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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

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## PRELIMINARY SHORT SUBDIVISION DECISION

### (Exhibit 1)

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<b>File Nos.:</b>	SUB21-006 and CAO21-004
<b>Description:</b>	A request for Preliminary Short Plat approval for three (3) lots and a Critical Areas Review 2 application.
<b>Applicant/ Owner:</b>	Greg Arms / Milestone WCMILLC
<b>Site Address:</b>	7621 SE 22nd ST, Mercer Island WA 98040 Identified by King County Assessor tax parcel number: 531510-1846
<b>Zoning District</b>	R-8.4
<b>Staff Contact:</b>	Ryan Harriman, EMPA, AICP, Planning Manager

#### Exhibits:

1. Staff Report - Decision
2. Development Application, June 23, 2021
3. Letter of Incomplete Application, July 20, 2021
4. Determination of Complete Application, October 21, 2021
5. Notice of Application, October 25, 2021
6. Plan set
7. Public Comments
  - 7.1 King County Wastewater Treatment Division
  - 7.2 King County Wastewater Treatment Division
8. City Review Letters
  - 8.1 First Review Letter
  - 8.2 Second Review Letter
9. Applicant Response to City Review Letters
  - 9.1 First Applicant Response to City Review Letter, August 24, 2021
  - 9.2 Second Applicant Response to City Review Letter, October 10, 2022
  - 9.3 Letter of Incomplete Resubmittal, October 19, 2022
  - 9.4 Email from Greg Arms regarding incomplete resubmittal October 19, 2022
  - 9.5 Email from Greg Arms providing incomplete resubmittal items, October 21, 2022
10. Geotechnical Engineering Report, Riley Group, May 4, 2022
11. Geotechnical Engineering Report Addendum, Riley Group, May 4, 2022

12. Geotechnical Peer Review Memo, May 31, 2022
13. Geotechnical Engineering Report Addendum, Riley Group, September 26, 2022
14. Preliminary Drainage Report
15. Critical Area Study, Altman Oliver Associates, LLC, May 18, 2022
16. Revised Critical Areas Report, Altman Oliver Associates, LLC, October 21, 2022
17. Arborist Report
18. Tree Inventory Worksheet
19. Public Works Review Memo
20. Title Report
21. Traffic Concurrency Certificate
22. SEP21-022 Cancellation by Applicant
23. SUB21-006 Notice of Decision
24. City Arborist Review Memo

## I. APPLICATION OVERVIEW

Project Overview: On June 23, 2021, Greg Arms, on behalf of Milestone WCMILLC, submitted a preliminary short subdivision application (**Exhibit 2**), City File Number SUB21-006, to subdivide 0.58 acres (25,222 square feet) into three (3) single-family residential lots in the Single-Family Residential (R-8.4) zone. Lots 1 and 2 are proposed to be accessed from SE 22nd Street via a joint driveway. Lot 3 is proposed to be accessed from the existing 20-foot ingress egress and utility easement to the east. (**Exhibit 6**)

Concurrent with the preliminary short subdivision application, the following additional applications were submitted:

- Critical Area Review 2, City file number CAO21-004; and
- State Environmental Policy Act (SEPA) review SEP21-022 – Canceled by Applicant.

The proposed development called for buffer averaging and buffer reduction of the Type F watercourse located to the east of the subject property. The Applicant wanted to reduce the buffer so the required building setbacks from the buffer had limited encroachment on the proposed lots. Through several reviews it was determined that buffer averaging and buffer reduction wouldn't be necessary, so the Applicant altered the proposed development by removing buffer averaging and buffer reduction from the proposed development. Since the proposed development no longer impacted the buffer of the Type F watercourse, SEPA review became irrelevant, but the Critical Areas Review 2, CAO21-004 would still be processed concurrently with the proposed development application to assess two buffer encroachments within areas located on and adjacent to the subject property. The Applicant requested the SEPA review to be canceled on November 17, 2022 (**Exhibit 22**).

Location: The subject property is located at 7621 SE 22nd Street (King County parcel number 531510-1976). The subject property is situated in the SE Quarter of Section 1, Township 24 North, and Range 4 East, W.M in the City of Mercer Island, King County, WA.

Existing Conditions: The subject project is located on SE 22nd Street and is bordered by single-family residential development. The subject property contains a private driveway and a single-family residence. The private driveway will be utilized for ingress, egress, and utilities for the proposed lot 1 and lot 2 and the single-family residence will be removed as part of the proposed development. The subject property

has an easement for ingress, egress, and utilities across the private driveway to the east, to which the proposed lot 3 will gain access. The subject property is 0.58 acres or 25,222 square feet and is heavily treed and relatively flat with low slope.

Access: The proposed development will be accessed from SE 22nd Street.

Contact Information:

Contact/Applicant	Tenant	Engineer
Milestone WCMILLC C/O Greg Arms 8 Crescent Key, Bellevue, WA 98006 Phone: (206) 817-4192 Email: <a href="mailto:greg@milestonenw.com">greg@milestonenw.com</a>	David Arms 7621 SE 22nd Street Mercer Island, WA 98040 Phone: (425) 495-4378 Email: <a href="mailto:davidarms75@gmail.com">davidarms75@gmail.com</a>	Eastside Consultants C/O Ron Frederiksen 1320 NW Mall Street, Suite B Issaquah, WA 98027 Phone: (425) 392-5351 Email: <a href="mailto:rfrederiksen@eastsideconsultants.com">rfrederiksen@eastsideconsultants.com</a>

Terms used in this staff report:

Term	Refers to, unless otherwise specified:
Applicant	Milestone WCMILLC
Proposed development	Milestone WCMILLC Preliminary Short Subdivision
Subject property	The site where development is located as defined in this staff report
City	City of Mercer Island
MICC	Mercer Island City Code.
Adjacent property	7627 SE 22ND Street. King County Assessor’s Parcel Number: 5315101945
Code Official	Community and Planning Development Director city of Mercer Island 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

**II. PROCEDURE AND NOTICE REQUIREMENTS**

1. Review Type: Pursuant to section 19.15.030 MICC Table A, applications for preliminary short subdivisions are Type III reviews, which require a notice of application, a 30-day public comment period, and a notice of decision. As outlined in MICC 19.15.030, a preliminary short subdivision, Critical Area Review, and SEPA Threshold Determinations are Type III land-use reviews.
2. Application: The proposed development application was deemed incomplete for the purpose of review on July 20, 2021 (**Exhibit 3**). Pursuant to procedures of MICC 19.15.070, the proposed development application, City File No. SUB21-006, was deemed complete on October 21, 2021 (**Exhibit 4**).
3. Notice of Application: The City issued notice of application for this preliminary short plat application on October 25, 2021 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 parcels; a notice sign posted on the subject parcels; and publication in the City of Mercer Island’s weekly permit bulletin. The notice of application began a 30-day comment period, which took place between October 25, 2021 and November 24, 2021 **(Exhibit 5)**.

4. Opportunities for Public Comment: Two comments were received from King County Wastewater, dated November 22, 2021, through the comment periods associated with the Notice of Application and SEPA threshold determination. The City does not respond to comment letters. Comment letters are collected, evaluated, provided to the Applicant, and included in the staff report as parties of record. **(Exhibit 7)**
5. Response to Public Comment: Comments from King County Wastewater dated November 22, 2021 have been addressed and incorporated into the plan set. **(Exhibit 6)**
6. Review Process: The City provided multiple rounds of review of the application and associated materials. Please refer to the comment letters issued in **Exhibit 8.1 and Exhibit 8.2**. The Applicant responded to the comment letters and included updated materials for consideration. **(Exhibit 8.1 and Exhibit 8.2)**
7. Public Hearing: Pursuant to MICC 19.15.030 Table A and B a public hearing is not required for Type I-III permits.

**III. STATE ENVIRONMENTAL POLICY ACT (SEPA) COMPLIANCE**

8. SEPA Review: The proposed development is exempt environmental review under the City’s SEPA regulations, Chapter 19.07 MICC and WAC 197-11-800(6)(D). SEP21-022 was canceled by the Applicant on November 17, 2022 **(Exhibit 22)**.

**IV. ZONING AND COMPREHENSIVE PLAN DESIGNATIONS**

9. Site Zoning & Land Use: The subject property is zoned is Single Family Residential, R-8.4. According to MICC 19.02.010, single-family dwelling units are a permitted use in the R-8.4 zone. The proposed development is consistent with the permitted uses provided in MICC 19.02.010.
10. Comprehensive Plan Policies: The proposed use of the subject property for a single-family residential short subdivision 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.
11. Adjacent Zoning and Comprehensive Designations: The proposed development is compatible with the surrounding zoning and Comprehensive Plan designations as follows:

	<u>Zoning Designation</u>	<u>Comprehensive Plan Designation</u>
North	R-12	Single Family Residential R-12
South	R-8.4	Single Family Residential R-8.4
East	R-8.4	Single Family Residential R-8.4

12. Site and Tract Calculations: The table below reflects the area designation of all proposed lots (**Exhibit 6**).

Lot #	Gross Lot Area (SF)	Max. GFA 40%	Net Lot Area	Max. Lot Coverage (40%)	Max. Hardscape (9%)
1	8,402	3,361	8,402	3,361	756
2	8,419	3,368	8,419	3,368	757
3	8,400	3,360	8,400	3,360	756

Property Areas	Area (SF)	Area (AC)
Property (531510-1846)	25,222	0.58

**V. CONSISTENCY WITH SUBDIVISION CODE STANDARDS**

13. 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 city engineer may waive the requirement that an engineer or surveyor prepare the plans for a short subdivision. 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 professional land surveyor, identifying proposed building pad locations. The proposed development plan set (**Exhibit 6**) is consistent with MICC 19.08.020(C)(2).

14. Preliminary Application Procedure: Pursuant to MICC 19.08.020(D)(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 Finding:** The proposed development is consistent with MICC 19.08.020(D)(1)(a-c). The proposed development makes appropriate provisions for public health, safety, and general welfare by providing adequate infrastructure to support future development. The site is listed as bus transportation for Northwood Elementary, Islander Middle School, and Mercer Island High

School. The shoulders of SE 22nd Street provide safe walking paths to all bus stops which are, 880-feet, 350-feet, and 250-feet away from the subject property.

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 subdivision is located in a single-family residential zone with adjacent single-family residential uses. The proposed short subdivision would foster infill development on a site with adequate lot area outside of critical areas. The proposed development is single-family and proposed a density that is commensurate with existing development in the vicinity. Therefore, the public use and interest will be served by approval of the project due to compliance with the comprehensive plan, growth targets, and coordinated growth.

Conformance with applicable zoning and land use regulations is documented in the findings listed below.

15. Short Subdivisions: Pursuant to MICC 19.08.020(D)(2), the code official shall grant preliminary approval for a short subdivision if the application is in proper form and the project complies with the design standards set out in MICC 19.08.030, the comprehensive plan, and other applicable development standards.

**Staff Finding:** The application is in proper form and the project complies with the design standards set out in MICC 19.08.030 as documented in the findings listed below. The proposed short subdivision 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 property described in the application is Single-Family Residential R-8.4 (8,400 square foot minimum lot size). The proposed and current use of this 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:**

16. As part of the proposed development, the Applicant submitted a request for a critical area review 2, CAR21-004. The original purpose of the critical area review 2 was to reduce the building setback buffers and to average a Type F watercourse buffer. The proposed development was altered to increase the width of the private access and utility easement serving lot 3 and the adjacent property. The buffer encroachment addresses safety concerns pertaining to fire access.

**Staff Finding:** Pursuant to MICC 19.07.090(B)(1) the purpose of a critical area review 2 is to review critical area studies and mitigation plans in support of proposed buffer averaging and reduction of wetland and watercourse buffers. Pursuant to MICC 19.07.090(B)(2)(c) when development and/or activity is proposed on a site containing geologically hazardous areas and one or more of the critical area types listed in subsection (B)(2)(a) of this section or the

associated buffer of one of those critical areas, a critical area review 2 reviewing all critical areas is required to be reviewed and approved prior to construction authorization, using the procedures required for a Type 3 land use review.

**Staff Finding:** The watercourse buffer is currently cleared and graded as part of the ongoing North Mercer Pump Station project. The encroachment is minor and the mitigation from the ad North Mercer Pump Station project provides sufficient mitigation to offset impacts to the buffer. CAO21-004 should be approved.

17. The Applicant submitted a critical areas study produced by Altman Oliver Associated, dated May 18, 2022 (**Exhibit 15**) and revised the study based on revisions to the proposed development (**Exhibit 16**). According to the study, a Type F watercourse is located off-site to the east of the proposed development on the King County Wastewater property, King County Assessor's Parcel Number: 5315100945. The watercourse was delineated and described as part of the North Mercer Pump Station improvement project (CAO19-020). Type F watercourses in the City of Mercer Island require a standard 120-foot buffer pursuant to MICC 19.07.180(C)(1). The standard 120-foot buffer from the off-site stream extends into the northeast corner of proposed Lot 2 on the subject property. The area of buffer on the site consisted primarily of old yard area vegetated with ornamental rhododendron, grasses, bracken fern, dandelion, common horsetail, creeping buttercup, and a few scattered trees. The on-site portion of the watercourse buffer is currently separated from the stream by both the paved access road to the existing pump station facility as well as a second paved access road for the residence located at 7627 SE 22nd Street.

**Staff Finding:** The proposed development project requires an encroachment into the stream buffer within the right-of way of SE 22nd Street immediately off-site to the northeast. As part of this encroachment, the storm line must be extended into the buffer within the public right-of-way. There is no alternate location for the required storm line and there would be no impact to the off-site stream from the minor extension since the area does not provide any significant habitat and is completely separated from the stream.

**Staff Finding:** The second required stream buffer encroachment will occur by adding an additional two feet of pavement and rocked shoulders to the east side of the existing paved access easement located along the eastern property line. The widening and encroachment is necessary for safety concerns pertaining to fire access, the current driveway width, and potential vehicular access. The area of widening is currently cleared and graded as part of the ongoing North Mercer Pump Station project. Mitigation for this minor encroachment would occur through the implementation of the restoration and mitigation planting plan that has already been prepared for the North Mercer Pump Station project. As part of that project, native plantings are proposed to be installed to the edge of the driveway access and no further mitigation should be required.

18. 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:**

19. 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 City's 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.

20. 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 proposed development does not propose the dedication of a public park (**Exhibit 6**). This standard does not apply.

**Control of Hazards**

21. 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 Riley Group, Inc (RGI) prepared a geotechnical engineering report for the proposed development (**Exhibit 10**), dated May 4, 2022. Based on RGI's observations, explorations and analysis, the site is suitable for the proposed construction from a geotechnical standpoint. RGI recommends that foundations for the proposed buildings be supported on conventional spread footings bearing on medium dense native soil or new structural fill if needed. Slab-on-grade floors and pavement sections can be similarly supported on competent native soil or structural fill. Detailed recommendations regarding the above issues and other geotechnical design considerations are provided in the geotechnical engineering report. An addendum to the geotechnical engineering report (**Exhibit 11**), dated May 4, 2022, contains a statement of risk consistent with MICC 19.07.160(B)(3).

A condition of approval is added to this decision. The Applicant shall incorporate all recommendations in the geological engineering report (**Exhibit 10**) into the final design drawings and construction specifications.

22. 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:** A geotechnical engineering report was provided for proposed development that provides an analysis of the conditions present (**Exhibit 10**). Based on this analysis, the report makes recommendations for future construction and drainage design. Field and engineering review services will be required during the construction phase in order to provide a Final Letter for the project. All private shared utilities and shared access for Lot 1 and Lot 2 and Lot 3 and the adjacent property shall be completed prior to plat recording. The proposed development was reviewed by the City Senior Development Engineer and as conditioned, complies with the provisions of Chapter 15.09 MICC.

**Staff Finding:** The geotechnical engineering report was peer reviewed by the city's third party peer reviewer (**Exhibit 12**) and several comments were generated for the Applicant to resolve prior to approval of the proposed development. The Applicant submitted a geotechnical engineering report addendum (**Exhibit 13**), dated September 26, 2022, in response to the questions raised by the city's peer reviewer in **Exhibit 12**.

23. **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:** The proposed development is connecting to an existing stormwater conveyance system as part of the storm drainage plan (**Exhibit 6**). This standard does not apply.

**Streets, Roads, and Rights-of-way:**

24. 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:** SE 22nd Street is classified as a local street. No right-of-way is proposed to be dedicated as part of this subdivision. This standard does not apply.

25. 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:** No right-of-way is proposed to be dedicated as part of this subdivision. This standard does not apply.

26. 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 shared ingress, egress, and utilities easement for Lots 1 and 2 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. The shared access for Lot 3 and the adjacent property is within an existing 20-foot ingress, egress, and utilities easement, with at least 12-feet of that width consisting of pavement and the balance consisting of well compacted shoulders. (**Exhibit 6**).

**Staff Finding:** Pursuant to MICC 19.09.040(B) all private access roads serving two 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. As seen in **Exhibit 6**, the shared ingress, egress, and utilities easement for Lots 1 and 2 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. The shared access for Lot 3 and the adjacent property is within an existing 20-foot ingress, egress, and utilities easement, with at least 12-feet of that width consisting of pavement and the balance consisting of well compacted shoulders. The proposed improved private access road complies with this criterion.

27. 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 shared driveway providing access to both the proposed Lots 1 and 2 will connect to SE 22nd Street, consistent with this standard (**Exhibit 6**). The shared driveway providing access to both the proposed Lots 3 and the adjacent property to the east will connect to SE 22nd Street, also consistent with this standard

**Residential Lots:**

28. 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 lot is located (R-8.4) shown in MICC 19.02.020(A), as summarized in the table below:

	<b>Net Lot Area</b>	<b>Lot Width</b>	<b>Lot Depth</b>
R-8.4 zone minimum requirement	8,400 sq ft	60 feet	80 feet
Lot 1	8,402 sq ft	89 feet	107 feet
Lot 2	8,419 sq ft	70 feet	107 feet
Lot 3	8,400 sq ft	63 feet	134 feet

29. 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:** One side lot line will be created by the proposed short subdivision, which will be approximately perpendicular to the 20-foot shared access easement (**Exhibit 6**). Per MICC 19.16010 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. Refer to **sheet 1 of 7 in Exhibit 6**. The proposed lot lines are consistent with this criterion.

30. 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 6**).

**Staff Finding:** Building pads, with no cross section less than 20-feet in width, are depicted in proposed development plans set (**Exhibit 6**). The topographic site plan indicates less than a 2-foot elevation change across the site. The proposed building pad locations minimize the disturbance of the existing, natural topography. The Applicant submitted an addendum to the geotechnical report (**Exhibit 10**) indicating the proposed building plans are in compliance with the requirements of MICC 19.09.090(A)(2)(c)(i-iii).

31. Pursuant to MICC 19.08.030(E)(4), the proposed development shall incorporate preferred development practices pursuant to MICC 19.09.100 where feasible.

MICC 19.09.100: 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:** Lots 1 and 2 will be accessed via the proposed shared driveway easement. This easement will be improved to provide access shared access to both new lots. Lot 3 will access SE 22nd Street via an existing shared driveway easement. The driveway will be required to be improved to meet current standards. A geotechnical engineering report was submitted, documenting how future development will meet the standards in MICC 19.07.160 (**Exhibit 10**). A geotechnical engineering report addendum was submitted with the application. The addendum indicated that the proposed building pads are consistent with the requirements of MICC 19.09.090(A)(2)(c)(i-iii). The addendum indicates that the proposed development will not have negative impact to the neighboring properties if the geotechnical recommendations provided in the geotechnical engineering report (**Exhibit 10**) are incorporated into the project design and construction. The addendum further indicates that the risk of damage to the proposed development from the development to adjacent properties from soil instability will be minimal per MICC 19.07.160(B)(3)(a-d).

**Staff Finding:** RGI provided a statement of risk (**Exhibit 13 page 2**) that is consistent with MICC 19.07.190(B)(3)(a).

“An evaluation of subsurface conditions has revealed that the proposed development is not located in a landslide or seismic hazard area.”

32. 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 (**Exhibit 17**) and a tree inventory worksheet (**Exhibit 18**). The proposed tree retention plan is depicted on the plan set (**Exhibit 6**). The City Arborist reviewed and approved the proposed development, **see Exhibit 24**. The proposed tree retention plan was reviewed and as conditioned complies with the provisions of Chapter 19.10 MICC.

33. Pursuant to MICC 19.10.060(2)(a) a minimum of 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:** The proposed development is required to retain a minimum of 30 percent of trees located on the subject property 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. The proposed development is retaining 83 percent of trees located on the subject property.

34. Pursuant to MICC 19.10.060(2)(b), in addition to the retention required in MICC 19.10.060(2)(a), the proposed development shall be designed to further minimize the removal of large trees and maximize on-site tree retention as follows:
- i. Site improvements, including but not limited to new single-family homes, additions to a single-family home, appurtenances, accessory structures, utilities, and driveways, shall be designed and located to minimize tree removal during and following construction.
  - ii. The following trees shall be prioritized for retention:
    - (a) Exceptional trees;
    - (b) Trees with a diameter of more than 24 inches;
    - (c) Trees that have a greater likelihood of longevity; and
    - (d) Trees that are part of a healthy grove.
  - iii. Trees shall not be removed outside the area of land disturbance except where necessary to install site improvements (e.g., driveways, utilities, etc.).
  - iv. Tree removal for the purposes of site landscaping should be limited to those trees that will pose a future safety hazard to existing or proposed site improvements.

**Staff Finding:** The proposed development is designed to further minimize the removal of large trees and maximize on-site tree retention.

35. Pursuant to MICC 19.10.060(2)(c) the proposed development is required to provide tree replacement pursuant to MICC [19.10.070](#).

**Staff Finding:** The proposed development is providing tree replacement consistent with MICC 19.10.070. (**Exhibit 18**)

**Other Findings:**

36. 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.[...] 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 Finding:** School impact fees are not collected by the City at this time, as requested by the school district. A condition of approval has been added to this decision and requiring that park and transportation impact fees shall be paid at the issuance of each building permit unless deferral of payment is sought pursuant to 19.18.060 and 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.

37. 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:** Preliminary grading and storm drainage plans (**Exhibit 6**), and a preliminary drainage report (**Exhibit 14**) have been provided and reviewed, showing that the provision of services is feasible (**Exhibit 19**). 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.

38. 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:** A transportation concurrency certificate, TCC21-018, was issued for the proposed development on November 3, 2021 (**Exhibit 21**).

**VI. CONDITIONS OF APPROVAL**

1. The final short plat for SUB21-006 shall be in substantial conformance with the preliminary plat drawing attached as **Exhibit 6**.

2. Expiration of approval – The final short plat shall be recorded prior to the expiration deadline set forth in MICC 19.15 – Administration.
3. Show all the existing and proposed easements on the final plat. Clearly distinguish all public easements from the private easements. The private utility easement and public utility easement shall not be combined. Clearly distinguish all existing easements from the proposed easements.
4. Easements for 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 notation shall indicate whether the easement is public or private, existing or proposed.
5. 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.
6. 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.
7. A City of Mercer Island title block for approval signatures (Planner and City Engineer) shall be provided on the final plat along with the designated short plat number.
8. 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.
9. 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.
10. 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 the following:
  - a. Plat access road - Comply with the Fire Code requirements and standards contained in MICC 19.09.040.
  - 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 for each lot.
    - ii. The side sewer for all lots shall be a shared side sewer with one single connection to the city Sewer Main. The maximum number of the residences is 6 for a 6" shared side sewer.
    - 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.
  - g. Dry utilities
    - i. Show the proposed dry (power, gas, etc.) utility corridor on the plan.
11. Right of Way Restoration. Roadway replacement limits shall be determined by the City Engineer.
  12. 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.
  13. All recommendations in the geological engineering report (**Exhibit 10**) shall be incorporated into the final design drawings and construction specifications.
  14. All private shared utilities and shared access for Lot 1 and Lot 2 shall be completed prior to final plat recording. All private shared utilities and shared access for Lot 3 and the adjacent property shall be completed prior to final plat recording. A Site Development Permit for constructing all shared utilities and access are required for the city approval. A financial guarantee (150% of the construction cost) for the plat improvement is required prior to issuance of the permit. All construction must be completed prior to submit the final plat.
  15. The Applicant shall provide a Final Tree Plan that identifies the retained trees, building pads, and the location of the proposed tree replacement for the 16 required replacement trees. The tree replacement plan shall be provided with the site development permit application. This plan should be the same or consistent with the Preliminary Tree Plan. The Applicant has the option of paying a fee in lieu of \$919 per tree, plus two hours of staff maintenance, for any tree that cannot be planted at least 10-feet away from each other, existing trees and infrastructure such as fences. This replanting/fee in lieu plan for both lots will be required at the building plan application. Very little room appears on site for replanting and no opportunity in the right of way. It will follow the requirements described in MICC 19.10.070.
  16. The tree protection plan will be submitted during building review. No further tree removal will be allowed unless it is justified under 19.10.060.A. Showing tree protection fencing at the Arborist stated tree protection zone (TPZ).

17. The tree protection fence shall be 6-foot chain-link fence secured into the ground. This will be called out on the Tree Plan during building review. This will be put at the arborist given limits of allowable disturbance. For tree 22 the fence will be moved to the south.
18. The Project Arborist shall be on site and in control of any excavation or grading within trees dripline excavation to locate and clean-cut roots encountered at limits of disturbance. The arborist shall 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.
19. Limits of excavation for future detention system shall not encroach into tree 13's tree protection zone.
20. A full replanting plan with drip irrigation for replacement trees shall be provided during building plan review. None of the building permits will be approved without a preliminary replanting plan for all three lots. And a final replanting plan for the lot in review. Eighteen trees will need to be planted on any of the three lots.
21. The existing house and shed shall be demolished prior to Final Plat application.
22. 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 Short 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 City Ordinance No. 95C-118 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 within 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.
- f. 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.
- g. Lot owners shall be responsible for the restoration of any private improvements or landscaping within easements.
- h. 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 agreement from the City prior to the work occurring.
- i. No tree identified for retention may be removed unless otherwise approved by the City Arborist.
- j. 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 time of building permit submittal and may require additional fire protection systems and/or additional fire prevention measures for building approval.
- 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. 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.

**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 Mercer Island City Code. 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. DECISION

Based upon the above noted Findings of Fact and Conclusions of Law, preliminary short plat application SUB21-006, as depicted in **Exhibit 6**, and CAO21-004 are hereby preliminarily **APPROVED subject to the completion of the conditions of approval contained in section VI of this decision**. This decision is final, unless appealed in writing consistent with adopted appeal procedures, MICC 19.15.130, and all other applicable appeal regulations.

**Approved this 21st day of November 2022**

*Ryan Harriman*

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

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