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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

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## STAFF REPORT

### CRITICAL AREA REVIEW 2

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<b>Project No.:</b>	CA024-033
<b>Description:</b>	A request for a Critical Area Review 2 with SEPA Review for the demolition of an existing single-family residence and construction of a new single-family residence on a property containing geologically hazardous areas and a Category III wetland on the shoreline of Lake Washington.
<b>Applicant / Owner:</b>	Kati Eitzman (Sturman Architects, Inc.) / Jason Brothers, Inc.
<b>Site Address:</b>	4006 E Mercer Way, Mercer Island, WA 98040; Identified by King County Assessor tax parcel number 413190-0005.
<b>Zoning District:</b>	Single Family Residential (R-9.6)
<b>Staff Contact:</b>	Molly McGuire, Senior Planner
<b>Exhibits:</b>	<ol style="list-style-type: none"><li>1. Development Application, received by the City of Mercer Island on November 12, 2024</li><li>2. Critical Area Review 2 Application, received by the City of Mercer Island on February 20, 2025</li><li>3. Development Plan Set, dated May 20, 2025</li><li>4. Project Narrative, received November 12, 2024</li><li>5. Criteria Compliance Narrative, received February 20, 2025</li><li>6. Updated Geotechnical Report prepared by PanGEO, Inc., dated October 2024</li><li>7. Geotechnical Plan Review, Statement of Minimum Risks, and Seasonal Development Limitation Waiver prepared by PanGEO, Inc., dated September 20, 2024</li><li>8. Geotechnical Engineering Report Addendum prepared by PanGEO, Inc., dated April 24, 2025</li><li>9. Critical Areas Report prepared by Facet (formerly The Watershed Company), dated October 21, 2024 and received November 12, 2024</li><li>10. Wetland Delineation Verification Technical Memorandum prepared by Ryan Kahlo, PWS, Senior Ecologist, dated May 20, 2025</li><li>11. Shoreline Restoration Planting Plan, dated May 20, 2025</li><li>12. Disclosure and Notice on Title recorded with the King County Recorder's Office on July 9, 2025, under recording number 20250709000672</li><li>13. Hazard Report generated by the City of Mercer Island on April 9, 2025</li><li>14. Wetland Mapping generated by the City of Mercer Island on April 9, 2025</li></ol>

15. Letter of Complete Application issued by the City of Mercer Island on February 28, 2025
16. Notice of Application, dated March 10, 2025
17. City of Mercer Island Review Letters
  - 17.1. Review Letter 1, dated April 15, 2025
  - 17.2. Review Letter 2, dated June 17, 2025
18. Applicant Response to Review Letter 1, received May 20, 2025
19. SEPA Checklist, dated December 12, 2024
20. SEPA Public Comments
  - 20.1. Department of Archaeology and Historic Preservation, received February 3, 2025
  - 20.2. State of Washington Department of Ecology, received February 20, 2025
  - 20.3. Department of Archaeology and Historic Preservation, received June 4, 2025
21. SEPA Determination of Nonsignificance, issued by the City of Mercer Island on August 11, 2025
22. Notice of Decision, issued by the City of Mercer Island on August 11, 2025

## INTRODUCTION

### I. Project Description

The applicant has requested approval of a Critical Area Review 2 for the demolition of an existing single-family residence and construction of a new single-family residence on a property containing geologically hazardous areas and a Category III wetland on the shoreline of Lake Washington.

The proposal consists of the following components:

1. A request to demolish an existing single-family residence and construct a new single-family residence within geologically hazardous areas subject to the standards of Mercer Island City Code (MICC) 19.07.160.
2. A request to reduce the Category III wetland buffer within shoreline jurisdiction to the standard buffer subject to the standards of MICC 19.13.010(D)(6) and 19.07.190(C).

### II. Site Description and Context

1. The proposed activity is to occur at 4006 E Mercer Way, Mercer Island, WA 98040. The site is designated Single Family Residential (zoned R-9.6). Adjacent properties are within the R-9.6 zone and contain residential uses. The subject site contains potential landslide, erosion, and seismic geologically hazardous areas and a Category III wetland with three habitat points along the shoreline of Lake Washington (**Exhibits 13 and 14**).

## Findings of Fact & Conclusions of Law

### III. Application Procedure

1. The application for a Critical Area Review 2 was received by the City of Mercer Island on November 12, 2024. The application was determined to be incomplete on December 6, 2024, and resubmitted on February 20, 2025. The application was determined to be complete on February 28, 2025 (**Exhibit 15**).

2. Under MICC 19.15.030, Table A, applications for Critical Area Review 2 must undergo Type III review. Type III reviews require notice of application (discussed below). A notice of decision is issued once the project review is complete.
3. The City of Mercer Island provided public notice of application for this Critical Area Review 2 Permit, as set forth in MICC 19.15.090 (**Exhibit 16**). The comment period for the public notice period lasted for 30 days, from March 10, 2025 to April 10, 2025. The following methods were used for the public notice of application:
  - 1) A mailing sent to neighboring property owners within 300 feet of the subject parcel.
  - 2) A sign posted on the subject parcel.
  - 3) A posting in the City of Mercer Island’s weekly permit bulletin.
4. No public comments were received during or outside of the public comment period for the Critical Area Review 2. Two comments were received during the associated SEPA public comment period, which lasted for 30 days, from January 21, 2025 to February 20, 2025. These comments are summarized below and can be found in **Exhibit 20**. Since these comments do not include specific mitigation measures for any expected environmental impacts, conditions of approval have been included in this decision to address the concerns below.
  - a. The Department of Archaeological and Historic Preservation (“DAHP”) submitted a comment to the City on February 3, 2025, requesting a full archaeological survey of the footprint of the proposed ground disturbance. DAHP also recommended that the eligibility of the house be assessed for the Historic Property Inventory, since the house was constructed in 1908. On June 4, 2025, DAPH provided a letter to the applicant agreeing with the applicant’s recommendations made in their archaeological survey and the finding of “No Effect to Historic Properties”.
  - b. The State of Washington Department of Ecology (“ECY”) submitted a comment to the City on February 20, 2025 providing information that the King County database shows the house was built in 1908, during a time when furnaces were commonly fueled by heating oil from heating oil underground storage tanks (USTs). Based on the age of the house, there is potential that a former, inactive heating oil UST may be present on the property. If a UST is encountered during demolition activities, it must be decommissioned in accordance with local fire department regulations. In addition, if soil or groundwater contamination is encountered during UST decommissioning, the contamination must be reported, characterized, and cleaned up in accordance with Ecology regulations.

#### **IV. State Environmental Policy Act (SEPA)**

A Determination of Nonsignificance (DNS) has been issued for this project following the optional DNS process per Washington Administrative Code (WAC) 197-11-355 (**Exhibit 21**). The SEPA application is identified by City of Mercer Island project number SEP24-019.

#### **V. Consistency with the Critical Areas Code and Land Development Code**

1. MICC 19.07.070 lists requirements for disclosure and notice on title. The applicant shall disclose to the city the presence of critical areas on the development proposal site and any mapped or identifiable critical areas within the distance equal to the largest potential required buffer applicable to the development proposal on the development proposal site.

- a. The owner of any property containing critical areas and/or buffers on which a development proposal is submitted, except a public right-of-way or the site of a permanent public facility, shall file a notice approved by the city with the records and elections division of King County. The notice shall inform the public of the presence of critical areas, buffers and/or mitigation sites on the property, of the application of the city's critical areas code to the property and that limitations on actions in or affecting such critical areas and/or buffers may exist. The notice shall run with the land in perpetuity.
- b. The applicant shall submit proof to the city that the notice has been recorded prior to approval of a development proposal for the property or, in the case of subdivisions, short subdivisions, and binding site plans, at or before recording of the final subdivision, short subdivision, or binding site plan.

**Staff Analysis:** The applicant submitted a Critical Areas Disclosure and Notice on Title, recorded with King County, WA on July 9, 2025, (**Exhibit 12**); therefore, this requirement is met.

- 2. MICC 19.07.090 describes the purpose and procedures by which the city will review and authorize development and verify consistency with this chapter.
  - a. Critical Area Review 2. The purpose of a critical area review 2 is to review critical area studies and mitigation plans in support of proposed buffer averaging and reduction of wetland and watercourse buffers.
  - b. Review timing and sequence.
    - A. When development and/or activity within a wetland, watercourse, fish and wildlife habitat conservation area or buffer associated with these critical area types is proposed, a critical area review 2 is required to be reviewed and approved prior to construction authorization.
    - B. When development and/or activity is proposed on a site containing only geologically hazardous areas, an application has the option of either:
      - i. Applying for a critical area review 2 in advance of construction permits, using the procedures required for a Type III land use review; or
      - ii. Requesting consolidation of the review of geologically hazardous areas together with construction permit review.
    - C. When development and/or activity is proposed on a site containing geologically hazardous areas and on or more of the critical area types listed in subsection (B)(2)(a) of this section or the associated buffer of one of those critical areas, a critical area review 2 reviewing all critical areas is required to be reviewed and approved prior to construction authorization, using the procedures required for a Type III land use review.

**Staff Analysis:** The application for a Critical Area Review 2 for the reduction of the wetland buffer and alteration of geologically hazardous areas has been submitted in advance of construction permits for the proposed development; therefore, the review timing and sequence requirements have been met.

- 3. MICC 19.07.100 lists requirements for mitigation sequencing. An applicant for a development proposal or activity shall implement the following sequential measures, listed below in order of preference, to avoid, minimize, and mitigate impacts to environmentally critical areas and associated buffers. Applicants shall document how each measure has been addressed before considering and incorporating the next measure in the sequence:

- a. Avoiding the impact altogether by not taking a certain action or parts of an action. The applicant shall consider reasonable, affirmative steps and make best efforts to avoid critical area impacts. However, avoidance shall not be construed to mean mandatory withdrawal or denial of the development proposal or activity if the proposal or activity is an allowed, permitted, or conditional use in this title. In determining the extent to which the proposal should be redesigned to avoid the impact, the code official may consider the purpose, effectiveness, engineering feasibility, commercial availability of technology, best management practices, safety and cost of the proposal and identified changes to the proposal. Development proposals should seek to avoid, minimize and mitigate overall impacts based on the functions and values of all of the relevant critical areas and based on the recommendations of a critical area study. If impacts cannot be avoided through redesign, use of a setback deviation pursuant to section 19.06.110(C), or because of site conditions or project requirements, the applicant shall then proceed with the sequence of steps in subsections B through E of this section;
- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, using a setback deviation pursuant to section MICC 19.06.110(C), using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
- c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
- f. Monitoring the impact and taking appropriate corrective measures to maintain the integrity of compensating measures.

**Staff Analysis:** The Critical Areas Report (**Exhibit 9**) and Geotechnical Engineering Report Addendum (**Exhibit 8**) provides mitigation sequencing for the proposed development within or adjacent to the Category III wetland and geologically hazardous areas.

The proposed development, as designed, avoids adverse impacts to critical areas and their associated buffers. Minimization measures under MICC 19.07.190(D)(3) have been implemented, which allows for the standard 60-foot buffer for the Category III wetland to be applied. No new development is proposed within the Category III wetland or the 60-foot standard buffer.

The project has been designed to limit the ground disturbance to the maximum extent possible. The use of appropriate technology, such as pin piles to limit the over-excavation depth and backfilling, has been incorporated into the design to minimize impacts. Temporary shoring and support would be used to limit the excavation extent and reduce the impact on the critical areas at the subject site and adjacent properties.

4. MICC 19.07.110 lists requirements for a critical area study. A critical area study is required when a development proposal will result in an alteration to one or more critical area buffers or when required to determine the potential impact to a critical area. The critical area study may be waived or modified if the applicant demonstrates that the development proposal will not have an impact on the critical area or its buffer in a manner contrary to the purposes and requirements of this chapter.

**Staff Analysis:** The Critical Areas Report (**Exhibit 9**) and Updated Geotechnical Report (**Exhibit 6**) satisfy the requirements of the critical area study; therefore, this requirement is met.

5. MICC 19.07.160 lists standards for development on sites containing geologically hazardous areas.
  - A. Geologically hazardous areas are lands that are susceptible to erosion, landslides, seismic events, or other factors as identified by WAC 365-190-120. These areas may not be suited for development activities because they may pose a threat to public health and safety. Areas susceptible to one or more of the following types of hazards shall be designated as geologically hazardous areas: landslide hazard areas, seismic hazard areas, and erosion hazard areas.

**Staff Analysis:** The subject property contains potential landslide, erosion, and seismic hazard areas (**Exhibit 13**).

- B. 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 section 19.07.120, exemptions, or a critical area review 1 approval has been obtained pursuant to section 19.07.090(A).
  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 Analysis:** The Updated Geotechnical Report (**Exhibit 6**) and Geotechnical Engineering Report Addendum (**Exhibit 8**) meet the requirements for the critical area study. The Report concludes that the proposal can effectively mitigate risks of the potential landslide and seismic hazard areas through the recommended design and development measures. The Geotechnical Plan Review, Statement of Minimum Risks, and Seasonal Development Limitation Waiver addendum (**Exhibit 7**) finds that the plans incorporate all substantial geotechnical recommendations presented in the Report; therefore, this requirement is met.

2. 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 prior to final inspection.

**Staff Analysis:** The Updated Geotechnical Report (**Exhibit 6**) finds that the proposed alterations to the potential landslide and seismic hazard areas will not adversely impact

other critical areas, the subject property, or adjacent properties. The Geotechnical Plan Review, Statement of Minimum Risks, and Seasonal Development Limitation Waiver addendum (**Exhibit 7**) finds that the plans incorporate all substantial geotechnical recommendations presented in the Report. Landscaping of all disturbed areas outside of building footprints and installation of hardscape is provided (**Exhibit 3, Sheet A1.5**) and is conditioned to be completed prior to final inspection of the associated construction permits; therefore, these requirements have been met.

3. 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 the public health, safety and welfare.

**Staff Analysis:** The Geotechnical Plan Review, Statement of Minimum Risks, and Seasonal Development Limitation Waiver addendum (**Exhibit 7**) provides a statement of risk matching statement (b) above, provided the project is constructed per the approved plans; therefore, this requirement is met.

- C. Development is allowed within landslide hazard areas and associated buffers, when the following standards are met:
  1. A critical area study shall be required for any alteration of a landslide hazard area or associated buffer;
  2. Buffers shall be applied as follows. When more than one condition applies to a site, the largest buffer shall be applied:
    - a. Buffer widths shall be equal to the height of a steep slope, but not more than 75 feet, and applied to the top and toe of slopes;
    - b. Shallow landslide hazard areas shall have minimum 25-foot buffers applied in all directions; and
    - c. Deep-seated landslide hazard areas shall have 75-foot buffers applied in all directions.

**Staff Analysis:** The Updated Geotechnical Report (**Exhibit 6**) finds that the proposed development, as currently planned, is feasible from a geotechnical engineering standpoint and will not adversely affect the overall stability of the site or adjacent properties, provided the recommendations outlined in the Report are followed and the proposed development is property designed and constructed. The Geotechnical Plan Review, Statement of Minimum Risks, and Seasonal Development Limitation Waiver addendum (**Exhibit 7**) finds that the plans incorporate all substantial geotechnical recommendations presented in the Report.

The Geotechnical Engineering Report Addendum (**Exhibit 8**) finds that, based on the results of PanGEO's geotechnical study and the proposed design, it is their opinion that the landslide hazard is considered negligible and buffers associated with landslide hazard is not needed.

D. When development is proposed within a seismic hazard area:

1. 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.
2. 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 best available science.
3. When development is proposed on a site with an active fault, the following provisions shall apply:
  - a. A 50-foot minimum buffer shall be applied from 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
  - b. 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 Analysis:** The Updated Geotechnical Report (**Exhibit 6**) finds that, based on the dense soil conditions and lack of shallow groundwater table in other boring locations, the potential for soil liquefaction during an IBC-code level earthquake at the site is considered low, and special design considerations associated with soil liquefaction is not needed for the project.

E. When development is proposed within an erosion hazard area:

1. All development proposals shall demonstrate compliance with chapter 15.09, storm water management program.
2. No development or activity within an erosion hazard area may create a net increase in geological instability on or off site.

**Staff Analysis:** As conditioned, the proposed development shall be in compliance with Chapter 15.09 MICC. The Updated Geotechnical Report (**Exhibit 6**) finds that the erosion hazards at the site can be effectively mitigated with the best management practice during construction and with properly designed and implemented landscaping for permanent erosion control. The landscape plan provides landscaping for all disturbed areas outside of building footprints and installation of hardscape (**Exhibit 3, Sheet A1.5**), which is required to be completed prior to final building permit inspection, as conditioned.

6. MICC 19.07.190 contains standards for development on sites containing wetlands and wetland buffers.

- A. Wetlands shall be identified and their boundaries delineated in accordance with the approved federal delineation manual and applicable regional supplements described in WAC

173-22-035. Wetlands shall be rated according to the Washington State Rating System for Western Washington: 2014 Update (Hruby, 2014), or most current update.

**Staff Analysis:** The Critical Areas Report (**Exhibit 9**) includes wetland ratings according to the Washington State Rating System for Western Washington: 2014 Update. The wetland is classified as a Category III wetland with three habitat points.

B. General review requirements.

1. In addition to the critical area study requirements listed in section 19.07.110, critical area study, critical area studies on wetlands shall also include:
  - a. Wetland rating forms and datasheets;
  - b. Discussion of landscape setting;
  - c. A functional analysis of the project demonstrating that there will be no loss of ecological function; and
  - d. A mitigation plan.
2. Wetland delineations are valid for five years.
3. Wetlands must be delineated and rated by a qualified professional.

**Staff Analysis:** The Critical Area Report (**Exhibit 9**) includes the study requirements listed in MICC 19.07.110, as accepted by the code official, and includes the wetland rating forms and datasheets in Appendices C & D, a discussion of landscape setting on page 2, a functional analysis of the project demonstrating there will be no net loss of ecological function on page 9, and a mitigation plan on page 11. The wetland delineation was performed on January 1, 2020. The qualified professional revised the report on October 21, 2024, and provided a memorandum confirming that the wetland delineation is still accurate (**Exhibit 10**). The wetland delineation and rating was prepared by Ryan Kahlo, PWS, Senior Ecologist, a qualified professional.

C. Development standards – Buffers.

1. The following minimum buffers shall be established from the wetland boundary:

Category III wetland with 3-5 habitat points requires a 60-foot standard buffer.

**Staff Analysis:** The proposed development would be located outside of the 60-foot standard buffer required for the Category III wetland with three habitat points. The wetland buffer is shown in **Exhibit 3, Sheet A1.0**.

2. The following uses are prohibited within any wetland or associated buffer: removal, excavation, grading, or dredging of material; draining flooding or disturbing the wetland, water level or water table; construction, reconstruction, demolition, or expansion of any structure.

**Staff Analysis:** The proposed development includes the removal of an existing wood ramp and hardscape pathway within the wetland buffer. MICC 19.07.130(A)(4) allows for the removal of structures in wetland buffers, provided site disturbance is limited to the existing access and building footprint, there is no site disturbance within or to the wetland, all soils are stabilized and the area is revegetated with appropriate native vegetation, and necessary building permits are obtained. The removal would be limited to the footprints of the two existing structures and access to the structures. The

mitigation plan prepared by The Watershed Company (now Facet) includes the revegetation of the area (**Exhibit 3, Sheet W1 through W3**) and the landscaping plan prepared by Sturman Architects (**Exhibit 3, Sheet A1.5**) shows the revegetation of all disturbed areas outside of building footprints and installation of hardscape to stabilize the soils according to the recommendations in the Updated Geotechnical Report (**Exhibit 6**). The associated building permit (2411-062) serves as the necessary building permit for removal of the structures.

3. Neither lot coverage nor hardscape shall be permitted within a wetland or wetland buffer except as specifically provided in this chapter.

**Staff Analysis:** The subject property contains legally existing hardscape within the wetland buffer which is allowed to remain pursuant to MICC 19.01.050(A)(4). No new hardscape or lot coverage is included in the proposed development.

4. Buildings and other structures shall be set back a minimum of ten feet from the edges of a wetland buffer.

**Staff Analysis:** The proposed development includes structures within the ten-foot setback from the edge of the wetland buffer, as allowed by MICC 19.07.190(C)(8), discussed below.

5. The following may be allowed in a critical area setback, provided no structures nor building overhangs may be closer than five feet from the edge of a wetland buffer:

- a. Landscaping;
- b. Uncovered decks less than 30 inches above existing or finished grade, whichever is lower;
- c. Building overhangs if such overhangs do not extend more than 18 inches into the setback area;
- d. Hardscape and driveways; provided, that such improvements may be subject to requirements in chapter 15.09, storm water management program;
- e. Split-rail fences;
- f. Trails, consistent with the requirements of this chapter; and
- g. Subgrade components of foundations; provided, that any temporary impacts to building setbacks shall be restored to their previous condition or better.

**Staff Analysis:** The proposed development includes concrete steps and planters which do not exceed 30 inches above the lower of existing or finished grade (**Exhibit 3, Sheets A1.1**) within ten feet from the edge of the wetland buffer. No building overhangs are proposed to be located within the ten-foot setback from the edge of the wetland buffer. As conditioned, the proposed development must comply with the requirements in chapter 15.09, which would be reviewed under the associated building permit (2411-062).

D. Additional criteria for specific activities.

1. Development proposals shall incorporate the following measures unless the applicant can demonstrate that they would result in no net environmental benefit or that they are not applicable:

Disturbance	Required Measures to Minimize Impacts	Measures Proposed
Lights	Direct lights away from wetland	Lights will be directed away from the wetland. Outdoor lighting will be directed towards the house or down.
Noise	<p>Locate activity that generates noise away from wetland</p> <p>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</p> <p>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-foot heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</p>	<p>The primary noise-generating components would be the driveway and garage. These components would be located more than 100 feet from the wetland. The garage would be constructed on the west side of the proposed residence, more than 150 feet from the wetland. Portions of the wetland and associated buffer would be enhanced with native trees, shrubs, and groundcovers, providing additional noise buffering.</p> <p>The single-family residential development would not constitute continuous, disruptive noise.</p>
Toxic runoff	<p>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</p> <p>Establish covenants requiring the use of integrated pest management techniques to limit the use of pesticides within 150 feet of wetland</p>	<p>Stormwater runoff would be directed away from the wetland and buffer. All roof and driveway runoff would be directed to the existing, repaired tightline system that discharges to Lake Washington. Driveway runoff would be directed through an oil/water separator prior to discharge. Wetland hydrology is provided by hyporheic flow from Lake Washington. The proposed development would not affect wetland hydrology. New runoff would be from non-pollutant generating surfaces (decks and garage roof). The garage would be located more than 150 feet from the wetland.</p> <p>The shoreline mitigation plan does not allow the use of pesticides.</p>
Storm water runoff	<p>Retrofit storm water detention and treatment for roads and existing adjacent development</p> <p>Prevent channelized flow from lawns that directly enters the buffer</p> <p>Use low impact development techniques</p>	<p>The project would include replacement of part of the existing stormwater system, which no longer functions correctly. Roof runoff would go to the standard tightline system and discharge into Lake Washington. Driveway runoff would go into a</p>

		trench drain that would have standard oil-water separator and then to tightline to Lake Washington.
Changes in water regime	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns	Runoff would be routed to the existing stormwater system, which tightlines runoff to Lake Washington. Impervious surfaces within the wetland buffer would be removed.
Pets and human disturbance	Protect wetlands and associated buffers with conservation or native growth protection easements	A conservation easement would not be warranted for the single-family residential development. The wetland and buffer would be protected by the Mercer Island Critical Areas Ordinance and Shoreline Master Program in perpetuity.
Dust	Use best management practices to control dust	N/A. The completed project would not generate elevated levels of dust.
Disruption of corridors or connections	Maintain connections to off-site areas that are undisturbed Restore corridors or connections to off-site habitats by replanting	The wetland would have a vegetated corridor connecting to Lake Washington. The wetland/shoreline area and a portion of the buffer would be enhanced with native vegetation.

- MICC 19.13.010(D)(6) contains buffers which shall be established from the wetland boundary within shoreline jurisdiction. In order to use the wetland buffer table in MICC 19.07.190(C), all of the applicable minimizing measures listed in MICC 19.07.190(D)(3) must be implemented. For wetlands with a habitat score of six or more, if a protected corridor of relatively undisturbed vegetation existing between the wetland and a nearby priority habitat, the portion on the subject property must be protected. Otherwise the following buffers shall be established from the wetland boundary within shoreline jurisdiction:

Category III wetland with 3-5 habitat points requires a 100-foot buffer.

**Staff Analysis:** The Critical Area Report (**Exhibit 9**) contains demonstration of implementation of all applicable minimization measures listed in MICC 19.07.190(D)(3); therefore, the 60-foot standard buffer for the Category III wetland may be utilized instead of the 100-foot buffer.

#### CONDITIONS OF APPROVAL

- The project proposal shall be in substantial conformance with **Exhibit 3** and all applicable development standards contained within Mercer Island City Code (MICC) Chapter 19.07.
- The applicant is responsible for documenting any required changes in the project proposal due to conditions imposed by any applicable local, state and federal government agencies.

3. Construction or substantial progress toward construction of a development for which a permit has been granted must be undertaken within three years after the approval of the permit or the permit shall terminate. The code official shall determine if substantial progress has been made.
4. The proposed development must comply with Chapter 15.09 MICC, storm water management.
5. Landscaping of all disturbed areas outside of building footprints and installation of hardscape is required prior to final inspection of the associated building permit.
6. An as-built plan shall be prepared within 30 days of substantially complete construction of the mitigation areas. The as-built plan shall document conformance with the approved Shoreline Restoration Planting Plan (**Exhibit 11**) and shall disclose any substitutions or other non-critical departures. The as-built plan shall establish baseline plant installation quantities and photo points that will be used throughout the monitoring period to visually document site changes over time.
7. Maintenance and monitoring shall be required for at least five years from the date of project completion. Annual reports shall be submitted to the City, recording the following:
  - a. Counts of surviving and dead/dying plants by species in the planting areas.
  - b. Estimates of native species cover using cover class method.
  - c. Estimates of invasive species cover using cover class method.
  - d. Photographic documentation at permanent photo points.
  - e. Recommendations for maintenance in the mitigation areas.
  - f. Recommendations for replacement of all dead or dying plant material with same or like species and number as on the approved plan.
8. Lights shall be directed away from the wetland.
9. Pesticides shall not be used within 150 feet of the wetland, consistent with the Shoreline Restoration Planting Plan (**Exhibit 11**).
10. If information becomes available and/or the scope of work changes, resume consultation with DAHP and all consulting parties. In the event that archaeological or historic materials are discovered during project activities, work in the immediate vicinity must stop, the area secured, and contact made with the concerned tribes and DAHP for further consultation.
11. If an underground storage tank (UST) is encountered during demolition activities, it must be decommissioned in accordance with local fire department regulations. In addition, if soil or underground contamination is encountered during UST decommissioning, the contamination must be reported, characterized, and cleaned up in accordance with Ecology regulations (WAC 173-340).

#### **DEVELOPMENT REGULATION COMPLIANCE – DISCLOSURE**

1. The applicant is responsible for obtaining any required permits or approvals from the appropriate Local, State, and Federal Agencies.
2. All required permits must be obtained prior to the commencement of construction.

#### **DECISION**

Based upon the above noted Findings of Fact and Conclusions of Law, Critical Area Review 2 application **CAO24-033**, as depicted in **Exhibit 3**, is hereby **APPROVED**. This decision is final, unless appealed in writing consistent with adopted appeal procedures, MICC 19.15.130(A), and all other applicable appeal regulations.

Approved this 11th day of August, 2025

*Molly McGuire*

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***Molly McGuire***  
***Senior Planner***  
**Community Planning & Development**  
**City of Mercer Island**