
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

SUB23-004 (Exhibit 1)

File Number:	SUB23-004
Description:	A request for preliminary approval for a two (2) lot short subdivision.
Applicant Owner:	Design Build Homes, LLC c/o Todd Sherman 11400 SE 8th Street Bellevue, WA 98008 Phone: (206) 909-8187 Email: todd@luxurydbh.com
Engineer/Surveyor:	D. R. STRONG Consulting Engineers Inc. c/o Maher Joudi, P.E. - President 620 7th Avenue Kirkland, WA 98033 Phone: (425) 827-3063 Email: maher.joudi@drstrong.com
Site Address:	4719 86th Avenue SE, Mercer Island WA 98040 Identified by King County Assessor tax parcel number: 7598100420
Zone:	R-9.6
Staff Contact:	Ryan Harriman, EMPA, AICP, Planning Manager Phone: (206) 275-7717 Email: ryan.harriman@mercerisland.gov
Project Documents:	https://mieplan.mercergov.org/public/SUB23-004
Key Project Dates:	
Date of Application:	July 20, 2023
Determined to Be Complete:	July 31, 2023
<u>Notice of Application</u>	
Bulletin Notice:	July 31, 2023

Date Mailed: July 31, 2023
Date Posted on the Subject Property: July 31, 2023
Comment Period Ended: 5:00 PM on August 30, 2023
Decision Date: January 2, 2024

Notice of Decision

Bulletin Notice: January 2, 2024
Date Mailed: January 2, 2024
Date Posted on the Subject Property: January 2, 2024
Appeal Period Ended: 5:00 PM on January 16, 2024

Exhibits:

1. SUB23-004 Staff Report and Decision;
2. Development Application and Project Narrative;
3. Determination of Complete Application;
4. Preliminary Plan Set;
5. Pre-Application Meeting Notes;
6. Notice of Application;
7. Public Comment from Barbara Prince, dated August 31, 2023;
8. Public Comment Response Letter, dated October 27, 2023;
9. SUB23-004 First Review Letter, dated September 19, 2023;
10. SUB23-004 Applicant Response Letter, dated October 27, 2023;
11. Arborist Report, Susan Prince, Creative Landscape Solutions, dated August 9, 2023;
12. Tree Inventory Worksheet
13. Geotechnical Consultation – Preliminary Slope Assessment, Earth Solutions NW, Inc., dated June 25, 2021;
14. Geotechnical Engineering Study, Earth Solutions NW, Inc., dated February 1, 2022;
15. Geotechnical Peer Review, Michele Lorilla, P.E., dated October 31, 2023;
16. Critical Area Consultation, Earth Solutions NW, LLC, revised November 17, 2023;
17. Response to Comments and Geotechnical Update, Earth Solutions NW, LLC, October 12, 2023;
18. Geotech peer review memo, Michele Lorilla, P.E., dated November 28, 2023;
19. Email from Michele Lorilla, P.E., dated November 29, 2023;
20. CAO23-021 Decision with Exhibits, dated December 4, 2023;
21. School Transportation Analysis, dated July 28, 2023;
22. Preliminary Drainage Report, D. R. STRONG Consulting Engineers, Inc., dated December 9, 2022;
23. Transportation Concurrency Certificate, dated August 16, 2023;
24. Title Report, dated June 19, 2023;
25. Notice of Decision, dated January 2, 2023.

I. APPLICATION OVERVIEW

Project Overview: On July 20, 2023, the Applicant submitted a request for preliminary short subdivision approval (**Exhibit 2**), City File Number SUB23-004, to subdivide 0.658 acres (28,662 square feet) into two (2) single-family residential lots in the Single-Family Residential (R-9.6) zone. Lots 1 and 2 are proposed to be accessed from 86th Avenue SE via a shared private access driveway.

The Applicant submitted a short subdivision application, SUB22-002, which expired on April 27, 2023 due to inactivity. On July 20, 2023, the Applicant resubmitted the same application for preliminary short subdivision approval under SUB23-004.

Location: The subject property is located at 4719 86th Avenue SE (King County parcel number 7598100420). The subject property is situated in the NE Quarter of Section 18, Township 24, and Range 5, W.M. in the City of Mercer Island, King County, WA.

Existing Conditions: The subject property is currently developed with one single-family residence. The remainder of the subject property is lawn, landscaping and scattered trees. All existing improvements are expected to be removed. The existing topography is sloped in nature, descending from east to west, with topographic relief on the order of 25-feet across the entirety of the site. Taken overall, slope inclinations across the entirety of the subject property are on the order of 10 percent, with the steepest section in the western portion of the subject property inclined at approximately 14 percent. Access to the proposed development will be from 86th Avenue SE via a shared private access easement and private driveway approximately 115 feet long (**Exhibit 4**).

The subject property is located within a mapped Seismic Hazard Area and Erosion Hazard Area, with the Erosion Hazard Area located in the southwest corner of the subject property. The mapped critical areas were reviewed under a critical areas review 2 (CAR2), CAO23-021 (**Exhibit 20**). The City determined the subject property doesn't contain critical areas and a map alteration may be necessary.

Access: The proposed development will be accessed from 86th Avenue SE via a shared private access easement and private driveway approximately 115-feet long.

Contact Information:

Developer/Contact	Applicant/Owner	Engineer
Design Build Homes, LLC c/o Todd Sherman 11400 SE 8th Street Bellevue, WA 98008 Phone: (206) 909-8187 Email: todd@luxurydbh.com	Design Build Homes, LLC c/o Todd Sherman 11400 SE 8th Street Bellevue, WA 98008 Phone: (206) 909-8187 Email: todd@luxurydbh.com	D. R. STRONG Consulting Engineers c/o Maher Joudi, P.E. - President 620 7th Avenue Kirkland, WA 98033 Phone: (425) 827-3063 Email: maher.joudi@drstrong.com

Terms used in this staff report:

Term	Refers to, unless otherwise specified:
Developer and Contact	Design Build Homes, LLC
Proposed development	Lorenzini Preliminary Short Subdivision, plat
Subject property	The site where development is located as defined in this staff report
Property Owner	Design Build Homes, LLC
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 197-11-800(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 the procedures in MICC 19.15.070, the proposed development application, City File No. SUB23-004, was submitted on July 20, 2023 (**Exhibit 2**) and deemed complete on July 31, 2023 (**Exhibit 3**). Included with the application was a preliminary plan set that was updated throughout the review process. The 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 September 7, 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 July 31, 2023, 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 July 31, 2023 and August 30, 2023 (**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 Applicant, addressed by the Applicant, and included in the staff report as part of the official record.

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 provided the City with a response to the public comment in **Exhibit 7** on October 27, 2023 (**Exhibit 8**).

Staff Finding: 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. The Applicant is responsible for addressing comments from the public.

8. Review Process: The City provided multiple rounds of review of the proposed development and associated materials. Please refer to the comment letter issued on September 13, 2023 (**Exhibit 9**). The Applicant responded to the comment letter on October 27, 2023 (**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 197-11-800(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-9.6. According to MICC 19.02.010, single-family dwelling units are listed as a permitted use in the R-9.6 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 a single-family residential short subdivision is consistent and compatible with the “single-Family Residential” R-9.6 land use designation and the policies of the City of Mercer Island Comprehensive Plan: Planning for Generations 2015-2035, adopted in 2016.

Staff Finding: The proposed development is consistent with the 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-9.6	Single Family Residential R-9.6
South	R-9.6	Single Family Residential R-9.6
East	R-9.6	Single Family Residential R-9.6

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

14. **Site Calculations:** The table below reflects the area for the proposed development (**Exhibit 4**).

Lot #	Gross Lot Area (sq ft)	Max. GFA 40% (sq ft)	Net Lot Area (sq ft)	Max. Lot Coverage (40%) (sq ft)	Max. Hardscape (9%) (sq ft)
1	14,974	5,491	13,727	5,491	1,348
2	13,670	5,468	13,670	5,468	1,230

Property Areas	Area (sq ft)	Area (AC)
Property	28,644	0.658

Staff Finding: The proposed development is consistent with the numerical standards for lots within the R-9.6 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 Creative Landscape Solutions, dated August 9, 2023 (**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: According to the plan set in **Exhibit 4**, the Arborist report in **Exhibit 11**, and the Tree Inventory Worksheet in **Exhibit 12**, Creative Landscape Solutions inventoried and assessed 24 trees on the subject property. Of the 24 trees located on the subject property, 19 trees were considered viable. Of the 19 viable trees, the Applicant plans to remove nine (9) as part of the proposed development, leaving 10 viable trees for retention.

Staff Finding: Tree removal and retention/protection are identified on the preliminary plan set (**Exhibit 4**). The proposed tree retention plan was 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 Required for Replacement Based on Size/Type
Less than 10-inches and non-viable trees	1	0	0

10-inches up to 24-inches	2	5	6
Greater than 24-inches up to 36-inches	3	2	6
Greater than 36-inches and any exceptional tree	6	4	24
Total Required Tree Replacement:			36 Required

16. 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 12** are consistent with each other. The proposed development will retain 10 trees, which is greater than the required tree retention rate.

Staff Finding: Based on the plan set in **Exhibit 4**, the Arborist report in **Exhibit 11**, and the Tree Inventory Worksheet in **Exhibit 12**, the proposed development is consistent with the requirements of MICC 19.10.060(A)(2)(a).

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 12**, the proposed development has a retention rate of 42 percent. A total of 36 trees are required to be replaced and located consistent with MICC 19.10.070(B). A replanting plan is required to be submitted during the site development permit review phase to confirm replacements can be placed on the proposed lots. Tree replanting will be required before final plat or final building inspections. At least half of the trees must be Pacific Northwest native. The trees must be placed 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 Applicant shall pay a fee in lieu payment consistent with the current City of Mercer Island Fee Schedule for any tree that cannot be planted at least 10-feet away from each other, existing trees and infrastructure such as fences.

Staff Finding: According to the Arborist Report (**Exhibit 11**) the subject property will only accommodate fifteen replacement trees, requiring a fee-in-lieu for the remaining trees required to be replanted.

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 critical areas were reviewed under a critical area review 2 (CAR2), reviewed separately from this application, under CAO23-021, approved on December 4, 2023 (**Exhibit 20**).

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 critical areas were reviewed under a critical area review 2 (CAR2), reviewed separately from this application, under CAO23-021, approved on December 4, 2023 (**Exhibit 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 critical areas were reviewed under a critical area review 2 (CAR2), reviewed separately from this application, under CAO23-021, approved on December 4, 2023 (**Exhibit 20**).

20. 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 13**) that conforms to MICC 19.07.160(B)(3)(c).

21. 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 critical areas were reviewed under a critical area review 2 (CAR2), reviewed separately from this application, under CAO23-021, approved on December 4, 2023 (**Exhibit 20**).

VII. CONSISTENCY WITH SUBDIVISION CODE STANDARDS

22. 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**).

23. 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 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.

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 subdivision is located 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. The proposed development is single-family residential, with a density commensurate with existing development within the vicinity of the subject property. 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. The proposed development would foster infill development on a site with adequate lot area outside of critical areas.

Staff Finding: 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.

The proposed development does not contain enough area for designated open space, but the required tree preservation and replanting will serve as an adequate substitution.

Staff Finding: The proposed development is accessed by a shared private access road that is consistent with the required width and slope criteria set out in MICC 19.09.040.

Staff Finding: Students living within the proposed development and adjacent properties have access to bus transportation for Island Park Elementary (0.8 miles from the bus stop), Islander Middle School (0.75 miles from the bus stop), and Mercer Island High School (2.3 miles from the bus stop). The bus stop is located adjacent to the subject property and is further identified in **Exhibit 21**.

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.

24. 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-9.6 zone and consistent with the Comprehensive Plan Land Use and Housing elements.

Compliance with other laws and regulations:

25. 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:

26. 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.

27. 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

28. 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: Construction of the proposed development will be required to comply with all applicable drainage design, building and engineering standards in place at the time of permit application, addressing potential erosion hazards. Compliance with fire code standards will occur during building permit review of future structures, and a condition of approval, reflecting this requirement has been added to this decision.

29. 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: 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 shall be completed prior to final plat recording. The proposed plan set (**Exhibit 4**) was reviewed by the City Senior Development Engineer and as conditioned, complies with the provisions of Chapter 15.09 MICC.

30. 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 does not include alternative tightline storm drains to Lake Washington; therefore, this standard does not apply.

Streets, Roads, and Rights-of-way:

31. 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: 86th Avenue SE is classified as a local street. No additional public right-of-way is proposed to be dedicated as part of the proposed development. This standard does not apply.

32. 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 additional public right-of-way is proposed to be dedicated as part of the proposed development. This standard does not apply.

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

Staff Finding: The private access design is consistent with MICC 19.08.030(D)(3).

Staff Finding: The proposed development was reviewed by the City’s Fire Marshal 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.

Staff Finding: The proposed development is accessed by a shared private access driveway that is consistent with the required width and slope criteria set out in MICC 19.09.040.

34. 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 proposed Lots 1 and 2 will connect to 86th Avenue SE, consistent with this standard (**Exhibit 4**). MICC 19.08.030(D)(4).

Residential Lots:

35. 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-9.6) as shown in MICC 19.02.020(A), as summarized in the table below and illustrated in **Exhibit 4**:

	Net Lot Area	Lot Width	Lot Depth
zone minimum requirement	9,600 sq ft	75.00-feet	80.00-feet
Lot 1	12,444 sq ft	115.03-feet	130.20-feet
Lot 2	13,670 sq ft	104.99-feet	130.22-feet

36. Pursuant to MICC 19.08.030(E)(2), each side line of a lot shall be approximately perpendicular or radial to the center line of the street on which the lot fronts.

Staff Finding: The side yard lot lines are perpendicular to the center line of the street in which the lot fronts. Lot 2 fronts a shared access easement (**Exhibit 4**). Pursuant to Chapter 19.16 MICC the definition of street is as follows: “improved or unimproved public or private right-of-way or easement which affords or could be capable of affording vehicular access to property.” The shared private access easement is a street based on the city’s definition. The proposed lot lines are consistent with MICC 19.08.030(E)(2).

37. 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 shown on the proposed development plan set (**Exhibit 4**). The proposed building pad locations minimize the disturbance of the existing, natural topography.

38. 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 proposed development is consistent with MICC 19.08.030(E)(4), the proposed development incorporated the preferred development practices pursuant to MICC 19.09.100 into the proposed development where feasible.

Impact Fees

39. 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 for at the issuance of each building permit, unless deferral of payment is sought pursuant to MICC 19.18.060 or MICC 19.19.060. One (1) credit shall be provided for the existing single-family residence. Impact fees are not subject to vesting and the amount paid will be the impact fee amount in effect at the time of payment.

40. 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 4**). 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.

Staff Finding: The Applicant provided a Preliminary Drainage Report, D. R. STRONG Consulting Engineers, Inc., dated December 9, 2022 (**Exhibit 22**). A final drainage report shall be submitted with the site development permit application.

41. 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, TCC23-011, was issued for the proposed development on August 16, 2023 (**Exhibit 23**).

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 SUB23-004 shall be in substantial conformance with the preliminary plat drawing attached as **Exhibit 4**.
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. 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.
6. 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.
7. 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.
8. A City of Mercer Island title block for approval signatures (Code Official and City Engineer) shall be provided on the final plat along with the designated short plat number.
9. All utilities serving the proposed development shall be undergrounded (MICC 19.08.040) and shall be designed and constructed in accordance with City of Mercer Island Ordinances.
10. 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.
11. Any work occurring on an adjacent lot, parcel number 7598100421, is not a part of the approval of SUB23-004 and may require additional permitting.
12. 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 86th Ave SE 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.
 - 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. The water meters must be located in the city Right of Way.
 - 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.
 - 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.
 - h. Right of Way Restoration: Right of way restoration limits and extents shall be determined by the City Engineer prior to final inspection of Site Development Permit.
- 13. A final stormwater drainage report shall be submitted with the site development permit application.
- 14. 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 Site Development permit. All construction must be completed before submitting the final plat.
- 15. All plat improvements shall be completed prior to final plat approval prior to issuance of building permits. 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.
- 16. All recommendations identified in the geological engineering report and subsequent review letters (**Exhibit 13 and in Exhibit 20**) 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 20** shall be incorporated into the final design drawings and construction specifications.
- 17. A replanting plan shall be provided with the site development permit application. At least half of the trees need to be Pacific Northwest native. The trees need to be at least 10-feet apart from each other, structures, fences, and utilities. If you can show no room exists on site for all the required trees, the remainder can be a fee in lieu if requested. The Applicant shall pay a fee in lieu payment consistent with the current City of Mercer Island Fee Schedule for any tree that cannot be planted at least 10-feet away from each other, existing trees, and infrastructure such as fences. The replanting/fee in lieu plan shall be required at the with the final plat application following the requirements in MICC 19.10.070. Tree replanting shall be required before final plat or final building inspections.
- 18. A financial guarantee shall be provided to the City to cover the replacement, labor, and monitoring costs of the 15 replacement trees to be planted on the subject property, for a period of five years. Pursuant to MICC 19.10.070(D), the Applicant shall maintain all replacement trees in a healthy condition for a period of five years after planting. The Applicant shall be obligated to replant any

replacement tree that dies, becomes diseased, or is removed during this five-year time period. The financial guarantee shall be 150 percent of the identified cost provided on a bond quantity worksheet, supplied by the Applicant with site development permit application. Once the bond quantity worksheet is approved by the City, the City will inform the Applicant the amount required for the financial guarantee. The financial guarantee shall be filed with the City prior to approval of the site development permit and held by the City for a period of five years from the date the replacement trees are planted. 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.

19. The tree protection plan will be submitted with the site development permit application and building permit application review. 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).
20. The tree protection fence shall be a 6-foot chain-link fence secured into the ground. This shall be called out on the tree protection plan during the site development permit application review and building permit application review.
21. 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 the site development permit application plans and building permit application plans.
22. 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.
23. 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.

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 and Chapter 19.15 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. 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 SUB23-004, as depicted in **Exhibit 4**, is hereby preliminarily **APPROVED, subject to the completion of the Conditions of Approval as provided in section IX and the Development Regulation Compliance – Disclosure in section X**. 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 2nd day of January 2024.

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.