20 feet in width, consistent with this standard (Exhibit 2, sheet C9).*

- 32. MICC 19.09.040(C):** All corners shall have a minimum inside turning radius of 28 feet.

Staff analysis: *The proposed private access road does not contain any corners (Exhibit 2, sheet C9). This standard does not apply.*

- 33. MICC 19.09.040(D):** All private access roads in excess of 150 feet in length, measured along the centerline of the access road from the edge of city street to the end of the access road, shall have a turnaround with an inside turning radius of 28 feet.

Staff analysis: *The private access road is less than 150 ft in length (Exhibit 2, sheet C9). This standard does not apply.*

- 34. MICC 19.09.040(E):** All cul-de-sacs shall be at least 70 feet in diameter; provided, cul-de-sacs providing access to three or more single-family dwellings shall be at least 90 feet in diameter.

Staff analysis: *The subdivision does not contain a cul-de-sac (Exhibit 2, sheet C9). This standard does not apply.*

- 35. MICC 19.09.040(F)(1):** No access road or driveway shall have a gradient of greater than 20 percent.

Staff analysis: *The steepest portion of the private access road is 15% grade (Exhibit 2, sheet C9). This standard is met.*

- 36. MICC 19.09.040(F)(2):** For all access roads and driveways with a gradient exceeding 15 percent, the road surface shall be cement concrete pavement with a brushed surface for traction. Access roads and driveways with gradients of 15 percent or less may have asphalt concrete surface.

Staff analysis: *The steepest portion of the private access road is 15% grade (Exhibit 2, sheet C9). Future road construction will be consistent with the applicable construction standards.*

37. MICC 19.09.090(A): Designation. New subdivisions must designate a building pad for each lot as follows: 1. The applicant must determine the location of a building pad by considering vegetation, topography, critical areas, and the relationship of the proposed building pad to existing/proposed homes. Access to the building pad must be consistent with the standards for driveway access contained in MICC 19.09.040. 2. Building pads shall not be located within yard setbacks, rights-of-way and critical areas or its buffers; provided, however, building pads may be located within landslide hazard areas when all of the following are met: (a) a qualified professional determines that the criteria of MICC 19.07.060(D), Site Development, is satisfied; (b) building pads are sited to minimize impacts to the extent reasonably feasible; and (c) building pads are not located in steep slopes or within 10 feet from the top of a steep slope, unless such slopes, as determined by a qualified professional, consist of soil types determined not to be landslide prone.

Staff analysis: *Building pads have been designated that meet the above standards (Exhibit 2, Sheet 4 of 4)*

38. MICC 19.09.100: The applicant must use reasonable best efforts to comply with the following preferred development practices: A. Use common access drives and utility corridors. B. Development, including roads, walkways and parking areas in critical areas, should be avoided, or if not avoided, adverse impacts to critical areas will be mitigated to the greatest extent reasonably feasible. C. Retaining walls should be used to maintain existing natural slopes in place of graded artificial slopes.

Staff analysis: *The subdivision design collocates utilities with the common access drive (Exhibit 2, Sheet C6 and C7). Development has been located outside of critical areas and reduced buffers, avoiding impacts to critical areas (Exhibit 2, Sheet 4 of 4). A retaining wall is proposed adjacent to the private access road to maintain existing natural slopes on the future lots while allowing the private access road to be at grades that meet the applicable standards (Exhibit 2, sheet C6). Each of these preferred practices has been used.*

39. MICC 19.10.020(B)(1): A tree permit is required to cut any large tree as a result of construction work.

Staff analysis: *The City Arborist has found that provided recommended conditions of approval that ensure consistency with Chapter 19.10 MICC.*

40. MICC 19.10.040(B)(2): When a tree permit is required to cut a tree on private property, the tree permit will be granted if it meets any of the following criteria: It is necessary to enable construction work on the property to proceed and the owner has used reasonable best efforts to design and locate any improvements and perform the construction work in a manner consistent with the purposes set forth in MICC 19.10.010

Staff analysis: *The City Arborist has found that the applicant has met the standard in MICC 19.10.040(B)(2) by using reasonable best efforts to locate improvements in a manner consistent with the purposes listed in MICC 19.10.010 (Exhibit 9c). The applicant has also documented that adequate limits of disturbance have been established by keeping tree protection outside of critical root zones field located using air-excavation. Building pads have been situated to allow retention of the highest quality trees on site (Exhibit 2, Sheet W4.0).*

41. MICC 19.17.070(A) and (D): The city shall collect impact fees, based on the city's permit and impact fee schedule, from any applicant seeking a residential building permit from the city.[...] For building permits within new subdivisions approved under Chapter 19.08 MICC (Subdivisions), a

credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the city subsequent to demolition of the existing dwelling unit, unless otherwise allocated by the applicant of the subdivision as part of approval of the subdivision.

Staff analysis: *A recommended condition of approval has been added to this staff report and is recommended to be added to the face of the final plat, requiring that school impact fees shall be paid at the issuance of each building permit unless deferral of payment is sought pursuant to MICC 19.17.080. Impact fees are not subject to vesting and the amount paid will be the impact fee amount in effect at the time of payment.*

- 42. MICC 19.18.050(A) and (D):** The city shall collect impact fees, based on the city's permit and impact fee schedule, from any applicant seeking a residential building permit from the city. For building permits within new subdivisions approved under Chapter 19.08 MICC, Subdivisions, a credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the city subsequent to demolition of the existing dwelling unit, unless otherwise allocated by the applicant of the subdivision as part of approval of the subdivision.

Staff analysis: *A recommended condition of approval has been added to this staff report and is recommended to be added to the face of the final plat, requiring that school impact fees shall be paid at the issuance of each building permit, unless deferral of payment is sought pursuant to MICC 19.18.060. Impact fees are not subject to vesting and the amount paid will be the impact fee amount in effect at the time of payment.*

- 43. MICC 19.19.050(A) and (C):** The city shall collect impact fees, based on the city's permit and impact fee schedule, from any applicant seeking a building permit from the city. For building permits within new subdivisions approved under Chapter 19.08 MICC (Subdivisions), a credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the city subsequent to demolition of the existing dwelling unit, unless otherwise allocated by the applicant of the subdivision as part of approval of the subdivision.

Staff analysis: *A recommended condition of approval has been added to this staff report and is recommended to be added to the face of the final plat, requiring that school impact fees shall be paid at the issuance of each building permit, unless deferral of payment is sought pursuant to 19.19.060. Impact fees are not subject to vesting and the amount paid will be the impact fee amount in effect at the time of payment.*

- 44. Public comment:** Two public comment letters were received during review of this project covering the following topics (Exhibits 8a and 8b):

1. Clarity regarding access on the south end of the site.

Staff analysis: *There are currently two driveways close to each other along the southern property line of the subject site, with one driveway on the subject site, and the other driveway on the adjacent property to the south. There was a concern that removal of the existing southern driveway on the subject site would impact the driveway on the neighboring property.*

No off-site changes are proposed as part of this subdivision, including to the driveway on the neighboring property.

2. Concerns over drainage from the upslope property.

Staff analysis: *Past unauthorized placement of stones, logs, and plant materials had previously blocked the flow of water and caused backups on the upslope property. As part of the proposed mitigation plans recommended for approval, all unauthorized fill materials will be removed, addressing the cause of previous water backups. Additionally, the mitigation plan proposes to install native vegetation, which will encourage infiltration of runoff. Lastly, the wetlands, watercourse, and associated buffer are proposed to be protected by a Native Growth Protection Easement, will deter future unauthorized activities.*

45. SEPA Compliance

Staff analysis: *A Determination of Non-Significance was issued on Oct. 15, 2018 (Exhibit 7).*

II. CONCLUSIONS OF LAW

Based on the above Findings of Facts, the following Conclusions of Law have been made:

1. The proposed subdivision makes appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school
2. The proposed short subdivision confirms to applicable zoning and land use regulations.
3. The public use and interest will be served by approval of the proposed short subdivision.

III. RECOMMENDATION

Based upon the above noted Findings of Fact and Conclusions of Law, short subdivision application SUB17-001, as depicted in Exhibit 7, is hereby preliminarily **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.

IV. RECOMMENDED CONDITIONS OF APPROVAL AND REGULATORY REQUIREMENTS

The following conditions of approval and regulatory requirements shall be binding on the "Applicant," which shall include owner or owners of the property, heirs, assigns, and successors.

General:

1. The proposed subdivision shall comply with all applicable federal, state, and local laws.
2. A final plat that is substantially consistent with the preliminary plat drawings attached as Exhibit X) and meeting the requirements of MICC 19.08, shall be submitted within five years of preliminary approval for review and approval by the City of Mercer Island City Council.

3. No construction of structures, utilities, storm drainage, grading, excavation, filling, or land clearing on any land within the proposed long subdivision shall be allowed prior to preliminary approval of the application and until the applicant has secured the permits required under the Mercer Island City Code.

Planning:

4. Prior to issuance of the Site Development Permit, the applicant shall submit a bond quantity worksheet reflecting the expected cost of implanting the mitigation plan, including plant material, maintenance and monitoring costs.
5. Prior to the issuance of the Site Development Permit, the applicant shall revise the mitigation plan performance standards to require 30% cover of emergent plants by Year 3 and 60% cover by Year 5.
6. Prior to issuance of the Site Development Permit, the applicant shall post a financial guarantee in the amount on 125% of the total shown on the bond quantity worksheet.
7. Prior to issuance of the Site Development Permit, the applicant shall provide proposed easement language for the access easement shared by the proposed lots for review and approval by the City.
8. Prior to the recording of the final plat, the applicant shall identify the extent, limitations and terms of the proposed Native Growth Protection Easement, or equivalent restriction approved by the City, on the face of the final plat. Draft language shall be provided to the City for review and approval prior to final plat approval.
9. At building permit application, the applicant shall pay school impact fees based on the fee schedule in place at the time of application. A credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the city subsequent to demolition of the existing dwelling unit, unless otherwise allocated by the applicant of the subdivision as part of approval of the subdivision.
10. At building permit application, the applicant shall pay parks impact fees based on the fee schedule in place at the time of application. A credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the city subsequent to demolition of the existing dwelling unit, unless otherwise allocated by the applicant of the subdivision as part of approval of the subdivision.
11. At building permit application for the future residences, the applicant shall pay transportation impact fees based on the fee schedule in place at the time of application. A credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the city subsequent to demolition of the existing dwelling unit, unless otherwise allocated by the applicant of the subdivision as part of approval of the subdivision.
12. Prior to final inspection of plat improvements constructed under the Site Development Permit, the platlor shall stabilize all disturbed areas with erosion control measures acceptable to the City Engineer.

13. Prior to final inspection of plat improvements constructed under the Site Development Permit, all plantings as shown on the Mitigation and Restoration Plan prepared by The Watershed Company, dated April 18, 2018 shall be installed, inspected and approved by the City, and the platlor shall submit as-built plans to the City.

Trees:

14. Only trees needing to be removed for site development improvements may be removed at Site Development Permit issuance. Tree removal shall be consistent with the Tree Preservation Plan on sheet W4.0 or as otherwise approved in writing by the City Arborist.
15. Only trees needing to be removed for future house construction may be removed at building permit issuance. Tree removal shall be consistent with the Tree Preservation Plan on sheet W4.0 of the Long Plat Mitigation and Restoration Plan dated April 18, 2018 or as otherwise approved in writing by the City Arborist.
16. Prior to Site Development Permit issuance, tree protection fencing shall be installed consistent with Sheet C4 of the plan set prepared by CHS Engineers dated April 18, 2018.
17. Prior to recording of the final plat, the applicant shall include a sheet showing the locations and tree numbers of trees proposed for retention, consistent with the approved retention plan.

Civil Engineering:

18. Easements for shared access, utilities, and storm drainage facilities shall be depicted on the face of the final plat. Language which indicates joint rights and responsibilities of each lot with respect to all utilities and roadways shall be shown along with individual lot Joint Maintenance Easement Agreements (where applicable) for all shared usage and filed with the King County Recorder and noted on the final plat. The easement shall indicate whether it is public or private, existing or proposed.
19. Damage to adjacent properties or public rights-of-way resulting from construction (e.g. siltation, mud, runoff, roadway damage caused by construction equipment or hauling) shall be expeditiously mitigated and repaired by the contractor, at no expense to the City. Failure to mitigate and repair said damage, or to comply with the approved construction plans, the permits issued by the City, or the City requirement for corrective action may be cause for the issuance of a "Stop Work" order, foreclosure on the plat bond/security, and/or other measures deemed appropriate by the City Engineer or Code Official to ensure construction consistent with the approved plans and protection of public safety.
20. The final plat shall be prepared in conformance with Title 58 RCW and Surveys shall comply with Chapter 332-130 WAC. Submit using Mercer Island's datum and tie the plat to at least two City monuments.
21. A City of Mercer Island title block for approval signatures (City Engineer and the Mayor) shall be provided on the final plat along with the designated Long Plat number.
22. A final traffic memorandum documenting the trip generation and sight distance evaluation shall be submitted as a part of the Site Development Permit submittal package. All mitigation measures recommended in the memorandum shall be incorporated into the Site Development Permit.

23. Construction of all improvements for access, utilities, storm drainage, and site work shall comply with current City ordinances and the requirements of the City Engineer.
24. All utilities serving the plat shall be under grounded (MICC 19.08.040) and shall be designed and constructed in accordance with City of Mercer Island Ordinances.
25. Plat improvement plans prepared by a Washington State licensed engineer shall be submitted for review and approval by the City Engineer. The improvement plans shall include, at a minimum, the following:
 - a. Plat access road - Comply with the Fire Code requirements and standards contained in MICC 19.09.040. Site distance mitigation measures recommended by in the site distance evaluation.
 - b. Temporary Erosion Control measurements.
 - c. Grading Plan.
 - d. Water main, water meters, and appurtenances
 - i. Provide water services for each lot. Locate water meters outside of the future driveway areas and any paved areas.
 - ii. Abandon all existing water services currently serving the existing lot at the City water main.
 - e. Sanitary sewer and appurtenances
 - i. Provide sewer connections for each lot. Show the sanitary sewer stub outs.
 - ii. Abandon all existing side sewers at the City sewer main.
 - iii. The sanitary sewer system serving all lots will be a private sewer system.
 - f. Stormwater
 - i. Provide drainage improvements in compliance with MICC 15.09.
 - ii. Show the storm drainage stub outs for all lots.
 - iii. A Department of Ecology Construction General Permit is required for this project.
 - g. Dry utilities
 - i. Show the proposed dry (power, gas, etc.) utility corridor on the plan.
26. Right of Way Restoration
 - a. The existing driveway apron in the City Right of Way located at the south end of the property frontage must be remove.

- b. Roadway, sidewalk, and curb replacement limits shall be determined by the City Engineer and will likely include a full lane width grind and overlay of the existing roadway section on Island Crest Way and replacement of curb/gutter/sidewalk along the entire frontage of the property.
 - c. Clearing and grading within the City Right of Way to achieve clear sight lines for the proposed driveway must be reviewed as a part of the Site Development Permit. Trimming of tree branches shall only be performed under the direction of a certified arborist.
27. All plat improvements shall be completed prior to final plat approval or bonded and completed prior to issuance of building permits when allowed by the City Engineer. A survey grade as-built drawing in PDF format that shows all utilities and plat improvements shall be submitted to the City Engineer upon completion of the work.

The following notes shall be placed on the final plat:

1. Maintenance and repair of the private sanitary sewer system and joint use side sewers (sewer lines from the building to the private sewer main), shared roads, access easements, public trail, private storm drainage facilities shall be the responsibility of the owners of each lot served (with the exception that owners of any lot which is lower in elevation shall not be responsible for that portion of a private side sewer above their connection). If maintenance and repair of any facilities enumerated above are not performed to the satisfaction of the City Engineer, after a timely demand has been made for such action, the City or its agent shall have the right to enter upon the premises and perform the necessary maintenance and repair to protect the safety and general welfare of the public and shall have the right to charge the owner of each lot an equal share of the total maintenance and repair costs. The City or the owner of any lot within this plat shall have the right to bring action in Superior Court to require any maintenance or repair and to recover the costs incurred in making or effecting repairs to improvements.
2. Private stormwater facilities shall be inspected and maintained in conformance with MICC 15.09.070.
3. All staging for construction shall occur on site and shall not be located in the public right-of-way.
4. No permanent landscaping, structures, or fences shall be placed on or within public utility, storm drainage, or pedestrian path easements without the written approval of the City Engineer.
5. If in the opinion of the City Engineer, utilities or storm drainage facilities require maintenance, repair or replacement, the City or its agent shall have the right to enter those lots adjoining the facility for the purpose of maintaining, repairing, relocating or replacing said facilities.
6. Installation of landscaping and/or structures including trees, shrubs, rocks, berms, walls, gates, and other improvements are not allowed within the public right-of-way without an approved encroachment license agreement from the City prior to the work occurring (MICC 19.06.060).
7. No tree identified for retention may be removed unless otherwise approved by the City arborist.
8. All disturbed areas outside of building footprints and impervious surfaces on Lots 3 and 4 shall be landscaped.

9. No change may be made to the configuration or maintenance requirements of Tract A without express approval from the City.
10. All areas outside of building footprints and impervious surfaces shall be landscaped prior to final inspection of building permits on each lot. (MICC 19.07.060(D)(1)(d))
11. The applicant shall include a note addressing maintenance and ownership of Tract A
12. The applicant shall include a note addressing maintenance of the Native Growth Protection Easement.
13. School, traffic and park impact fees will be due at building permit issuance or may be deferred in accordance with MICC 19.17, 19.18, and 19.19.

Exhibit List:

1. Development Application signed Oct. 31, 2017
2. Plan Set prepared by CHS Engineers, dated April 18, 2018
3. Mercertech International LLC Long Plat Mitigation and Restoration Plan prepared by The Watershed Company, dated April 18, 2018
4. Notice of Application for project SUB17-015/CAO17-015/SEP17-026 dated Dec. 4, 2017
5. Technical Reports and Memos
 - a. Project Narrative prepared by Jayson Taylor, dated October 31, 2017
 - b. Response letter prepared by Jayson Taylor, dated April 25, 2018
 - c. Safe walking path to school exhibit prepared by Jayson Taylor, dated April 25, 2018
 - d. Critical Areas Study prepared by The Watershed Company, dated April 20, 2018
 - e. Trip Generation & Sight Distance Evaluation Memo prepared by Transportation Engineering Northwest, dated August 22, 2017
 - f. Geotechnical consultation letter prepared by Earth Solutions NW, LLC dated April 19, 2018
 - g. Meeting debrief and drainage memo prepared by CHS Engineers dated September 1, 2018
6. Notice of Correction issued by Jimmi Serfling, Code Compliance Officer (City of Mercer Island) dated August 10, 2016
7. SEPA Determination issued by Robin Proebsting, Senior Planner (City of Mercer Island) dated October 15, 2018
8. Comment Letters

a. Karnes

b. Singh

9. Review memos

a. ESA

b. Ruji Ding, Senior Development Review Engineer

c. John Kenney, City Arborist