
CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

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PRELIMINARY LONG PLAT APPROVAL

STAFF REPORT SUB19-002 (Exhibit 1)

Project Number: SUB19-002 (SEP19-005)

Project Name: OB Mercer Island Properties, LLC Plat

Land Use

Review Type: Type IV

Description: A request for preliminary long plat approval to subdivide the 2.88-acre subject property, zoned R-8.4, into 14 lots with associated infrastructure to support single-family residences.

Applicant/ Owner: Brett Pudists, PE (Blueline Group) / OB Mercer Island Properties, LLC

Site Address: 2825 W Mercer Way Mercer Island WA 98040
Identified by King County Assessor tax parcel number: 2174502425.

Zoning District: R-8.4

Key Project Dates:

Date of Application:	March 1, 2019
Determined to Be Complete:	March 29, 2019
Bulletin Notice:	April 8, 2019
Date Mailed:	April 8, 2019
Date Posted on the Subject Property:	April 8, 2019
Comment Period Ended:	5:00 PM on May 8, 2019
SEPA DNS Issued:	March 6, 2023
SEPA Appeal Period Ended:	April 5, 2023
SEPA DNS Addendum:	November 8, 2023
Notice of Public Hearing Issued:	December 13, 2023
Notice of Public Hearing Bulletin Notice:	December 13, 2023
Notice of Public Hearing Date Mailed:	December 13, 2023
Notice of Public Hearing Date Posted on the Subject Property:	December 13, 2023
Published in the Newspaper of Record:	December 13, 2023
Date of Open Record Public Hearing:	9:00 AM on January 24, 2024

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

Exhibits:

1. SUB19-002 Staff Report, dated December 13, 2023;
2. Development Application and Project Narrative;
3. Determination of Complete Application;
4. Notice of Application;
5. SUB19-002 Plan Set prepared by Blueline, dated August 30, 2023
6. Public Comments;
 - 6.1 Balinbin;
 - 6.2 Bayley;
 - 6.3 Chivo;
 - 6.4 Clarke;
 - 6.5 Clarke;
 - 6.6 Clarke C;
 - 6.7 Clarke P;
 - 6.8 Condiotty;
 - 6.9 Dierdorff;
 - 6.10 Elle Family Trust;
 - 6.11 Fletcher;
 - 6.12 Fletcher;
 - 6.13 Fox;
 - 6.14 Guyman;
 - 6.15 Hagerman;
 - 6.16 Hagerman;
 - 6.17 Haris;
 - 6.18 Johnson;
 - 6.19 Lackland;
 - 6.20 Leonard;
 - 6.21 Leslie;
 - 6.22 Levitt;
 - 6.23 Lippens;
 - 6.24 Magaram D;
 - 6.25 Magaram T;
 - 6.26 Malatesta;
 - 6.27 Malatesta;
 - 6.28 Marich;
 - 6.29 Marich;
 - 6.30 Mason;
 - 6.31 Navrides;
 - 6.32 Navrides;
 - 6.33 Navrides;
 - 6.34 Nichol;
 - 6.35 Reimers;
 - 6.36 Sarchin;
 - 6.37 Scalzo;
 - 6.38 Scalzo;
 - 6.39 Skone;
 - 6.40 Struck;

- 6.41 Swendrowski;
- 6.42 Sewnson;
- 6.43 Tall;
- 6.44 Thompson;
- 6.45 Toste;
- 6.46 Toste;
- 6.47 Walker;
- 6.48 Wang;
- 6.49 Wanzer;
- 6.50 Winters;
- 6.51 Cero;
- 6.52 Fletcher;
- 6.53 Fletcher;
- 6.54 Navrides;
- 6.55 Navrides;
- 6.56 Thompson;
- 7. Public Comment Response Letter, Dated June 9, 2021;
- 8. City Review Letters;
 - 8.1 SUB19-002 First Comment Review Letter, Dated August 2, 2019;
 - 8.2 SUB19-002 Second Comment Review Letter, Dated January 5, 2022;
 - 8.3 SUB19-002 Third Comment Review Letter, Dated January 9, 2023;
- 9. Applicant Response to City Review Letters;
 - 9.1 SUB19-002 First Review Response Letter, Dated June 9, 2021;
 - 9.2 SUB19-002 Second Review Response Letter, Dated October 12, 2022;
 - 9.3 SUB19-002 Third Review Response Letter, Dated February 16, 2023;
- 10. East Seattle School Project – Final Environmental Impact Statement, Dated August 24, 2020
- 11. SEPA Checklist, Dated February 28, 2019;
- 12. SEPA Threshold Determination of Nonsignificance, Dated March 6, 2023;
- 13. Geotechnical Engineering Study, Earth Solutions NW, LLC., dated November 29, 2018;
- 14. Critical Area Reconnaissance Memorandum, The Watershed Company, dated January 18, 2019;
- 15. Preliminary Storm Drainage Report, The Blueline Group, revised August 30, 2023;
- 16. Arborist Report, Greenforest Incorporated, Dated February 21, 2019;
- 17. Arborist Response Memo, Greenforest Incorporated, Dated April 30, 2021;
- 18. Safe Walk to School Assessment, The Blueline Group, Dated December 19, 2022;
- 19. Traffic Impact Analysis, Gibson Traffic Consultants, Inc., Dated August 2021;
- 20. TCC23-003-Transportation Concurrency Certificate
- 21. Status of FEIS Mitigation Measures, The Blueline Group, Dated October 12, 2022;
- 22. Zoning Map;
- 23. Future Land Use Map;
- 24. Tree Retention Memo, Greenforest Incorporated, Dated June 11, 2023;
- 25. Proposed Easements;
- 26. SEPA DNS Addendum, November 8, 2023;
- 27. Kimley Horn Site Plan Memorandum addressing Traffic Impact Analysis, dated October 9, 2023; and
- 28. Notice of Public Hearing, issued December 13, 2023.

I. APPLICATION OVERVIEW

Project Overview: The Applicant requests preliminary long plat approval to subdivide 2.88 acres, zoned R-8.4, into 14 lots with associated infrastructure to support single-family residences. Lots 5, 6, 7, 8, 9, and 10 will be

accessed from 62nd Avenue SE. Lots 1 and 2 will be accessed from a private access easement from SE 28th Street. Lots 3, 4, 11, 12, 13, and 14 will be accessed from a shared private access easement that runs north to south on the subject property, connecting SE 28th Street to SE 30th Street. The proposed development contains a private easement for community open space.

Background: In 2019, the City received an application for preliminary long plat approval, SUB19-002, to subdivide the 2.88-acre property located at 2825 West Mercer Way (King County parcel number 2174502425), into 14 lots with associated infrastructure to support single-family residences. The subject property is zoned R 8.4, which permits single family development with a minimum lot size of 8,400 square feet.

Since the application was submitted in 2019, the proposed development went into a period of dormancy due to unforeseen circumstances related to the COVID-19 Pandemic, a lengthy environmental impact statement process, easement elimination negotiations, and other project interruptions.

The Applicant, in response to the public comments received during the SEPA appeal period (**Exhibit 12**), which ended April 5, 2023, with no appeals filed of the determination of nonsignificance, revised the proposed development (**Exhibit 5**) by adding an internal shared driveway to serve lots 3, 4, 11, 12, 13, and 14, added a shared driveway for lots 1 and 2, and provided a passive open space easement along West Mercer Way, SE 28th Street, and SE 30th Street that will be planted with native vegetation.

Based on the revisions completed by the Applicant, the proposed development is now ready to proceed to the Hearing Examiner for an open public record hearing and a decision on the subdivision application.

If SUB19-002 is approved by the Hearing Examiner, the Applicant may proceed with the site development permit application process to create 14 lots and add the associated infrastructure, including grading, installation of utilities, and building streets and driveways. Building permit applications would be required before construction can begin on each of the homes.

East Seattle School Demolition Project – SEPA Review

The City reviewed a SEPA Checklist (SEP17-020) regarding the proposed demolition of the existing building. The City, as SEPA lead agency, determined that the East Seattle School Project is likely to have a significant impact on the environment. Thus, an Environmental Impact Statement (EIS) was required, pursuant to the provisions of RCW 43.21C.030(2)(c). Multiple scenarios/alternatives were reviewed as part of the EIS process, but ultimately the determination was to allow for the demolition of the East Seattle School building and associated impervious surfaces. Demolition would entail removal of the existing structure on the site, which was determined eligible for listing in the National Register of Historic Places, as well as removal of paved areas, and some trees and landscaping. The Proposed Action would include the installation of educational signage at the site to commemorate the historic school building. The Draft EIS was issued on February 10, 2020 and the Final EIS was issued on August 24, 2020 (**Exhibit 10**). The demolition occurred in January 2021. The Applicant provided a status report on mitigation measures required in the Final EIS. See **Exhibit 21**.

Location: The subject property is located at 2825 W Mercer Way (King County parcel number 2174502425), situated in the NE 1/4 of Section 11, Township 24 north, and Range 4 east, W.M., in the City of Mercer Island, King County, WA.

Existing Conditions: The subject property consists of a single 2.88-acre parcel with minimal frontage improvements along W Mercer Way, SE 28th Street, SE 30th Street, and 62nd Avenue SE. The vegetation on the subject property is comprised primarily of lawn areas, with mature trees along the perimeter. The subject

property was previously the home of the East Seattle School Building/Boys and Girls Club. At the time of application, the East Seattle School building/Boys and Girls Club was located on the subject property but was demolished after an extensive SEPA Review. Properties adjacent to the proposed development are zoned R-8.4 and contain single-family homes.

Stormwater: The subject property is located within drainage subbasin 17. Runoff from the existing site enters the public drainage system along SE 30th Street and outfalls into Lake Washington. Runoff from the proposed site will be designed and constructed in compliance with stormwater regulations contained in Chapter 15.09 MICC.

Access: Lots 5, 6, 7, 8, 9, and 10 will be accessed from 62nd Avenue SE. Lots 1 and 2 will be accessed from a private access easement from SE 28th Street. Lots 3, 4, 11, 12, 13, and 14 will be accessed from a shared private access easement that runs north to south on the subject property, connecting SE 28th Street to SE 30th Street.

Contact Information:

Contact	Applicant:	Engineer
The Blueline Group c/o Prett Pudists, P.E. 25 Central Way, Suite 400 Kirkland, WA 98033 425-250-7247 bpudists@thebluelinegroup.com	OB Mercer Island Properties, LLC c/o Eric Hansen PO Box 726 Bellevue, WA 98009 206-604-7941 eric@hansencr.com	The Blueline Group c/o Brett Pudists, P.E. 25 Central Way, Suite 400 Kirkland, WA 98033 425-250-7247 bpudists@thebluelinegroup.com

Terms used in this staff report:

Term	Refers to, unless otherwise specified:
Applicant	OB Mercer Island Properties, LLC
Proposed development	OB Mercer Island Properties, LLC Plat, 2825 W Mercer Way - Preliminary Long Plat Approval
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
HOA	Homeowner’s Association (or entity as defined by the Applicant and accepted by the City)
CC&Rs	HOA’s Covenants, Conditions, and Restrictions
Preliminary subdivision approval, preliminary long plat approval	The application request by the Applicant. Terms are used interchangeably.

II. PROCEDURE AND NOTICE REQUIREMENTS

1. Review Type: Applications for Preliminary Long Plat Approval and SEPA Threshold Determinations 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. Long plat standards are located within Chapter 19.08 MICC and SEPA procedures are located in Chapter 19.21 MICC.

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 March 1, 2019. On March 29, 2019, the application for the proposed development was deemed complete for the purpose of review, pursuant to MICC 19.15.070 (**Exhibit 3**).

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 April 8, 2019, 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 April 8, 2019 through May 8, 2019 (**Exhibit 4**).

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 5**) for the proposed development. The plan set was revised multiple times throughout the review process to address public comments and concerns.

Staff Finding: The preliminary plan set (**Exhibit 5**) is consistent with the long subdivision requirements and design standards contained in the MICC.

5. Opportunities for Public Comment: Several comments were received during the public comment period associated with the Notice of Application (**Exhibit 6**). The City does not respond to comment letters, because the Applicant bears the burden of proof that the proposed development is consistent with the provisions of the MICC; the City does not defend application proposals, instead, the City collects the comments, provides the comments to the Applicant, includes the comments as exhibits within the staff report, and requires the Applicant to provide the City with documentation that the comments were addressed.

Staff Finding: The public provided several comments during and outside of the public comment period. All comments are contained in **Exhibit 6**.

6. Response to Public Comment: The Applicant compiled all comments received and assigned the comments to categories based on similar questions and statements received. The Applicant responded to the public comments, not on an individual basis, but rather through grouped categories. The responses to the public comments are contained in **Exhibit 7**. The Applicant, in response to the public comments (**Exhibit 6.51 to Exhibit 6.56**) received during the SEPA appeal period (**Exhibit 12**), which ended April 5, 2023; with no appeals filed of the Determination of Nonsignificance, revised the

proposed development (**Exhibit 5**) by adding an internal shared driveway to serve lots 3, 4, 11, 12, 13, and 14, added a shared driveway for lots 1 and 2, and provided a passive open space easement along West Mercer Way, SE 28th Street, and SE 30th Street that will be planted with native vegetation.

Staff Finding: The City does not respond to public comments as the Applicant bears the burden of proof that their proposed development is consistent with the requirements of the MICC. Additionally, City staff does not defend applications. The onus is on the Applicant to respond to public comments received. See **Exhibit 7**.

7. Review Process: The City completed multiple rounds of review of the application and associated materials. Please refer to the comment letters issued in **Exhibit 8**. The Applicant responded to the comment letters and resubmitted revised materials for consideration (**Exhibit 9**).

Staff Finding: The review process is consistent with the provisions of the MICC. As mentioned previously, after the application was submitted in 2019, the proposed development went into a period of dormancy due to unforeseen circumstances related to the COVID-19 Pandemic, a lengthy environmental impact statement process, easement elimination negotiations, and other project interruptions. The Applicant, in response to the public comments (**Exhibit 6.51 to Exhibit 6.56**) received during the SEPA appeal period (**Exhibit 12**), which ended April 5, 2023; no appeals filed, revised the proposed development (**Exhibit 5**) by adding an internal shared driveway to serve lots 3, 4, 11, 12, 13, and 14, added a shared driveway for lots 1 and 2, and provided a passive open space easement along West Mercer Way, SE 28th Street, and SE 30th Street that will be planted with native vegetation.

8. SEPA Review: The SEPA Responsible Official reviewed the Environmental Checklist (**Exhibit 11**), proposed plans, studies, existing environmental documents, etc., and issued a SEPA Threshold Determination of Nonsignificance (DNS) for the proposed development on March 6, 2023 (**Exhibit 12**) in accordance with the City's SEPA regulations, Chapter 19.21 MICC, and WAC 197-11-355. The appeal period expired on April 5, 2023, no appeals were filed. On November 8, 2023 the City created an addendum to the SEPA DNS (**Exhibit 26**) to memorialize the revisions to the proposed development (**Exhibit 5**). Based on the original DNS and the supplemental information provided in the SEPA Addendum, the lead agency determined a new threshold determination was not required and no comment period was required.

Staff Finding: The SEPA DNS and SEPA Addendum are consistent with the provisions of the City's SEPA regulations, Chapter 19.21 MICC, and WAC 197-11-355.

9. Public Hearing: Pursuant to MICC 19.15.030 Table A and B, a public hearing is required for a preliminary subdivision. A Notice of Public Hearing (**Exhibit 28**), for the January 24, 2024 public hearing, was published in the newspaper of record on December 13, 2023 and provided to the public as required by MICC 19.15.100(D) on December 13, 2023.

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

III. ZONING AND COMPREHENSIVE PLAN DESIGNATIONS

10. Site Zoning & Land Use: The subject property is zoned Single Family Residential, R-8.4. According to MICC 19.02.010, single-family dwelling units are permitted within the R-8.4 zone.

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

11. 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-8.4 and the number of lots, lot size, and dimensional standards are 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-8.4, 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.

12. 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-8.4	Single Family Residential R-8.4
South	R-8.4	Single Family Residential R-8.4
East	R-8.4	Single Family Residential R-8.4
West	R-8.4	Single Family Residential R-8.4

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

13. Site Calculations: The table below reflects the dimensional standards for each proposed lot as illustrated in **Exhibit 5**:

Lot #	Net Lot Area (SF)	Max. GFA 40% (SF)	Max. Lot Coverage (SF)	Max. Hardscape (9%) (SF)	Lot Depth (LF)	Lot Width (LF)
1	8,776	3,506	3,506	789	146	60
2	8,445	3,378	3,378	760	117	72
3	9,866	3,946	3,946	888	142	69
4	8,416	3,366	3,366	757	117	72
5	8,417	3,367	3,367	758	106	79
6	8,413	3,365	3,365	757	117	72
7	8,461	3,384	3,384	761	132	64
8	8,455	3,368	3,368	758	141	60
9	8,421	3,374	3,374	759	141	60
10	8,405	3,362	3,362	756	135	67
11	9,018	3,607	3,607	818	124	73
12	8,898	3,559	3,559	801	147	60
13	9,567	3,827	3,827	861	163	60
14	11,787	4,715	4,715	1,061	214	75

Property Areas	Area (SF)	Area (AC)
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Property (2174502425)	125,200	2.88
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V. CONSISTENCY WITH SUBDIVISION CODE STANDARDS

14. Long Subdivision or Short Subdivision Plans. Pursuant to MICC 19.08.020(C)(2), the Applicant shall provide copies of fully dimensioned plans of the project prepared by a Washington registered civil engineer or land surveyor, meeting the requirements of Chapter 19.07 MICC, Environment, and containing any other information deemed necessary by the code official. The submitted plans shall identify the proposed building pad location for each proposed lot pursuant to MICC 19.09.090.

Staff Finding: The Applicant provided dimensioned plans prepared by a Washington registered civil engineer or land surveyor, meeting the requirements of Chapter 19.07 MICC, Environment, and containing any other information deemed necessary by the code official. The submitted plans identify the proposed building pad location for each proposed lot pursuant to MICC 19.09.090 (**Exhibit 5**).

15. Preliminary Application Procedure: Pursuant to MICC 19.08.020(D)(1), All preliminary approvals or denials of long subdivisions shall be accompanied by written findings of fact demonstrating that:
- a. The proposed development 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 proposed development; and
 - c. The proposed development does or does not conform to applicable zoning and land use regulations.

Staff Finding: The proposed development is consistent with MICC 19.08.020(D)(1)(a-c). The proposed development 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.

Staff Finding: The proposed development makes a provision for open spaces in the form of a private easement for passive open space (**Exhibit 5**). The MICC does not provide a numerical standard with respect to the level of appropriateness as to the provision of open space.

Pursuant to MICC 19.16.010, open space functions as protection of natural resources and biodiversity, recreation spaces, development of neighborhood gathering spaces, and promotion of public health benefits. Open space areas are left predominantly in a vegetated state to create urban separators and greenbelts, and:

- 1. Sustain native ecosystems, connect and increase protective buffers for environmentally critical areas; or
- 2. Provide a visual contrast to continuous development, reinforce community identity and aesthetics; or
- 3. Provide links between important environmental or recreational resources.

Staff Finding: The proposed development does not contain environmentally critical areas or natural resources and biodiversity that need to be protected. There are no public gathering places existing or proposed besides the community open space area designation in the northeast corner of the subject property, as required in the FEIS. The trees on the subject property are not viable and some were used as a screening hedge in the past. By providing walking access along the West Mercer Way frontage to the Secret Park, the Applicant provides access to existing open space and recreation facilities sufficient to serve the proposed subdivision.

Staff Finding: The proposed development makes appropriate provisions for drainage ways. Stormwater generated from the proposed development and tightlined roof drains will be conveyed to the public stormwater system that outfalls to Lake Washington.

Staff Finding: The proposed development makes appropriate provisions for streets or roads, alleys, and other public ways. As part of the proposed development the adjacent streets will be upgraded and improved to meet current standards. Sidewalks will be added to improve walkability. Pursuant to MICC 19.09.100, the proposed development shall incorporate all of the following preferred development practices where feasible:

- 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 designed to minimize grading, including the placement of fill, on or near an existing natural slope.

Staff Finding: The Applicant, in response to the public comments (**Exhibit 6.51 to Exhibit 6.56**) received during SEPA appeal period (**Exhibit 12**), which ended April 5, 2023; no appeals filed, revised the proposed development (**Exhibit 5**) by adding an internal shared driveway to serve lots 3, 4, 11, 12, 13, and 14, added a shared driveway for lots 1 and 2, and provided a passive open space easement along West Mercer Way, SE 28th Street, and SE 30th Street that will be planted with native vegetation.

Staff Finding: MICC 19.08.020(D)(1) requires the proposed development to make appropriate provisions for transit stops. This provision is not applicable to the proposed development as the subject property is not served by a transit route.

Staff Finding: The proposed development makes appropriate provisions for potable water supplies. The proposed development must connect to the public water system.

Staff Finding: The proposed development makes appropriate provisions for sanitary waste. The residential units created by the proposed development must connect to the public sewage system. Additionally, future residences will be served by waste collection.

Staff Finding: The proposed development makes appropriate provisions for parks and recreation. The proposed development will complete pedestrian improvements along 62nd Avenue SE, SE 28th Street, SE 30th Street, and West Mercer Way. By completing the improvements, the proposed development will provide safe access to recreational opportunities such as the Secret Park located to the north of SE 28th Street. Additionally, three City parks; Calkins Landing, Slater Park, and Garfield Landing, are located within a few blocks to the west and will serve the recreational needs of residents, provide access to Lake Washington, and are within walking distance. The Applicant shall also be required to

pay a park impact fee to the City which will be utilized for the development of the City-wide parks and recreation system.

Staff Finding: The subject property lies within the district boundary of Mercer Island School District (**Exhibit 18**). Students will attend West Mercer Elementary School, Islander Middle School, and Mercer Island High School, as confirmed with the Mercer Island School District.

A Safe Walk to School assessment (**Exhibit 18**) was performed to identify the transportation options available to students to get to each of these schools by walking to the school, or the nearest bus stop. Pursuant to the District website, the district provides school bus transportation to students who live half (0.5) a mile from an elementary school, three-quarters (0.75) of a mile from the middle school, and one (1) mile from the high school. The subject property is located 1.6 miles from the elementary school, 4.1 miles from the middle school, and 2.1 miles from the high school. As a result, it is expected that most students will take the bus or private transportation to their respective schools. Bus stops are approved by the Mercer Island School district and mapped in **Exhibit 18**.

Staff Finding: The public use and interest will be served by approval of the proposed development. Goal 2.7 of the Housing Element of the City's Comprehensive Plan states that the City should "Encourage infill development on vacant or under-utilized sites that are outside of critical areas and ensure that the infill is compatible with the scale and character of the surrounding neighborhoods." The proposed development is located within a single-family residential zone with adjacent single-family residential uses. The proposed development would foster infill development on a site with adequate lot area outside of critical areas. The proposed development is single-family, with a density commensurate with existing development in the vicinity. The public use and interest will be served by approval of the project due to compliance with the MICC, Comprehensive Plan, growth targets, and coordinated growth.

Staff Finding: As conditioned, the proposed development conforms to all applicable zoning and land use regulations as documented in the application materials, this staff report, and further documented within findings 1 through 42.

16. Long Subdivisions: Pursuant to MICC 19.08.020(D)(3), at an open record hearing, the Hearing Examiner shall review the proposed development for its conformance with the requirements of MICC 19.08.030, the comprehensive plan, and other applicable development standards. The Hearing Examiner shall make written findings of fact and conclusions.

Staff Finding: The application is in proper form and the proposed development complies with the design standards set out in MICC 19.08.030 as documented in findings 1 through 42 of this staff report. The proposed development is consistent with Land Use Goal 15 ("Mercer Island should remain principally a low density, single family residential community.") and Land Use Policy 16.5 ("Infill development on vacant or under-utilized sites should occur outside of critical areas and ensure that the infill is compatible with the surrounding neighborhoods.") The zoning and Comprehensive Plan designation of the subject property is Single-Family Residential, R-8.4 (8,400 square foot minimum lot size). The current and proposed use of the subject property is single-family residential, which is a permitted use in the R-8.4 zone and consistent with the Comprehensive Plan Land Use and Housing elements.

Compliance with other laws and regulations:

17. Pursuant to MICC 19.08.030(A), the proposed development shall comply with all other chapters within Title 19 MICC; the Shoreline Management Act (SMA); and other applicable city, state, and federal legislation.

Staff Finding: The proposed development complies with all other chapters within Title 19 MICC. The subject property is not located within the jurisdiction of the SMA.

Public Improvements:

18. Pursuant to MICC 19.08.030(B)(1), the proposed development 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 Finding: The current and 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. This standard does not apply.

19. Pursuant to 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 Finding: The Applicant does not propose the dedication of a public park (**Exhibit 5**). The proposed development contains an area designated as community open space, located in the northeast corner of the subject property. The proposed community open space is consistent with the Final EIS (**Exhibit 10**) issued on August 24, 2020. Additionally, by completing the pedestrian connection to the north of the subject property to the Secret Park, the proposed development makes the appropriate provisions for public recreation.

Control of Hazards:

20. Pursuant to MICC 19.08.030(C)(1), Where the proposed development 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, shall require the Applicant to adequately control such hazards or give adequate security for damages that may result from the project, or both.

Staff Finding: The proposed development will not 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.

21. Pursuant to 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 Chapter 15.09 MICC and shall not increase likely damage to downstream or upstream facilities or properties.

Staff Finding: The Applicant provided a Geotechnical Engineering Study (“geotechnical engineering report”) prepared by Earth Solutions NW, LLC. Dated November 29, 2018. **(Exhibit 13)**. Pursuant to the geotechnical engineering report, the subject property is generally underlain by very dense silty sand and silt, generally consistent with typical makeup of glacial till. These types of soils are not typically conducive to infiltration. The storm drainage system for the proposed development will be designed and constructed in accordance with Chapter 15.09. MICC.

Recommended Condition: The Applicant shall ensure that all work performed on the subject property, in relation to the proposed development, is executed in accordance with the recommendations provided in the Geotechnical Engineering Study (“geotechnical engineering report”) prepared by Earth Solutions NW, LLC., Dated November 29, 2018. **(Exhibit 13)**. Earth Solutions NW, LLC shall be on site to monitor site grading, erosion control, foundation drainage placement, excavations, fill compaction, and soil bearing in footing areas. All recommendations in the geological engineering report shall be incorporated into the final design drawings and construction specifications.

22. 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 Finding: Since the soils on the subject property are not feasible for infiltration, the proposed development will connect to an existing stormwater conveyance system that directly outfalls into Lake Washington.

Streets, Roads, and Rights-of-way:

23. Pursuant to 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 Finding: The proposed development as depicted in **Exhibit 5** is consistent with MICC 19.08.030(D)(1). Preliminary design of streets, utilities and storm drainage is provided in the preliminary civil plans. The final engineering design and details will be provided at the site development phase.

24. Pursuant to MICC 19.08.030(D)(2), public rights-of-way shall comply with the requirements set out in MICC 19.09.030.

Staff Finding: The public rights-of-way improvements are consistent with the provisions of MICC 19.09.030. Preliminary design of streets, utilities and storm drainage is provided in the preliminary civil plans. The final engineering design and details will be provided at the site development phase.

25. Pursuant to MICC 19.08.030(D)(3), Private access roads shall meet the criteria set out in MICC 19.09.040.

Staff Finding: The private access road is consistent with the criteria set out in MICC 19.09.040. The private access road is consistent with the requirements of MICC 19.09.100, which requires the proposed development to use common access drives and utility corridors where feasible. Due to the grade of the subject property, internal access is not feasible without mass grading.

26. Pursuant to MICC 19.08.030(D)(4), Streets of the proposed development 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 Finding: The proposed development is consistent with MICC 19.08.030(D)(4) as the streets of the proposed development 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.

Stormwater:

27. Pursuant to MICC 15.09.050(A), the thresholds, definitions, minimum requirements and exceptions, adjustment, and variance criteria found in Appendix I of the NPDES Phase II municipal storm water permit, including the mandatory incorporated provisions of the 2012 manual (as amended in 2014) and any amendments thereto are hereby adopted by the City of Mercer Island as the minimum standards for storm water management. Furthermore, Minimum Requirement No. 5: On-site Stormwater Management of the aforementioned 2012 manual is amended as follows:

1. Minimum Requirement No. 5 applies to projects that:
 - a. Result in 2,000 square feet, or greater, of new plus replaced hard surface area; or
 - b. Have a land disturbing activity of 7,000 square feet or greater; or
 - c. Result in a net increase of impervious surface of 500 square feet or greater.
2. For implementing Minimum Requirement No. 5, the on-site detention BMP is added to List No. 1 and List No. 2 for evaluation on all projects as follows:

If all the on-site stormwater management BMPs included on List #1 and List #2 are determined to be infeasible for roofs and/or other hard surfaces, on-site detention shall be required when applicable. On-site detention is required when the drainage from the site will be discharged to a storm and surface water system that includes a watercourse or there is a capacity constraint in the system. The on-site detention system shall be sized using the City's standard on-site detention sizing table or other method approved by the city engineer. On-site detention is not required if the project discharges directly to Lake Washington or if findings from a ¼ mile downstream analysis confirm that the downstream system is free of capacity constraints. However, the stormwater must still be conveyed to an existing storm and surface water system in an approved manner.

Staff Finding: Conceptual stormwater design plans and report (**Exhibits 5 and 15**) have demonstrated the ability of the proposed development, as designed, to meet MICC 15.09.050(A) at construction.

28. Pursuant to MICC 15.09.030(B), Additional passive spill control is required. Projects that replace, modify, or construct a new driveway or parking area shall provide passive spill control for that area that receives runoff from pollution-generating impervious surfaces (PGIS) prior to discharge from the site or into a natural on-site drainage feature. The intent of this device is to temporarily detain oil or other floatable pollutants before they enter the downstream storm water system in the event of an accidental spill or illegal dumping. It shall consist of a tee section in a manhole or catch basin (or elbow when allowed by the city engineer). Note that in addition to this spill control requirement, other spill control requirements may be required for projects that exceed certain thresholds in the applicable manual.

Staff Finding: Conceptual stormwater design plans and report (**Exhibits 5 and 15**) have demonstrated the ability of the proposed subdivision design to meet MICC 15.09.050(B) at construction.

29. Pursuant to MICC 15.09.030(C) All storm water site plans shall include an analysis of off-site storm water runoff and water quality impacts and shall mitigate these impacts as necessitated by the applicable manual. The analysis shall extend, where possible, a minimum of one-fourth of a mile downstream from the project. The existing and potential impacts to be evaluated and mitigated include but are not limited to the following:
1. Excessive sedimentation;
 2. Streambank erosion;
 3. Discharges to ground water and/or their potential;
 4. Violations of water quality standards;
 5. Discharges of pollutants;
 6. Erosion;
 7. Flooding;
 8. Slope instability; and
 9. Other adverse impacts to water quality.

Staff Finding: Conceptual stormwater design plans and report (**Exhibits 5 and 15**) have demonstrated the ability of the proposed subdivision design to meet MICC 15.09.050(C) at construction.

30. Pursuant to MICC 15.09.030(D), adopted drainage basin plans may be used to modify and/or add to any or all of the minimum requirements for storm and surface water runoff. Basin plans may include requirements for additional runoff detention, retrofitting measures, BMPs, or other measures in order to achieve basin-wide pollutant, flooding, erosion or sedimentation reduction. Standards developed from basin plans shall not modify any of the above requirements until the basin plan has been formally adopted by the Mercer Island city council.

Staff Finding: There are no applicable adopted drainage basins plans. This standard does not apply.

Residential Lots:

31. Pursuant to 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 Finding: The proposed residential lots conform to the area, width, and depth requirements for the zone in which the proposed development is located (R-8.4), as shown in MICC 19.02.020(A), depicted on **in Exhibit 5**.

32. Pursuant to 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 Finding: The side yard lot lines are approximately perpendicular to the center line of the street in which the lot fronts. Lots 3, 4, 11, 12, 13, and 14 front a private access easement as shown in **Exhibit 5**. Pursuant to Chapter 19.16 MICC the definition of street is as follows: "improved or unimproved public or private right-of-way or easement which affords or could be capable of affording vehicular access to property." The shared private access easement is a street based on the City's definition. The proposed lot lines are consistent with this criterion.

33. Pursuant to MICC 19.08.030(E)(3), the proposed development shall identify the location of building pads for each proposed lot per MICC 19.09.090. No cross-section dimension of a designated building pad shall be less than 20-feet in width (**Exhibit 5**).

Staff Finding: Building pads, with no cross section less than 20-feet in width, are shown in **Exhibit 5**. The proposed building pad locations minimize the disturbance of the existing, natural topography.

34. Pursuant to MICC 19.08.030(E)(4), the proposed development shall incorporate preferred development practices pursuant to MICC 19.09.100 where feasible.
- 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 designed to minimize grading, including the placement of fill, on or near an existing natural slope.

Staff Finding: The proposed development utilizes common access drives and utility corridors. Lots 3, 4, 11, 12, 13, and 14 will be accessed via the private access easement, while lots 1 and 2 will access off a separate private access and utility easement.

There are no critical areas on the subject property. A geotechnical engineering report was submitted, documenting how future development will meet the standards in MICC 19.07.160.

Retaining walls were added to the proposed development to minimize grading of the subject property, including the placement of fill, on or near an existing natural slope.

Trees:

35. Pursuant to MICC 19.08.030(E)(5), the proposed development shall be designed to comply with the provisions of Chapter 19.10 MICC.

Staff Finding: The applicant submitted an arborist report prepared by Greenforest Incorporated, dated February 21, 2019 (**Exhibit 16**). The arborist report identifies unhealthy trees based on existing health conditions and tree structure, and specifies which trees are most suitable for preservation. The arborist determined that very few of the trees on the subject property are viable for retention; or are so close to the existing building, that removal of the existing building's foundation will put the trees at risk of falling over. This includes the two exceptional trees proposed for removal.

Staff Finding: Healthy/viable exceptional trees are proposed to be retained. Regulated trees with a diameter of more than 24-inches are proposed to be retained. Regulated trees that have a greater likelihood of longevity are proposed to be retained. There are no regulated healthy groves on the subject property.

Staff Finding: According to the tree replacement table in **Exhibit 5**, the subject property contains 17 regulated trees, with one tree being viable and 16 non-viable. Tree 2 is regulated and viable and will remain. 100 percent of regulated viable trees will be retained and protected. The Applicant proposes to retain the one viable tree and remove the non-viable trees. Pursuant to the tree replacement table in **Exhibit 5**, 26 trees are required to be replanted. A total of 37 trees are proposed to be planted.

Staff Finding: Tree removal, retention/protection and replacement are identified in the preliminary civil plans. The proposed tree retention plan has been reviewed by the City Arborist and as conditioned, complies with the provisions of Chapter 19.10 MICC (**Exhibit 5**). The following table indicates the proposed tree removal and replacement required.

Diameter of Removed Tree (measures 4.5-feet above ground)	Tree Replacement Ratio	Number of Trees Proposed for Removal	Number of Trees Required for Replacement Based on Size/Type
Less than 10-inches and non-viable trees	1	14	14
10-inches up to 24-inches	2	0	0
Greater than 24-inches up to 36-inches	3	0	0
Greater than 36-inches and any exceptional tree	6	2	12
Total Tree Replacement:			26 Required
Provided Tree Replacement:			37 Provided

36. Pursuant to the provisions of MICC 19.10.060(A)(2)(a), the proposed development shall retain 30 percent of trees with a diameter of ten inches or greater, or that otherwise meet the definition of large tree, shall be retained over a rolling five-year period.

Staff Finding: Based on the plan set in **Exhibit 5**, the Arborist report in **Exhibit 16**, and the Arborist Response Lettes contained in **Exhibit 17 and Exhibit 24**, the proposed development meets the requirements of MICC 19.10.060(A)(2)(a) as conditioned. The city arborist reviewed the arborist report and tree inventory worksheet and confirmed the proposed development will be retain 100 percent of the viable trees on the subject property.

37. Pursuant to the provisions of MICC 19.10.070(A) removed trees are required to be replaced at the ratio provided based on the diameter of the removed tree.

Staff Finding: According to the plan set (**Exhibit 5**), 14 trees with a diameter 10 inches or greater and non-viable trees and will be removed. A total of 26 trees are required to be replaced and located consistent with MICC 19.10.070(B). Pursuant to the tree replacement table in **Exhibit 5**. A total of 37 trees are proposed to be planted, 26 within the private passive open space easement and 11 within the public right-of-way. The City does not allow tree replanting within in the public right-of-way. A recommended condition of approval is added requiring the replanting within the public right-of-way to be based on the requirements of the City Engineer and reviewed during final engineering. The areas shall contain native vegetation that shall not exceed four feet in height.

Recommended Condition: A replanting plan is required to be submitted during the site development review phase to confirm replacement trees can be fit on proposed lot. At least half of the trees shall be native to the Pacific Northwest. The replacement trees shall be at least 10-feet apart from each

other, structures, fences and utilities. If the Applicant can demonstrate no room exists on the subject property for all the replacement trees, the remainder of the replacement trees may be allowed to be replaced through a fee in lieu. The Applicant shall pay a fee in lieu payment consistent with the current City of Mercer Island Fee Schedule for any tree that cannot be planted at least 10-feet away from each other, existing trees, and infrastructure such as fences.

Recommended Condition: The pear and red maple on the property line will be replaced with the following species that are less invasive/overplanted. Plant Regal Prince® Ware's Oak (*Quercus x warei* 'Long') or similar approved equal on SE 30th instead of the pear. Replace Bowhall maple with *Acer rubrum* 'Frank Jr' Redpointe maple or similar approved equal on SE 28th Street. A tree watering plan must also be submitted to ensure the trees survive long term.

Recommended Condition: Pursuant to MICC 19.10.070(D), the Applicant shall maintain all replacement trees in a healthy condition for a period of five years after planting. The Applicant shall be obligated to replant any replacement tree that dies, becomes diseased, or is removed during this five-year time period. A financial guarantee shall be provided to the City to cover the replacement, labor, and monitoring costs for five years. The financial guarantee shall be 150 percent of the identified cost provided on a bond quantity worksheet by the Applicant during the site development phase.

Recommended Condition: The public right-of-way behind the sidewalks on SE 28th Street and SE 30th Street shall be replanted based on the requirements of the City Engineer and reviewed during final engineering. The areas shall contain native vegetation that shall not exceed 42-inches in mature height. All proposed trees shall be planted on private property outside of public right-of-way unless otherwise authorized by the City Engineer.

Other:

38. **Impact Fees:** Pursuant to Chapter 19.17 MICC, Chapter 19.18 MICC, and Chapter 19.19 MICC 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.

Staff Finding: A recommended condition of approval has been added to this staff report that requires park and transportation impact fees to be paid at the issuance of each building permit unless deferral of payment is sought pursuant to MICC 19.18.060 or MICC 19.19.060. The City, at the request of the Mercer Island School District, does not collect school impact fees. Impact fees are not subject to vesting and the amount paid will be the impact fee amount in effect at the time of payment.

39. **Streets, Utilities and Storm Drainage:** A subdivision shall include provisions for streets, water, sanitary sewers, storm drainage, utilities and any easements or facilities necessary to provide these services. All utilities shall be placed underground unless waived by the city engineer. Detailed plans for these provisions shall not be required until after the approval of the preliminary plat and shall be a condition precedent to the official approval of the subdivision.

Staff Finding: The proposed development includes provisions for streets, water, sanitary sewers, storm drainage, utilities and any easements or facilities necessary to provide these services. Preliminary grading and storm drainage plans have been provided, showing that the provision of services is feasible (**Exhibit 5**). A condition of approval has been added to this decision requiring construction of all improvements for access, utilities, all storm drainage system and all site work, shall be completed prior to final plat application.

40. Transportation Concurrency: Pursuant to MICC 19.20.020 a transportation concurrency application and transportation concurrency certificate are required for any development proposal specified in MICC 19.20.030 or any development that will otherwise result in the creation of one or more net new trips in the morning peak hour or evening peak hour. No development shall be required to obtain more than one transportation concurrency certificate, unless the Applicant or subsequent owners propose changes or modifications that require a new development permit application or result in increased net new trips, a future phase of the project requires a transportation concurrency application, or the original transportation concurrency certificate has expired.

Staff Finding: The Applicant submitted a Traffic Impact Analysis prepared by Gibson Traffic Consultants, Inc., dated August 2021 (**Exhibit 19**). To address the changes to the design on the proposed development, the Applicant submitted a memorandum from Kimley Horn Site Plan Memorandum addressing Traffic Impact Analysis, dated October 9, 2023 (**Exhibit 27**). The memorandum, written by the traffic engineer who produced the Traffic Impact Analysis (**Exhibit 19**), explained how the trip generation, trip distribution, level of service, and mitigation for the proposed development evolved to its current state.

Staff Finding: The proposed development will include 14 single-family residential units and no credit for the previous uses was allowed. Lots 5, 6, 7, 8, 9, and 10 will be accessed from 62nd Avenue SE. Lots 1, and 2 will be accessed from a private access easement from SE 28th Street. Lots 3, 4, 11, 12, 13, and 14 will be accessed from a shared private access easement that runs north to south on the subject property, connecting SE 28th Street to SE 30th Steet. The horizon year for the build-out of the proposed development will remain in 2024.

Staff Finding: The original Traffic Impact Analysis (**Exhibit 19**) was conducted using data in the Institute of Transportation Engineers (ITE) Trip Generation, 10th Edition + Supplement (2020). This resulted in 132 ADT, 10 AM, and 14 PM peak-hour trips. The engineer who produced the Kimley Horn Site Plan Memorandum addressing Traffic Impact Analysis, dated October 9, 2023 (**Exhibit 27**), analyzed The Trip Generation, using the 11th Edition of the ITE (2021); which came out at the end of the year and had slightly lower trip generation rates for the ADT (9.43), AM (0.70), and PM (0.94) peak-hours. The updated trip generation results in 132 ADT, 10 AM, and 13 PM peak-hour trips. The only change would be the reduction of one (1) PM peak-hour trip which would be an inbound trip based on the same inbound/outbound split.

Staff Finding: Based on the information provided in the Kimley Horn Site Plan Memorandum addressing Traffic Impact Analysis, dated October 9, 2023 (**Exhibit 27**), the trip distribution included in the Traffic Impact Analysis (**Exhibit 19**) is not anticipated to change with the revised site plan (**Exhibit 5**) as the trip distribution and study intersections analyzed would be impacted by the same percentage of trips. The only thing that would change and would reduce the impact would be the removal of one (1) inbound PM peak-hour trip.

Staff Finding: A peak-hour level of service (LOS) determination at the site access is determined using the methodology described in the Highway Capacity Manual (HCM) 6th Edition and Synchro 11 software developed by Trafficware. Site traffic generation estimates for the new use are based on data in the Institute of Transportation Engineers (ITE) Trip Generation, 10th Edition + Supplement (2020). Average trip generation rates were utilized to estimate the weekday daily, AM and PM peak-hour trips.

Staff Finding: Two off-site intersections were identified for existing, baseline, and future with development level of service disclosure. The study intersections are:

- W Mercer Way at SE 28th Street – Two-way Stop Controlled
- W Mercer Way at SE 24th Street – All-way Stop Controlled

Based on the existing counts, channelization and intersection control the study intersections operate at acceptable LOS B in both peak-hours.

Staff Finding: According to the Kimley Horn Site Plan Memorandum addressing Traffic Impact Analysis, dated October 9, 2023 (**Exhibit 27**), the level of service analysis conducted in the Traffic Impact Analysis (**Exhibit 19**) would still be valid as it was conducted for a build-out year of 2024 and for one (1) additional inbound PM peak-hour trip. In addition, the change in access for potentially three (3) residences is not anticipated to impact the analysis as to be conservative all of the development trips had been added to the intersection of W Mercer Way at SE 28th Street. The residences with access to the north-south private driveway are anticipated to balance and use SE 28th Street or SE 30th Street whichever street is the most convenient. The level of service results in the August 2021 TIA show that the study intersections operated acceptable level of service B with very minor delay. It would be anticipated that W Mercer Way at SE 30th Street would operate at a similar or better level of service with there being even fewer development trips impacting SE 30th Street.

Staff Finding: The proposed development is anticipated to generate approximately 132 new average daily trips with 10 AM peak-hour trips and 14 PM peak-hour trips. The study intersections are expected to operate at an acceptable level of service in the 2024 future with development conditions.

Staff Finding: A transportation concurrency certificate, TCC23-003, was issued for the proposed development on February 9, 2023 (**Exhibit 20**).

41. Financial Guarantees: Chapter 19.01 MICC outlines the requirements for posting financial guarantees for the performance and maintenance of development projects within the City. No permits shall be issued unless the Applicant or contractor posts and maintains a financial guarantee and liability insurance for the period the permit is in effect, or otherwise determined by the City.

Staff Finding: At the site development phase, the Applicant shall supply a bond quantity worksheet for all improvements to the public right-of-way and the private property shown on the final Site Development Permit plan set. A separate bond quantity worksheet shall be required for tree replacement. The City will review, and once approved, will require a financial guarantee for 150 percent of the amount identified in each bond quantity worksheet, to guarantee the performance and maintenance of improvements.

42. Planting Strip Maintenance: Maintenance of planting strips should be the responsibility of the abutting property owner or HOA, including the portions adjacent to any designated tract, regardless if the area is public. A note should be included on the final plat map, and incorporated into the CC&Rs, if applicable, addressing the responsibility of maintenance of the planting strips.

Staff Finding: The public right-of-way between the proposed sidewalks and street pavements on SE 28th Street, 62nd Ave SE, and SE 30th Street should be replanted based on the requirements of the City Engineer and reviewed during final engineering. The areas shall contain native vegetation that shall not exceed two feet in the mature height.

Recommended Condition: Maintenance of all landscape strips along the plat roads shall be the responsibility of the Homeowners Association or adjacent property owners. Under no circumstances shall the City bear any maintenance responsibilities for landscaping strips created by the plat.

VI. RECOMMENDED CONDITIONS OF APPROVAL

1. The final plat for SUB19-002 shall be in substantial conformance with the preliminary plan set attached as **Exhibit 5**, except for the required changes as conditioned by the Hearing Examiner.
2. The Applicant shall provide a revised plan set at the site development phase of the proposed development that includes all required changes as conditioned by the Hearing Examiner.
3. Expiration of approval – The final plat shall be recorded prior to the expiration deadline set forth in Chapter 19.15 MICC – Administration.
4. Park and transportation impact fees shall be paid at the issuance of each building permit unless deferral of payment is sought pursuant to MICC 9.18.060 or MICC 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.
5. 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 monuments.
6. A City of Mercer Island title block for approval signatures (Mayor, Code Official, and City Engineer) shall be provided on the final plat along with the designated long plat number.
7. All utilities serving the plat shall be under grounded in accordance with MICC 19.08.040.
8. The design and construction of all improvements for access, utilities, storm drainage, and site work shall comply with all applicable City regulations and requirements of the City Engineer.
9. A Site Development Permit is required for all plat improvements (access, utilities, storm drainage, sidewalks, grading, etc.). Plat improvement plans and a complete stormwater report 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 private access road - Comply with the Fire Code requirements and standards contained in MICC 19.09.040.
 - b. Temporary Erosion Control measures.
 - c. Grading Plan.
 - d. Demolition Plan.
 - e. Water main, water meters, and appurtenances
The applicant requested to be allowed to abandon the existing 6-inch cast iron city water main that bisects the subject property and to extinguish two public water main easements (recording numbers 5361487 and 5081481). This creates the ability to improve the subdivision

lot layout. In exchange, the applicant shall abandon the existing 6-inch cast iron water main in 62nd Ave. SE and replace it to increase capacity to bring the main up to City standard. The specific main size will be based on water system modeling that the applicant must pay for and use the City's water modeling contact (HDR). The estimated size of the new water main is 8-inches to 12-inches in diameter. The applicable conditions are listed below:

- i. Abandon the existing 6-inch cast iron city water main in 62nd Avenue SE.
- ii. Abandon the existing 6-inch cast iron city water main in 62nd Avenue SE.
- iii. Construct a new ductile iron water main in 62nd Avenue SE.
- iv. The size of the new water main in 62nd Avenue SE shall be determined through modeling. The applicant shall work directly with the city's water modeling consultant (HDR) to run the water model and determine the proper size of the new water main in 62nd Avenue SE. In no event shall the size of the main be smaller than 8-inches in diameter. The applicant shall bear all related costs.

Water modeling contact at HDR:

HDR c/o David Kuhns, PE
Water/Wastewater Engineer
606 Columbia Street NW, Suite 200, Olympia, WA 98501-1085
Phone: (360) 570-7250
Email: david.kuhns@hdrinc.com

- f. Water meters, services, and appurtenances
 - i. Provide water services for each lot. Locate water meters outside of the future driveway areas and any paved areas. The water meters must be in the public right-of-way as determined by the City Engineer. The sizes of the water services and meters shall comply with size requirements contained in the Fire Code and Building Code for the future building permits.
 - ii. Abandon all existing water services currently serving the existing lot. Abandonment shall be at the city water main.
 - iii. Show the locations of all existing and proposed fire hydrants as required by City Fire Marshal.
- g. Sanitary sewer and appurtenances
 - i. Provide sewer connections for each lot.
 - ii. Abandon all existing side sewers at the city sewer main.
 - iii. The proposed 6-inch private sewer pipe from the city sewer main on SE 30th Street into the property and the sanitary sewer systems serving lots 3, 4, 11, 12, 13, and 14 shall be a private sewer system.

- iv. The public sewer main extension on SE 30th Street shown on the Preliminary Utility Plan shall be removed and not be included in the site development plan set.
- h. Stormwater
 - v. Stormwater design for the plat shall comply with Chapter 15.09 MICC.
 - vi. Show the storm drainage stub outs for all lots.
 - vii. A Department of Ecology Construction General Permit is required for this project.
 - viii. Improve the public storm drainage systems along SE 28th Street, SE 30th Street, 61st Ave. SE, 62nd Avenue SE, and West Mercer Way as generally depicted in **Exhibit 5**.
 - ix. The public drainage system in the public right-of-way on 62nd Ave. SE shown on the Preliminary Utility Plan (CB 17, CB18, CB19, and associated storm drainage pipes) shall not be connecting to a private drainage system located inside the private property.
 - x. Additional survey will be required for the public storm drainage system improvements along SE 30th Street and 61st Ave. SE.
- i. Dry utilities
 - xi. Show the proposed dry (power, gas, etc.) utility corridor on the plan.
- j. Pedestrian Access
 - xii. All proposed sidewalks along the frontage of the subject property shall be designed and constructed in compliance with the Americans with Disabilities Act (ADA).
 - xiii. The proposed sidewalk at the northwest corner of SE 30th Street and West Mercer Way shall connect to the adjacent corners in compliance with the ADA. The detail design will be provided at the site development phase.
- k. Easements:
 - i. Existing water main easements (recording numbers 5361487 and 5081481) shall not be terminated until after the new water main in 62nd Avenue SE is accepted by the City Engineer and put into operation.
 - ii. All existing and proposed easements shall be shown on the final plat. Clearly distinguish public easements from private easements. Private and public utility easements shall not be combined and remain separate.
 - iii. Easements for shared access, utilities, and storm drainage facilities shall be shown 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.
 - iv. Public sidewalk easements may be required to accommodate the proposed public sidewalks along the frontage of the property on 62nd Avenue SE, SE 28th Street and West

Mercer Way if the design cannot accommodate the entire sidewalk and a 24-inch clear zone behind it within the existing public right of way. The limits of the sidewalk easements will be determined upon the approval of the Site Development Permit.

- I. Right-of-Way Street Improvements and Restoration
 - i. The existing roadway on 62nd Avenue SE between SE 28th Street and SE 30th Street shall be widened and repaved to a minimum of 16-feet wide.
 - ii. The limits and extends of public right-of-way and roadway restoration shall be determined by the City Engineer prior to final inspection of the Site Development Permit. A full width of grinding and overlay of the existing pavement on 62nd Ave SE may be required by the City Engineer.
10. All plat improvements shall be completed and approved by the City prior to applying for final plat approval. The Applicant shall supply a bond quantity worksheet for all improvements. A separate bond quantity worksheet shall be required for tree replacement. The City will review, and once approved, will require a financial guarantee for 150 percent of the amount identified in the bond quantity worksheet for all improvements to guarantee the performance of improvements prior to issue the Site Development Permit. A separate financial guarantee for 150 percent of the bond quantity worksheet for the tree replacement is required to guarantee the performance and maintenance of trees and landscaping prior to issue the Site Development Permit.
11. The Applicant shall provide the City with as-built drawings, in electronic format, and a copy of the PDF file to meet the requirement of MICC 19.08.050(C)(4)(a) prior to final acceptance of the improvements and release of any posted performance financial guarantees associated with the proposed development.
12. The Applicant shall ensure that all work performed on the subject property, and in relation to the proposed development, is executed in accordance with the recommendations provided in the Geotechnical Engineering Study (“geotechnical engineering report”) prepared by Earth Solutions NW, LLC., Dated November 29, 2018. (**Exhibit 13**). Earth Solutions NW, LLC shall be on site to monitor site grading, erosion control, foundation drainage placement, excavations, fill compaction, and soil bearing in footing areas. All recommendations in the geological engineering report shall be incorporated into the final design drawings and construction specifications.
13. The tree protection plan shall be submitted during the site development review phase. No further tree removal will be allowed unless it is justified under MICC 19.10.060(A). The tree protection plan shall show tree protection fencing at the Arborist stated tree protection zone (TPZ).
14. The Project Arborist shall be on site and in control of any excavation or grading within trees dripline. They will document and clean cut any root over 1-inch in diameter that needs to be removed. Call this out on Tree Plan during building review.
15. A replanting plan is required to be submitted during the site development review phase to confirm replacement trees can be fit on proposed lot. At least half of the trees shall be native to the Pacific Northwest. The replacement trees shall be at least 10-feet apart from each other, structures, fences and utilities. If the Applicant can demonstrate no room exists on the subject property for all the replacement trees, the remainder of the replacement trees may be allowed to be replaced through a

fee in lieu. The Applicant shall pay a fee in lieu payment consistent with the current City of Mercer Island Fee Schedule for any tree that cannot be planted at least 10-feet away from each other, existing trees and infrastructure such as fences.

16. The pear and red maple on the property line will be replaced with the following species that are less invasive/overplanted. Plant Regal Prince® Ware's Oak (*Quercus x warei* 'Long') or similar approved equal on SE 30th instead of the pear. Replace Bowhall maple with *Acer rubrum* 'Frank Jr' Redpointe maple or similar approved equal on SE 28th Street. A tree watering plan must also be submitted to ensure the trees survive long term.
17. Pursuant to MICC 19.10.070(D), the Applicant shall maintain all replacement trees in a healthy condition for a period of five years after planting. The Applicant shall be obligated to replant any replacement tree that dies, becomes diseased, or is removed during this five-year time period. A financial guarantee shall be provided to the City to cover the replacement, labor, and monitoring costs for five years. The financial guarantee shall be 150 percent of the identified cost provided on a bond quantity worksheet by the Applicant during the site development phase.
18. The public right-of-way restoration area shall be fenced off with no parking. This is in the area of tree 1. Tree 1 has been removed by the City, and replacement trees have been planted.
19. Tree protection chain link fence shall be shown during building plan review. In the area labeled CRZ on the subdivision site plan. This protection will be to the greatest extent possible and described in the Arborist Report. The tree protection fence shall be a 6-foot chain-link fence secured into the ground. This will be called out on the Tree Plan during building review.
20. Include the following conditions to the face of the final plat:
 - a. Maintenance and repair of joint use side sewers (sewer lines from the building to the City sewer main), shared roads, access easements, 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.) In the event that 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 long 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.
 - b. The monitoring, cleaning, maintenance and repair of storm drainage systems in accordance with Chapter 15.10 MICC is required for all lot owners within this Plat to control stormwater runoff and control erosion and flooding downstream. All costs related to stormwater runoff control shall be borne by the owners of each lot in equal share. This obligation shall be recorded separately with each individual lot sale and shall travel with the land.
 - c. All staging for construction shall occur on site and shall not be located in the public right-of-way.

- d. Prior to the issuance of a building permit, each application shall be accompanied with a temporary erosion and sedimentation control plan, clearing and grading plan, access and utility service plan, a landscape plan (which shall identify existing vegetation to be retained, limits of all clearing and grading), and a schedule for the construction. The Applicant's Civil Engineer, experienced in soils geology and mechanics, shall review the proposed site and building construction and provide recommendations that will limit site disturbance, minimize risk of soils movement, evaluate site slope stability and define materials and construction practices for the work. The Building Official may require that the Engineer be present during construction, monitor the work, and recommend special techniques or mitigating measures. The costs associated with the Engineer's monitoring and mitigation measures shall be borne by the Applicant.
 - e. No permanent landscaping, structures, or fences shall be placed on or within public utility or storm drainage easements without the written approval of the City Engineer. 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. Lot owners shall be responsible for the restoration of any private improvements or landscaping within said easements.
 - f. Installation of private 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 agreement from the City prior to the work occurring.
 - g. The plan showing numbered retained trees and building pad will be recorded as part of the plat. This plan should be the same or consistent with the Preliminary Tree Plan.
 - h. No tree identified for retention may be removed unless otherwise approved by the City Arborist.
 - i. All building permits are subject to meeting current fire code requirements at the time of permit submittal. Access shall be provided as outlined in the International Fire Code Appendix D and MICC 19.09.040. Fire plan reviews will be conducted at the time of building permit submittal and may require additional fire protection systems and/or additional fire prevention measures for building approval.
 - j. The approval of this subdivision does not guarantee that the lots will be suitable for development now or in the future. The legal transfer of the property must be done by separate instrument unless all lots herein are under the same ownership.
 - k. At building permit application, the Applicant shall pay park and transportation impact fees based on the fee schedule in place at the time of application.
 - l. Maintenance of all landscape strips along the plat roads shall be the responsibility of the Homeowners Association or adjacent property owners. Under no circumstances shall the City bear any maintenance responsibilities for landscaping strips created by the plat.
21. The public right-of-way behind the sidewalks on SE 28th Street and SE 30th Steet shall be replanted based on the requirements of the City Engineer and reviewed during final engineering. The areas shall contain native vegetation that shall not exceed 42-inches in mature height. All proposed trees shall be

planted on private property outside of public right-of-way unless otherwise authorized by the City Engineer.

22. The proposed landscaping strips and native vegetations along the frontages of the subject property in the City Right of Way are private improvements in the Public Right of Way. Either the abutting property owners or HOA will be required to record Right of Way Encroachment Agreements for constructing private improvements in the Public Right of Way prior to applying for the final plat approval or as determined by the City Engineer.
23. The Applicant shall ensure that the proposed development meets the requirements of the Mercer Island Fire Marshal. Specifically, the Applicant shall ensure the shared private access easement is designed so fire apparatus vehicles can access the shared private access easement without obstruction.
24. The Applicant may financially guarantee the trees and associated landscaping with the condition that trees should be installed with the construction of each home. If the Applicant decides to install trees with the construction of the homes, a note shall be included on the final plat and a financial guarantee shall be posted for the trees. If trees are not installed with the construction of the homes, then the City will not release any performance financial guarantees until the trees are installed in accordance with an approved landscaping plan.

VII. DEVELOPMENT REGULATION COMPLIANCE – DISCLOSURE

1. Compliance with all local, state and federal regulations is required.
2. No construction, tree removal, grading, installation of utilities on land within a proposed long or short subdivision shall be allowed prior to preliminary approval of the long or short subdivision and until the Applicant has secured the permits required under the MICC. Following preliminary approval, tree removal, grading, and installation of utilities shall be the minimum necessary to allow for final plat approval of the long or short subdivision. (MICC 19.08.020(5)).

VIII. RECOMMENDATION

Staff reviewed the proposed development application, in accordance with subdivision requirements, zoning regulations, preliminary plan set, and associated studies. The following 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**, the East Seattle preliminary long subdivision, City File Number SUB19-002.

Recommended this 13th day of December 2023.

Ryan Harriman

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Community Planning & Development