
CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

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PRELIMINARY SHORT SUBDIVISION STAFF REPORT & DECISION

SUB21-008 (Exhibit 1)

File Number:	SUB21-008
Description:	A request for preliminary approval for a two (2) lot short subdivision.
Applicant Owner:	Dheeraj Koneru 7002 93rd Avenue Mercer Island, WA 98040 Phone: (425) 598-9806 Email: dkoneru@gmail.com
Developer/Contact:	JMK Homes C/O Jed Murphey PO Box 317 Ronald, WA 98940 Phone: (206) 714-4539 Email: jed@jmkhomes.net
Site Address:	6610 East Mercer Way, Mercer Island WA 98040 Identified by King County Assessor tax parcel number: 3024059153
Zone:	R-15
Staff Contact:	Ryan Harriman, EMPA, AICP, Planning Manager Phone: (206) 275-7717 Email: ryan.harriman@mercerisland.gov
Project Documents:	https://mieplan.mercergov.org/public/SUB21-008
Key Project Dates:	
Date of Application:	September 20, 2021
Determined to Be Complete:	October 20, 2021
Notice of Application	
Bulletin Notice:	October 25, 2021
Date Mailed:	October 25, 2021

Date Posted on the Subject Property: October 25, 2021
Comment Period Ended: 5:00 PM on November 24, 2021
Decision Date: May 15, 2023

Notice of Decision

Bulletin Notice: May 15, 2023
Date Mailed: May 15, 2023
Date Posted on the Subject Property: May 15, 2023
Appeal Period Ended: 5:00 PM on May 29, 2023

Exhibits:

1. SUB21-008 Staff Report and Decision;
2. Development Application and Project Narrative;
3. Determination of Complete Application;
4. Preliminary Plan Set;
5. PRE21-023 - Pre-Application Meeting Notes;
6. Notice of Application;
7. Public Comment ;
8. Public Comment Response by Applicant;
9. City Review Letters;
 - a. SUB21-008 First Review Letter revised 3-15-2022;
 - b. SUB21-008 Second Review Letter 08-11-2022;
 - c. SUB21-008 Third Review Letter 10-26-2022;
10. Applicant Response Letters;
 - a. First response letter;
 - b. Second Response letter;
 - c. Third Response letter;
11. Preliminary Arborist Report, Tree Solutions, dated October 31, 2022;
12. Geotechnical Engineering Study and Critical Area Study Transmittal Letter, Geotech Consultants, Inc, dated June 8, 2021;
13. Geotechnical Peer Review, Michele Lorilla, P.E., dated February 16, 2022;
14. Response to Request for Information, Geotech Consultants, Inc, dated April 12, 2022;
15. Geotechnical Peer Review, Michele Lorilla, P.E., dated May 11, 2022;
16. Geotechnical Feasibility of Watercourse Restoration Letter, Geotech Consultants, Inc, dated August 24, 2021;
17. Response to Request for Information, Geotech Consultants, Inc, dated December 20, 2022;
18. Mercer Island School District School Bus Stop Email Confirmation, dated November 7, 2022;
19. Storm Drainage Report, PACE Engineers, Inc., September 2021;
20. Transportation Concurrency Certificate, dated November 12, 2021;
21. Letter to City Regarding Easement Rights, dated November 7, 2022;
22. Title Report, September 2022;
23. SUB21-008 Civil Engineering Review;
24. SUB21-008 Fire Marshal Review;
25. Tree Inventory Worksheet; and
26. Notice of Decision.

I. APPLICATION OVERVIEW

Project Overview: On September 20, 2021, the Applicant submitted a request for preliminary short subdivision approval (**Exhibit 2**), City File Number SUB21-008, to subdivide 1.15 acres (50,094 square feet) into two (2) single-family residential lots in the Single-Family Residential (R-15) zone. Lots 1 and 2 are proposed to be accessed from East Mercer Way via a shared private access road.

Location: The subject property is located at 6610 East Mercer Way (King County parcel number 3024059153). The subject property is situated in the NE Quarter of Section 30, Township 24, and Range 5, W.M. in the City of Mercer Island, King County, WA.

Existing Conditions: The subject property is located at 6610 East Mercer Way and has Lake Washington frontage to the east. The zoning for the subject property is R-15. The existing single-family residence was built in 1955 and is located on the northern half of the property, approximately equal distance from the lake and west property line. The existing residence will be demolished and a new single-family residence will be built. The property slopes west to east at approximately 6.6 percent. Access to East Mercer Way is provided by a shared private access road approximately 700 feet long. The private access road is approximately 10 feet wide and is shared with several offsite properties.

Storm drainage and sanitary sewer main lines are located within easements north of the property line. Mercer Island GIS maps indicate the storm is a 36-inch diameter CMP for conveyance of a non-fish-bearing piped stream. The storm pipe discharges into Lake Washington near the northeast corner of the subject property. The sewer main flows eastward and connects to the sewer trunk line located along the Lake Washington shoreline. Public records show there are three (3) side sewer stubs serving the existing lot. There are no water mains located adjacent to the property. GIS maps indicate domestic water is provided by a 5/8 inch water meter located approximately 100 feet north of the property. The private water service pipe extends across the adjacent properties. Gas and underground power are located north of the northern property line and serve the subject property.

The subject property is located within a mapped Seismic Hazard Area and a Potential Landslide Hazard area. Both geologic hazard areas cover much of the general vicinity to the north and south as well. The subject property is essentially flat and is located over 150 feet from steep slopes.

Access: The proposed development will be accessed via a substandard shared private access road from East Mercer Way.

Contact Information:

Developer/Contact	Applicant/Owner	Engineer
JMK Homes C/O Jed Murphey PO Box 317 Ronald, WA 98940 Phone: (206) 714-4539 Email: jed@jmkhomes.net	Dheeraj Koneru 7002 93rd Avenue Mercer Island, WA 98040 Phone: (425) 598-9806 Email: dkoneru@gmail.com	PACE Engineers, Inc. C/O John Anderson, P.E. 11255 Kirkland Way, Suite 300 Kirkland, Washington 98033 Phone: (425) 827-2014 Email: johna@paceengrs.com

Terms used in this staff report:

Term	Refers to, unless otherwise specified:
Developer and Contact	JMK Homes
Proposed development	Koneru Preliminary Short Subdivision
Subject property	The site where development is located as defined in this staff report
Property Owner	Dheeraj Koneru
City	City of Mercer Island
MICC	Mercer Island City Code.
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 Developer and accepted by the City
CC&Rs	HOA’s Covenants, Conditions, and Restrictions

II. PROCEDURE AND NOTICE REQUIREMENTS

1. Review Type: Pursuant to MICC 19.15.030, Table A, applications for preliminary short plats are Type III reviews, which require a notice of application, a 30-day public comment period, and a notice of decision.

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

2. State Environmental Policy Act Review: The proposed development is exempt from State Environmental Policy Act (SEPA) review pursuant to MICC 19.21.100(E)(1) and WAC 19-11-800(6).

Staff Finding: The proposed development is consistent with the provisions of Chapter 19.21 MICC and Chapter 197-11 WAC.

3. Application: Pursuant to procedures of MICC 19.15.070, the proposed development application, City File No. SUB21-008 was submitted on September 20, 2021 (**Exhibit 2**) and deemed complete on October 20, 2021 (**Exhibit 3**). Included with the application was a preliminary plan set that was updated throughout the review process. The official preliminary plan set is depicted in **Exhibit 4**.

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

4. Pre-Application Meeting: The proposed development was reviewed by the City through the pre-application meeting process and requirements of MICC 19.15.050 on July 13, 2021 (**Exhibit 5**).

Staff Finding: The application for the proposed development met the requirements for the pre-application meeting.

5. Notice of Application: The City issued the notice of application for the proposed development 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 property; a notice sign posted on the subject property; 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 6**).

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

6. Opportunities for Public Comment: One comment letter was received through the comment period associated with the Notice of Application. The City does not respond to comment letters. Comment letters are collected, evaluated, provided to the Developer, and included in the staff report as part of the official record. (**Exhibit 7**)

Staff Finding: One comment letter was received during the open public comment period. All public comments are contained in **Exhibit 7**.

7. Response to Public Comment: The Applicant responded to the public comments on November 11, 2021 (**Exhibit 8**).

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 do not defend applications. The onus is on the Applicant to respond to public comments received.

8. Review Process: The City provided multiple rounds of review of the proposed development and associated materials. Please refer to the comment letters issued in **Exhibit 9**. The Applicant responded to the comment letters and included updated materials for consideration (**Exhibit 10**).

Staff Finding: The review process is consistent with the provisions of the MICC.

9. Public Hearing: Pursuant to MICC 19.15.030 Table A and B, a public hearing is not required for Type I-III permits.

Staff Finding: A public hearing is not required.

III. STATE ENVIRONMENTAL POLICY ACT (SEPA) COMPLIANCE

10. SEPA Threshold Determination: The proposed development is exempt from SEPA review pursuant to MICC 19.21.100(E)(1) and WAC 19-11-800(6).

Staff Finding: The proposed development is exempt from SEPA review.

IV. ZONING AND COMPREHENSIVE PLAN DESIGNATIONS

11. Site Zoning & Land Use: The subject property is located within the Single Family Residential Zone, R-15. According to MICC 19.02.010, single-family dwelling units are listed as a permitted use in the R-15 zone.

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

12. Comprehensive Plan Policies: The proposed development of the subject property for a single-family residential short subdivision is consistent and compatible with the “single Family Residential” R-15 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 City of Mercer Island Comprehensive Plan.

13. 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-15	Single Family Residential R-15
South	R-15	Single Family Residential R-15
East	None	None (Lake Washington)
West	R-15	Single Family Residential R-15

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

14. Site and Tract Calculations: The table below reflects the area designation of tracts, lots, and public right-of-way for the proposed development (**Exhibit 4**).

Lot #	Gross Lot Area (SF)	Max. GFA 40% (SF)	Net Lot Area (SF)	Max. Lot Coverage (40%) (SF)	Max. Hardscape (9%) (SF)
1	33,978	12,000	8,402	13,591	3,058
2	17,067	6,826	8,419	6,826	1,536

Property Areas	Area (SF)	Area (AC)
Property (3024059153)	50,094	1.15

Staff Finding: The proposed development is consistent with the numerical standards for lots within the R-15 zone.

V. TREES

15. 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 a Preliminary Arborist Report prepared by Tree Solutions, dated October 31, 2022 (**Exhibit 11**). The arborist report identifies unhealthy trees based on existing conditions and tree structure, and specifies which trees are most suitable for preservation.

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 plan set in **Exhibit 4**, the Arborist report in **Exhibit 11**, and the Tree Inventory Worksheet in **Exhibit 25**, Tree Solutions inventoried and assessed ten (10) trees on the subject property. Two additional trees, referred to as Dead Tree 1 and Dead Tree 2, were also inventoried. These trees were not tagged but are to be counted toward tree retention/removal totals. Of the trees assessed, three met the exceptional tree criteria outlined in the MICC. One additional tree, Dead Tree 1, was exceptional in size. Two adjacent trees were documented as part of the proposed development. Both adjacent trees have a diameter greater than 10 inches and their driplines extend over the property line.

Staff Finding: An additional five (5) trees are included in the tree count; bringing the total tree count on the subject property to 15 trees. These five (5) trees were removed under permit number 2104-048. A total of 10 replacement trees are required for the tree removal associated with permit number 2104-048 and will be included in the replanting requirements outlined in this decision.

Staff Finding: Of the 15 trees, nine (9) will be removed, and six (6) will be retained, plus a dead exceptional tree to be used as a snag.

Staff Finding: Tree removal and retention/protection are identified on the preliminary plan set. The proposed tree retention plan has been reviewed by the City Arborist and as conditioned, complies with the provisions of Chapter 19.10 MICC. 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 Requires for Replacement Based on Size/Type
Less than 10-inches and non-viable trees	1	0	0
10-inches up to 24-inches	2	8	16
Greater than 24-inches up to 36-inches	3	0	0
Greater than 36-inches and any exceptional tree	6	1	6
Total Required Tree Replacement:			22 Required

- 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 10 inches or greater, or that otherwise meet the definition of a large tree, shall be retained over a rolling five-year period.

Staff Finding: The plan set in **Exhibit 4**, the Arborist report in **Exhibit 11**, and the Tree Inventory Worksheet in **Exhibit 25** are not consistent with each other. The Tree Inventory Worksheet indicated Tree 15 is an exceptional tree that requires six replacement trees, but Tree 15 is not exceptional and only requires two replacement trees. Additionally, the Tree Inventory Worksheet indicates 28 replacement trees are required when only 22 replacement trees are required. The plan set has the wrong project arborist listed on the title page and the tree counts are not fully visible to the layperson. Only by looking at the former nondevelopment permit and arborist report table, one can conclude that additional trees were removed before this application. A Condition of Approval should be required for the Applicant to revise the plan set in **Exhibit 4**, the Arborist report in **Exhibit 11**, and the Tree Inventory Worksheet in **Exhibit 25** to be consistent with each other.

Staff Finding: Based on the plan set in **Exhibit 4**, the Arborist report in **Exhibit 11**, and the Tree Inventory Worksheet in **Exhibit 25**, the proposed development is consistent with the requirements of MICC 19.10.060(A)(2)(a) as conditioned.

17. 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: Based on the plan set in **Exhibit 4**, the Arborist report in **Exhibit 11**, and the Tree Inventory Worksheet in **Exhibit 25**, six out of 15 trees with a diameter of 10 inches or greater are proposed for retention, for a retention rate of 40 percent. A total of 22 trees are required to be replaced and located consistent with MICC 19.10.070(B).

Proposed Condition: An initial replanting plan is required to be submitted during the site development permit review phase. A final replanting plan shall be provided with the site development permit application to confirm the 22 replacement trees can fit on the proposed lots. At least half of the replacement trees shall be native to the Pacific Northwest. The trees must 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 can be a fee in lieu. The fee in lieu will consist of a payment of \$974 per tree for any tree that cannot be planted at least 10 feet away from each other, existing trees, and infrastructure such as fences.

Proposed Condition: The Applicant shall provide the City with a bond quantity worksheet for the 22 replacement trees at the submittal of the site development permit application. The City shall require a financial guarantee in the amount of 150 percent of the cost of the replacement trees, labor, five years of monitoring, and maintenance. The financial guarantee shall be filed with the City during the site development phase and held by the City for a period of five years from the date the replacement trees are planted.

VI. CRITICAL AREAS

A. Geologically Hazardous Areas

18. Pursuant to MICC 19.07.160(B), an alteration within geologically hazardous areas or associated buffers is required to meet the standards in this section, unless the scope of work is exempt pursuant to MICC 19.07.120, exemptions, or a critical area review 1 approval has been obtained pursuant to section 19.07.090(A).

Staff Finding: The Applicant applied for a Critical Area Review 1 approval as part of the application, CAO22-003. The Critical Area Review 1 approval was issued on July 20, 2022.

19. Pursuant to MICC 19.07.160(B)(1), when an alteration within a landslide hazard area, seismic hazard area, or buffer associated with those hazards is proposed, the Applicant must submit a critical area study concluding that the proposal can effectively mitigate risks of the hazard. The study shall recommend appropriate design and development measures to mitigate such hazards. The code official may waive the requirement for a critical area study and the requirements of subsections (B)(2) and (B)(3) of this section when he or she determines that the proposed development is minor in nature and will not increase the risk of landslide, erosion, or harm from seismic activity, or that the development site does not meet the definition of a geologically hazardous area.

Staff Finding: The Applicant submitted a critical areas study concluding that the proposal can effectively mitigate risks of the hazard. The study provided recommendations and appropriate design and development measures to mitigate such hazards.

20. Pursuant to MICC 19.07.160(B)(2) an alteration of landslide hazard areas and seismic hazard areas and associated buffers may occur if the critical area study documents find that the proposed alteration:
- a. Will not adversely impact other critical areas;
 - b. Will not adversely impact the subject property or adjacent properties;
 - c. Will mitigate impacts to the geologically hazardous area consistent with best available science to the maximum extent reasonably possible such that the site is determined to be safe; and
 - d. Includes the landscaping of all disturbed areas outside of building footprints and installation of hardscape before final inspection.

Staff Finding: The geotechnical engineer of record, Geotech Consultants, Inc., provided a risk statement (**Exhibit 12**) in the Engineering Study and Critical Area Study and Transmittal Letter, dated June 8, 2021, that conforms to MICC 19.07.160(B)(3)(c).

The proposed development was reviewed by the city's third-party review engineer (**Exhibits 13 and 15**). There are significant geotechnical and structural design issues associated with the development of this site. Whether these issues are adequately addressed during the design of the development will determine whether the requirements of MICC19.09.090(A)(2)(c)(i) and MICC 19.07.160 can be met.

The International Building Code requires the use of the Maximum Considered Earthquake (MCE) in determining the liquefaction potential of a site. This MCE has a Two (2) percent probability of exceedance in 50 years (return period of 2475 years).

“Construction practices are proposed for the alteration that would render the development as safe as if it were not located in a geologically hazardous area and do not adversely impact adjacent properties;”

However, the appropriateness of this risk statement will depend highly on the structural design of the development and therefore cannot be made until that design takes into consideration the anticipated settlement and deformation due to liquefaction of the onsite soils under MCE loading.

Proposed Condition: A condition of approval is added to this decision requiring the Applicant to provide a structural design of the proposed development that considers the anticipated settlement and deformation due to liquefaction of the subject property’s soils under MCE loading.

21. Pursuant to MICC 19.07.160(B)(3) an alteration of landslide hazard areas, seismic hazard areas, and associated buffers may occur if the conditions listed in subsection (B)(2) of this section are satisfied and the geotechnical professional provides a statement of risk matching one of the following:
- a. An evaluation of site-specific subsurface conditions demonstrates that the proposed development is not located in a landslide hazard area or seismic hazard area;
 - b. The landslide hazard area or seismic hazard area will be modified or the development has been designed so that the risk to the site and adjacent property is eliminated or mitigated such that the site is determined to be safe;
 - c. Construction practices are proposed for the alteration that would render the development as safe as if it were not located in a geologically hazardous area and do not adversely impact adjacent properties; or
 - d. The development is so minor as not to pose a threat to public health, safety, and welfare.

Staff Finding: The geotechnical engineer of record, Geotech Consultants, Inc., provided a risk statement in their June 8, 2021 report (**Exhibit 12**) that conforms to MICC 19.07.160(B)(3)(c).

“Construction practices are proposed for the alteration that would render the development as safe as if it were not located in a geologically hazardous area and do not adversely impact adjacent properties;”

Pursuant to the Geotechnical Peer Review Memo, dated May 11, 2022 (**Exhibit 15**), the appropriateness of this risk statement will depend highly on the structural design of the development and therefore cannot be made until that design takes into consideration the anticipated settlement and deformation due to liquefaction of the onsite soils under MCE loading.

The following note must be added to the cover sheet of the plan set as a condition of approval:

“This plat approval does not guarantee that the lots will be suitable for development now or in the future. For example, the geologic hazards at this site, specifically the liquefaction potential of the soils and subsequent vertical and lateral ground movements, may present significant

geotechnical and structural engineering design challenges when developing the site to meet current code requirements for the prevention of structural building collapse under earthquake loading, which a developer may deem as economically infeasible, etc.”

22. Pursuant to MICC 19.07.060(D) When development is proposed within a seismic hazard area:
- a. A critical area study shall be required and shall include an evaluation by a qualified professional for seismic engineering and design, a determination of the magnitude of seismic settling that could occur during a seismic event, and a demonstration that the risk associated with the proposed alteration is within acceptable limits or that appropriate construction methods are provided to mitigate the risk of seismic settlement such that there will be no significant impact to life, health, safety, and property.
 - b. Identification of seismic hazard areas. Seismic hazard areas shall be identified by a qualified professional who references and interprets information in the U.S. Geological Survey Active Faults Database, performs on-site evaluations, or applies other techniques according to the best available science.
 - c. When development is proposed on a site with an active fault, the following provisions shall apply:
 - i. A 50-foot minimum buffer shall be applied from the latest Quaternary, Holocene, or historical fault rupture traces as identified by the United States Geological Survey or Washington Geological Survey map databases or by site investigations by licensed geologic professionals with specialized knowledge of fault trenching studies; or
 - ii. Mitigation sequencing shall be incorporated into the development proposal as recommended based on geotechnical analysis by a qualified professional to prevent increased risk of harm to life and/or property.

Staff Finding: The geotechnical engineer of record, Geotech Consultants, Inc., provided a geotechnical engineering report, dated June 8, 2021 (**Exhibit 12**). The proposed development is located within a seismic hazard area. The proposed development has little impact on the subject property or neighboring properties, that is until subsequent single-family residences are built. At the time of building permit application, the Applicant must demonstrate compliance with MICC 19.07.060(D).

Proposed Condition: A condition of approval is added to this decision to reflect this requirement.

B. Piped Watercourse

23. Pursuant to MICC 19.07.180, development within watercourses and/or associated buffers is prohibited unless one of the following conditions applies:
- a. The proposed activity is specifically exempt pursuant to MICC 19.07.120;
 - b. A critical area review 1 application is reviewed and approved for one of the modifications in MICC 19.07.130; or
 - c. The proposed activity is permitted under subsection D of this section, development standards—additional criteria for specific activities.

Staff Finding: The proposed development is consistent with MICC 19.07.180(b). A critical area review 1, CAO22-003, was approved on July 20, 2022. Pursuant to MICC 19.07.130(A) the proposed development is a reconstruction of an existing legally established structure or building within a critical area.

24. Pursuant to MICC 19.07.180(C)(6), Piped watercourse setbacks:
- a. The intent of applying setbacks to piped watercourses is to preserve the opportunity to daylight watercourses that were previously piped, to provide incentives to property owners to daylight and enhance previously piped watercourses, and to allow flexibility for development where daylighting piped watercourses is demonstrated to be infeasible.
 - b. Setbacks shall be established 45 feet from the centerline of piped watercourses.
 - c. Piped watercourse setback widths shall be reduced to a 15 foot buffer when the portion of the piped watercourse on the Applicant's property is daylighted and where the watercourse has been restored to an open channel, provided a restoration plan demonstrates:
 - i. The watercourse channel will be stable and is not expected to cause safety risks or environmental damage; and
 - ii. No additional impact nor encumbrance by watercourse buffer or critical area setback is added to properties neighboring the Applicant(s) property.
 - d. Piped watercourse setback widths shall be reduced to: (i) ten feet on lots with a lot width of 50 feet or more, and (ii) five feet on lots with a width of less than 50 feet, when daylighting is determined by a qualified professional(s) to result in one or more of the following outcomes:
 - i. Increased risk of landslide or other potential hazard that cannot be mitigated;
 - ii. Increased risk of environmental damage (e.g., erosion, diminished water quality) that cannot be mitigated;
 - iii. The inability of a legally established existing lot to meet the vehicular access requirements of this title; or
 - iv. The inability of a legally established existing lot to meet the building pad standards in MICC 19.09.090.

Staff Finding: Geotech Consultants, Inc., provided a letter (**Exhibit 16**) dated August 24, 2021, discussing the geotechnical feasibility of watercourse restoration across the northwest corner of the subject property. According to the city's third-party reviewer and the review memo (**Exhibit 15**) dated May 11, 2022, the conclusions provided in the letter would, at a minimum, meet the requirement stated in MICC 19.07.180(C)(6)(d)(ii).

VII. CONSISTENCY WITH SUBDIVISION CODE STANDARDS

25. 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 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 lot pursuant to MICC 19.09.090. (**Exhibit 4**).

26. 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 school grounds 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 inconsistent with MICC 19.08.020(D)(1)(a). The proposed development makes appropriate provisions for public health, safety, and general welfare, transit stops, drainage ways, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, but does not make appropriate provisions for open space, streets or roads, alleys or other public ways.

Staff Finding: The proposed development does not make appropriate provisions for open space. The level of appropriateness isn't established through a numerical standard within the MICC, but it is a requirement for short subdivision approval. A proposed condition of approval will be added requiring the applicant to adjust the plan set in **Exhibit 4** to provide additional areas for open space. As conditioned, the proposed development will be consistent with MICC 19.08.020(D)(1)(a).

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:

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

Proposed Condition: The Applicant shall adjust the plan set in **Exhibit 4** to provide an area for open space. The western side yard setback for the proposed Lot 2 shall be converted to a 10-foot tree retention/protection/landscaping easement. The maintenance of the trees and vegetation within the easement shall be the responsibility of the owner of Lot 2 and shall serve as passive open space. The 10-foot tree retention/protection/landscaping easement shall be shown on the final plat and shall be maintained in perpetuity.

Staff Finding: The proposed development is accessed by a shared private access road that is inconsistent with the required width and slope criteria set out in MICC 19.09.040. As conditioned, the proposed development will be consistent with MICC 19.08.020(D)(1)(a).

Proposed Condition: The Applicant shall improve the shared private access road from East Mercer Way to the subject property. The shared private access road shall meet the criteria in MICC 19.09.040 and mitigate any impacts to critical areas. The Applicant shall be responsible for

obtaining all permits, reviews, and approvals from the City before any improvements to the shared private access road. The Applicant shall be responsible for obtaining all necessary easements, authorizations, and approvals from property owners with interest in the shared private access road before improving the shared private access road.

Staff Finding: Students living within the proposed development and adjacent properties have access to bus transportation for Island Park Elementary (1.5 miles from the bus stop), Islander Middle School (1.8 miles from the bus stop), and Mercer Island High School (2.9 miles from the bus stop). The bus stop is located adjacent to East Mercer Way, near the intersection of East Mercer Way and the shared private access road. The bus stop is further identified in **Exhibit 18**.

Staff Finding: 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 in 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.

Staff Finding: The proposed development is single-family and proposed a density that is commensurate with existing development in the vicinity of the subject property. Therefore, public use and interest will be served by approval of the project due to compliance with the comprehensive plan, growth targets, and coordinated growth.

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: MICC 19.08.020(D)(1) requires the proposed development to make appropriate provisions for transit stops. This provision does not apply 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 Applicant shall 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. The creation of recreation space is not practical and is cost prohibitive for a two-lot short subdivision.

Staff Finding: As conditioned, the proposed development conforms to applicable zoning and land use regulations.

27. 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. 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 proposed and current use of the subject property is single-family residential, which is a permitted use in the R-15 zone and consistent with the Comprehensive Plan Land Use and Housing elements.

Compliance with other laws and regulations:

28. 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 located within the jurisdiction of the SMA. Single-family residential development is allowed within the shoreline environment.

Public Improvements:

29. 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 City of Mercer Island official plans for acquisition and development of arterial or other public streets, trails, public buildings, utilities, parks, playgrounds, and other public improvements do not designate any portion of the subject property. This standard does not apply.

30. 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 4**). This standard does not apply.

Control of Hazards

31. 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 subject property is located within a mapped Seismic Hazard Area and a Potential Landslide Hazard area. Both geologic hazard areas cover much of the general vicinity to the north and south as well. The subject property is essentially flat and is located over 150 feet from steep slopes.

32. 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. Stormwater 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: Geotech Consultants, Inc., provided a letter (**Exhibit 16**) dated August 24, 2021, discussing the geotechnical feasibility of watercourse restoration across the northwest corner of the property. According to the city's third-party reviewer and the memo (**Exhibit 15**) dated May 11, 2022, the conclusions provided in the letter would, at a minimum, meet the requirement stated in MICC 19.07.180(C)(6)(d)(ii).

33. 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 will connect to the existing tightlined system that outfalls into Lake Washington.

Streets, Roads, and Rights-of-way:

34. 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: Not applicable.

35. 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.

36. 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 proposed development was reviewed by the City's Senior Development Review Engineer (**Exhibit 23**) to ensure the proposed development is feasible. The items mentioned in **Exhibit 23** are included in the conditions of approval section of this decision.

Staff Finding: The proposed development was reviewed by the City's Fire Marshal (**Exhibit 24**) to ensure the proposed development meets the current adopted code standards in relation to the International Fire Code and amendments listed under MICC 17.07.020.

Proposed Condition: At the site development permit review phase, the Applicant shall provide documentation that addresses all comments and conditions provided in **Exhibit 24**.

Staff Finding: The proposed development is accessed by a shared private access road that is not consistent with the required width and slope criteria set out in MICC 19.09.040.

Proposed Condition: The Applicant shall improve the shared private access road from East Mercer Way to the subject property. The shared private access road shall meet the criteria in MICC 19.09.040 and mitigate any impacts to critical areas. The Applicant shall be responsible for obtaining all permits, reviews, and approvals from the City before any improvements to the shared private access road. The Applicant shall be responsible for obtaining all necessary easements, authorizations, and approvals from property owners with interest in the shared private access road before improving the shared private access road.

37. 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 accessed by a private shared access road that does not meet the criteria set out in MICC 19.09.040. The private shared access road connects to East Mercer Way through a series of easements in favor of the land to be subdivided. The Applicant provided a letter from Vicki Orrico, James Monroe Mitsugana Kolouskova, PLLC, dated November 7, 2022 (**Exhibit 21**). In the letter, the Applicant’s legal counsel determined that the easement contained no restrictions on subdivision or limits on what portions of the benefitted properties could use the easement and that the easement does not prohibit the shared private access road from serving future subdivided portions of these lots. The legal counsel for the Applicant did not determine if the shared private access road meets the criteria set out in MICC 19.09.040.

Residential Lots:

38. 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-15) as shown in MICC 19.02.020(A), as summarized in the table below:

	Net Lot Area	Lot Width	Lot Depth
R-15 zone minimum requirement	15,000 sq ft	90 feet	80 feet
Lot 1	33,978 sq ft	100 feet	171 feet
Lot 2	17,067 sq ft	162 feet	171 feet

39. 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 proposed development is consistent with MICC 19.08.030(E)(2) as each side line of a lot shall be approximately perpendicular or radial to the center line of the street on which the lot fronts.

40. Pursuant to MICC 19.08.030(E)(3), The proposed development shall identify the location of building pads for each proposed lot pursuant to MICC 19.09.090. No cross-section dimension of a designated building pad shall be less than 20 feet in width (**Exhibit 4**).

Staff Finding: Building pads, with no cross-section less than 20 feet in width, are illustrated in the proposed development plan set (**Exhibit 4**).

41. 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: The subject property is served by a shared private access road and utility corridor. The shared private access road is substandard and must meet the requirements of MICC 19.09.040. The shared private access road traverses across multiple critical areas and adverse impacts to critical areas must be mitigated to the greatest extent reasonably feasible. Retaining walls are designed to minimize grading, including the placement of fill, on or near an existing natural slope. A condition of approval regarding improvements to the shared private access road was added to this decision to ensure the proposed development is consistent with MICC 19.09.100.

Impact Fees

42. 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 the demolition of the existing dwelling unit, unless otherwise allocated by the Applicant of the subdivision as part of the approval of the subdivision.

Staff Finding: The City does not collect school impact fees as requested by the Mercer Island School District.

Staff Finding: A condition of approval has been added to this decision 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 MICC 19.18.060 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.

43. 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 have been provided, showing that the provision of services is feasible (**Exhibit 19**).

Proposed Condition: A condition of approval has been added to this decision requiring construction of all improvements for access, utilities, and all storm drainage system, and all site work, shall be completed before the final plat application.

44. 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 20**).

VIII. CONCLUSIONS:

Based on the above findings and conditions of approval below, the following conclusions of Law have been made:

1. The proposed development is consistent with applicable federal, state, and local regulations.
2. The proposed development, as conditioned, 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.

3. The public use and interest will be served by approval of the proposed development.
4. The proposed development, as conditioned, conforms to applicable zoning and land use regulations.
5. The proposed development meets the minimum lot area, width, and depth of each residential lot for the zone in which the lots are located.

IX. CONDITIONS OF APPROVAL:

1. The final short plat for SUB21-008 shall be in substantial conformance with the preliminary plat drawing attached as **Exhibit 4**, with the exception of the required addition of the open space easement on Lot 2, as described in Condition of Approval #6, and the tree inventory table on sheet six must be amended to include correct and consistent information pursuant to Condition of Approval #5.
2. Conditions of Approval – The Applicant shall continually monitor the proposed development and conditions of approval throughout the development process to ensure the proposed development meets or exceeds all assigned conditions of approval. At the final plat and before recording, the Applicant shall demonstrate how all conditions of approval have been addressed or will be addressed in the future. Failure to address all conditions of approval shall constitute a breach of the preliminary approval and a final plat shall not be approved by the City.
3. Expiration of preliminary approval – The final short plat shall be recorded before 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 19.18.060 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 Applicant shall revise the plan set in **Exhibit 4**, the Arborist report in **Exhibit 11**, and the Tree Inventory Worksheet in **Exhibit 25** so they are consistent with each other. The Applicant shall submit the corrected items with the site development permit application.
6. The applicant shall adjust the plan set in **Exhibit 4** to provide an area for open space. The western side yard setback for the proposed Lot 2 shall be converted to a 10-foot tree retention/protection/landscaping easement. The maintenance of the trees and vegetation within the easement shall be the responsibility of the owner of Lot 2 and shall serve as passive open space. The 10-foot tree retention/protection/landscaping easement shall be shown on the final plat and shall be maintained in perpetuity.
7. Prior to approval of the final plat, the Applicant shall improve the shared private access road from East Mercer Way to the subject property. The shared private access road shall meet the criteria in MICC 19.09.040 and mitigate any impacts to critical areas. The Applicant shall be responsible for obtaining all necessary easements, authorizations, and approvals from property owners with interest in the shared private access road before improving the shared private access road.

8. 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.
9. 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.
10. 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.
11. 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.
12. All utilities serving the plat shall be undergrounded (MICC 19.08.040) and shall be designed and constructed in accordance with City of Mercer Island Ordinances.
13. 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. Shared private access road from East Mercer Way to the subject property - Comply with the Fire Code and Land Use Code requirements and standards contained in MICC 19.09.040 and above condition #6.
 - b. Temporary Erosion Control measurements.
 - c. Grading Plan for the private access driveway construction.
14. All plat improvements shall be completed before final plat approval or bonded and completed before 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.
15. All recommendations identified in the geological engineering report and subsequent review letters (**Exhibit 12, Exhibit 16, and Exhibit 17**) shall be incorporated into the final design drawings and construction specifications. Additionally, all recommendations provided by the City's third-party peer review consultant as identified in **Exhibit 13 and Exhibit 15** shall be incorporated into the final design drawings and construction specifications.
16. The Applicant shall ensure the structural design of the proposed development considers the anticipated settlement and deformation due to liquefaction of the subject property's soils under Maximum Considered Earthquake (MCE) loading. The Applicant shall provide documentation of the considerations at the time of the building permit application submittal.
17. Construction of all improvements for access, utilities, and all storm drainage system (conveyance system and onsite detention system), and all site work shall be completed before final plat

application. A Site Development Permit for constructing all shared utilities and access is required for the City's approval. A financial guarantee (150% of the construction cost) for the plat improvement is required before issuance of the permit. All construction must be completed before submitting the final plat.

18. The construction of all improvements for access, utilities, all storm drainage system, and all site work, shall be completed before the final plat application.
19. At the site development permit review phase, the Applicant shall provide documentation that addresses all comments and conditions provided in **Exhibit 23 and Exhibit 24**.
20. An initial replanting plan is required to be submitted during the site development permit review phase. A final replanting plan shall be provided with the final plat application to confirm the 22 replacement trees can fit on the proposed lots. At least half of the replacement trees shall be native to the Pacific Northwest. The trees must 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 can be a fee in lieu. The fee in lieu will consist of a payment of \$974 per tree for any tree that cannot be planted at least 10 feet away from each other, existing trees, and infrastructure such as fences.
21. The Applicant shall provide the City with a bond quantity worksheet for the 22 replacement trees at the submittal of the site development permit application. The City shall require a financial guarantee in the amount of 150 percent of the cost of the replacement trees, labor, five years of monitoring, and maintenance. The financial guarantee shall be filed with the City during the site development phase and held by the City for a period of five years from the date the replacement trees are planted.
22. Replacement trees shall primarily be those species native to the Pacific Northwest. In making a determination regarding the species of replacement trees, the city arborist shall defer to the species selected by the property owner unless the city arborist determines that the species selected are unlikely to survive for a period of at least ten years, represents a danger or nuisance, would threaten overhead or underground utilities or would fail to provide adequate protection to any critical tree area.
23. The tree protection plan will be submitted with the site development permit application. No further tree removal will be allowed unless it is justified under MICC 19.10.060.A. Showing tree protection fencing at the Arborist stated tree protection zone (TPZ).
24. The tree protection fence shall be a 6-foot chain-link fence secured into the ground. This will be called out on the tree protection plan during the site development permit application review and building permit application review.
25. The Project Arborist is to be on-site and in control of any excavation or grading within the 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 the building review.

26. The Final Tree Plan, showing numbered retained trees and building pad, shall be recorded as part of the plat. This plan shall be the same or consistent with the Preliminary Tree Plan.
27. The existing house and shed shall be demolished before Final Plat application.
28. The following Conditions of Approval shall be included on the face of the final plat:
 - a. This plat approval does not guarantee that the lots will be suitable for development now or in the future. For example, the geologic hazards at this site, specifically the liquefaction potential of the soils and subsequent vertical and lateral ground movements, may present significant geotechnical and structural engineering design challenges when developing the site to meet current code requirements for the prevention of structural building collapse under earthquake loading, which a developer may deem as economically infeasible, etc.
 - b. At the time of building permit application, the Applicant shall demonstrate compliance with MICC 19.07.060(D).
 - c. 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.
 - d. 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.
 - e. All staging for construction shall occur on-site and shall not be located within the public right-of-way.
 - f. 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 the risk of soil 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.

- g. No permanent landscaping, structures, or fences shall be placed on or within the 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.
- 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 before the work occurs.
- 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 the 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 subject property prior to the subdivision if the dwelling unit is demolished as a result of the subdivision. The credit shall apply to the first complete building permit application submitted to the city subsequent to the demolition of the existing dwelling unit, unless otherwise allocated by the Applicant of the subdivision as part of the approval of the subdivision.

X. DEVELOPMENT REGULATION COMPLIANCE – DISCLOSURE

- 1. Compliance with all local, state, and federal regulations is required.
- 2. No construction, tree removal, grading, or installation of utilities on land within a proposed long or short subdivision shall be allowed before 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)).
- 3. A final plat that is substantially consistent with the preliminary plat drawings attached **as Exhibit 4** and meets the requirements of Chapter 19.08 MICC, shall be submitted and recorded within five (5) years of the date of preliminary plat approval before becoming null and void.

4. At the final plat and before recording, the Applicant shall demonstrate how all conditions of approval have been addressed or will be addressed in the future.
5. All notations and corrections shall be made to the proposed short plat map, **Exhibit 4**, as required by Chapter 58.09 RCW, Chapter 332-130 WAC, and per MICC 19.08.050(C), prior to final approval and recording of the final lot line revision map. Please be advised that all signatures on the final plat must be signed with permanent ink and notarized and sealed by a notary public. Conveyance of real property in accordance with the intent of the approved short plat map must be accomplished through an appropriate means of conveyance such as new deeds.
6. Pursuant to MICC 19.08.050(B), for the short plat to become final, the applicant must submit and record final short plat drawings prepared in conformance with the standards in Chapter 19.08 MICC.
7. The applicant shall submit to the City final drawings of the proposed short plat together with a current plat certificate prepared by a title company (the certificate shall have been issued not more than thirty (30) days before the filing of the final short plat).
8. Land contained in a prior short subdivision may not be further divided in any manner for a period of five years after the recording of the final plat with King County without the filing of a long subdivision plat; however when a short subdivision consists of less than four lots, an alteration to the short subdivision is permitted so long as no more than four lots are created through the total short subdivision process.
9. 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.
10. All final plats submitted to the city shall meet the requirements set out in Chapter 58.09 RCW, Chapter 332-130 WAC, and those requirements set out in MICC 19.08.050.

XI. DECISION

Based upon the above noted Findings of Fact and Conclusions of Law, preliminary short plat application SUB21-008, as depicted in **Exhibit 4**, is hereby preliminarily **APPROVED, subject to the completion of the conditions of approval as provided in section IX**. 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 15 day of May, 2023.

Ryan Harriman

Ryan Harriman, EMPA, AICP
Community Planning & Development
City of Mercer Island

If you desire to file an appeal, you must submit the appropriate form, available from the department of Community Planning and Development, and file it with the City Clerk within fourteen (14) days from the date after the notice of decision is made available to the public and Applicant pursuant to MICC 19.15.130. Upon receipt of a timely complete appeal application and appeal fee, an appeal hearing will be scheduled. To reverse, modify or remand this decision, the appeal hearing body must find that there

has been substantial error, the proceedings were materially affected by irregularities in procedure, the decision was unsupported by material and substantial evidence in view of the entire record, or the decision is in conflict with the city's applicable decision criteria.

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