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## STAFF REPORT AND DECISION

### CRITICAL AREA REVIEW 2 & ACCESSORY DWELLING UNIT

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**Project Number:** CAO25-022 & ADU25-014

**Project Name:** Do Residence

**Review Type:** Type III

**Description:** A request for a Critical Area Review 2 and Accessory Dwelling Unit Permit for a 365 square foot expansion of an existing 229 square foot detached accessory dwelling unit on a site containing geologically hazardous areas within shoreline jurisdiction of Lake Washington, a shoreline of statewide significance.

**Applicant/Owner:** Kim Nguyen

**Address:** 4649 Forest Ave SE, Mercer Island, WA 98040  
King County Assessor tax parcel number: 404500-0080

**Zoning Designation:** Single-Family Residential (R-15)

**Staff Contact(s):** Molly McGuire, Senior Planner

**Key Project Dates:**

Date of Application:	October 9, 2025
Determined to be Complete:	October 30, 2025
Notice of Application Bulletin Published:	November 3, 2025
Notice of Application Mailed:	November 3, 2025
Notice of Application Posted on Site:	November 3, 2025
Comment Period Ended:	December 3, 2025

**Exhibits:**

1. Staff Report, dated March 19, 2026
2. Development Application, received by the City of Mercer Island on October 9, 2025
3. Critical Area Review 2 Application, received by the City of Mercer Island on October 9, 2025
4. Affidavit of Ownership and Proof of Title, dated October 7, 2025
5. Development Plan Set, dated February 27, 2026
6. Project Narrative
7. Geotechnical Services Report prepared by Geological & Geotechnical Consulting, dated January 30, 2024
8. Geotechnical Services Report Addendum – Mitigation Sequencing prepared by Geological & Geotechnical Consulting, dated February 14, 2025
9. Geotechnical Services Report Addendum – Seismic Evaluation prepared by Geological & Geotechnical Consulting, dated September 12, 2025 and revised December 12, 2025
10. Geotechnical Plan Review prepared by Geological & Geotechnical Consulting, dated February 11, 2026

11. Geotechnical Statement of Risk prepared by Geological & Geotechnical Consulting, dated March 1, 2026
12. Disclosure and Notice on Title, recorded with the King County Recorder's Office under Instrument Number 20250321000281 on March 21, 2025
13. Vegetation Management Plan for Select Trees, prepared by Superior NW Enterprises, dated March 24, 2024
14. Landscaping Plan, prepared by Rubenkönig Planning and Landscape Architects, PLLC, dated May 15, 2025
15. Concurrent Review Request Form
16. Hazard Report, generated by the City of Mercer Island on November 26, 2025
17. Shoreline Exemption SHL25-032, issued by the City of Mercer Island on January 21, 2026
18. Determination of Complete Application, issued by the City of Mercer Island on October 30, 2025
19. Notice of Application, issued by the City of Mercer Island on November 3, 2025
20. City of Mercer Island Weekly Permit Bulletin Posting, dated November 3, 2025
21. City of Mercer Island Review Letters
  - 21.1. Review Letter 1, dated December 3, 2025
  - 21.2. Review Letter 2, dated January 16, 2026
  - 21.3. Review Letter 3, dated February 27, 2026
22. Applicant Response to Review Letter 1, dated January 5, 2026
23. Notice of Decision, issued by the City of Mercer Island on March 23, 2026

**I. APPLICATION OVERVIEW**

1. Project Overview: An application for a Critical Area Review 2 for and Accessory Dwelling Unit Permit for a 365 square foot expansion of an existing 229 square foot detached accessory dwelling unit on a site containing geologically hazardous areas within shoreline jurisdiction of Lake Washington, a shoreline of statewide significance (**Exhibit 2**).
2. Location: The subject property is located at 4649 Forest Ave SE, situated in the southeast quarter of Section 13, Township 24, and Range 4, in the City of Mercer Island, King County, WA 98040.
3. Access: Access to the subject property is from Forest Ave SE through a shared driveway.
4. Existing Conditions: The subject property is currently developed with a single-family residence on the upland portion of the lot and a 229 square foot detached accessory building on the waterfront portion of the lot.
5. Contact Information:

Project Contact:	Applicant:	Engineer/Architect:
Kim Nguyen 4649 Forest Ave SE, Mercer Island, WA 98040 (206) 310-3252	Same as Project Contact	EJ Becker, Studio Shed 1500 Cherry St, Suite A, Louisville, CO 80027 (888) 900-3933

6. Terms Used:

Term:	Refers to, unless otherwise specified:
Applicant	Kim Nguyen

Proposed development	Construction of an 854 square foot detached accessory dwelling unit on a site containing geologically hazardous areas.
Subject property, site	The subject property or site where the proposed development is located as defined in this staff report
City	City of Mercer Island
MICC	Mercer Island City Code
Code Official	City of Mercer Island Community Planning and Development Director or a duly authorized designee

## II. PROCEDURE AND NOTICE REQUIREMENTS

7. Review Type: Under MICC 19.15.030, Table B, application for an Accessory Dwelling Unit must undergo Type II review. Under MICC 19.15.030, Table C, applications for a Critical Area Review 2 must undergo Type III review. MICC 19.15.030(F) allows for consolidated permit processing for an application for a development proposal that involves the approval of two or more Type II, III, and IV reviews. These applications may be processed and decided together, including any administrative appeals, using the highest numbered land use decision type applicable to the project application; therefore, both applications underwent Type III review.
8. Application: The application for a Critical Area Review 2 and Accessory Dwelling Unit was received by the City of Mercer Island on October 9, 2025 (**Exhibit 2**). The application was determined to be complete on October 30, 2025 (**Exhibit 18**).
9. Notice of Application: The City of Mercer Island provided public notice of application for this Critical Area Review 2 and Accessory Dwelling Unit, as set forth in MICC 19.15.090 (**Exhibit 19**). The following methods were used for the public notice of application:
  - A. A mailing sent to the neighboring property owners within 300 feet of the subject property.
  - B. A sign posted on the subject property, visible from the public right-of-way.
  - C. A posting in the City of Mercer Island’s Weekly Permit Bulletin (**Exhibit 20**).
10. Preliminary Plan Set: The applicant provided a preliminary plan set, dated February 27, 2026 (**Exhibit 5**).
11. Opportunities for Public Comment: The comment period of the public notice of application lasted for 30 days, from November 3, 2025 to December 3, 2025. During this period, no public comments were received.
12. State Environmental Policy Act (SEPA) Review: The proposal is categorically exempt from SEPA Review pursuant to WAC 197-11-800(1)(b)(i).

## III. ZONING AND COMPREHENSIVE PLAN DESIGNATIONS

13. Site Zoning and Land Use: The subject property is designated Single-Family Residential (R-15) and within the Urban Residential Shoreline Environment Designation. Accessory Dwelling Units are an allowed use within the R-15 zoning designation and Urban Residential Shoreline Environment Designation.
14. Adjacent Zoning and Comprehensive Plan Designations: Adjacent properties are within the Single-Family Residential (R-15) zoning designations and contain residential uses.

## FINDINGS OF FACT

## IV. CONSISTENCY WITH CHAPTER 19.02, RESIDENTIAL

15. MICC 19.02.030 lists development standards for accessory dwelling units.

A. Accessory dwelling units are permitted as subordinate to a single-family or middle housing dwelling; provided, the following requirements are met:

- 1) The minimum lot size for the principal unit under MICC 19.02.020(A) is satisfied.

**Staff Analysis:** The property is located within the R-15 zoning designation, which requires a net lot area of at least 15,000 square feet. The subject property is 15,753 square feet, according to the survey performed by Terrane on February 8, 2023, included as part of the development plan set in **Exhibit 5**; therefore, this requirement is met.

- 2) Up to two attached or detached accessory dwelling units are permitted per lot pursuant to MICC 19.02.030(B) subsection 6.

**Staff Analysis:** The proposed detached accessory dwelling unit would be the only one on the subject property; therefore, this requirement is met.

- 3) The square footage of the accessory dwelling unit shall be a minimum of 220 square feet and a maximum of 1,000 square feet, excluding any garage area.

**Staff Analysis:** The proposed accessory dwelling unit would be 854 square feet; therefore, this requirement is met.

- 4) Except as noted in this section, development standards applicable to ADUs are the same as those required for principal units as defined in MICC 19.02.020.

**Staff Analysis:** The proposed accessory dwelling unit has been reviewed for compliance with the development standards in MICC 19.02.020, including setbacks, gross floor area, lot coverage, and hardscape. The proposed accessory dwelling unit complies with all applicable standards in MICC 19.02.020; therefore, this requirement is met.

- 5) Detached accessory dwelling units may be sited at a lot line if the lot line abuts a public alley.

**Staff Analysis:** The proposed detached accessory dwelling unit is not site at a lot line; therefore, this requirement does not apply.

- 6) An accessory dwelling unit may be added to or included within the principal unit, or located in a detached structure.

**Staff Analysis:** The proposed accessory dwelling unit would be located in a detached structure; therefore, this requirement is met.

- 7) Additions to an existing structure or newly constructed detached structures created for the purpose of developing an accessory dwelling unit shall be designed consistent with the existing roof pitch, siding, and windows of the principal dwelling unit.

**Staff Analysis:** The proposed accessory dwelling unit appears to be designed consistently with the existing roof pitch, siding, and windows of the principal dwelling unit; therefore, this requirement is met.

- 8) All single-family dwellings with an accessory dwelling unit shall meet the parking requirements pursuant to MICC 19.02.020(G) applicable to the dwelling if did not have such an accessory dwelling unit, except as provided below:

- a. Accessory dwelling units within one-half mile walking distance of a major transit stop are not required to provide additional parking.
- b. One off-street parking space is required per unit with development of accessory

dwelling units on lots of 6,000 square feet or smaller before any zero lot line subdivisions or lot splits.

- c. Two off-street parking spaces are required per unit with development of accessory dwelling units on lots greater than 6,000 square feet before any zero lot line subdivisions or lot splits.

**Staff Analysis:** MICC 19.02.020(G) requires three parking spaces for a single-family dwelling with a gross floor area of 3,000 square feet or more. The above standards require two off-street parking spaces per unit with development of accessory dwelling units on lots greater than 6,000 square feet. The proposed development requires a total of five off-street parking spaces. Five off-street parking spaces are shown on the development plan set (**Exhibit 5, Sheet A-000**); therefore, this requirement is met.

16. MICC 19.02.040 lists development standards for garages, other accessory buildings and accessory structures.

- A. Accessory buildings, including garages, are not allowed in required yards except as herein provided.

**Staff Analysis:** The proposed accessory building is not located within a required yard.

- B. Detached accessory buildings and accessory structures.

1) Gross floor area.

- a. The combined total gross floor area for one or more accessory building(s) shall not exceed 25 percent of the total gross floor area allowed on a lot within applicable zoning designations pursuant to MICC 19.02.020. For example, on a lot where the total allowed gross floor area is 4,000 square feet, the combined total gross floor area for all accessory buildings is 1,000 square feet.
- b. The gross floor area for a detached accessory building that is entirely or partially used for an accessory dwelling unit may be increased by the additional floor area authorized pursuant to MICC 19.02.020(D)(3)(b).

**Staff Analysis:** The total allowed gross floor area on the lot per MICC 19.02.020(D)(1)(d) is the lesser of 12,000 square feet or 40 percent of the lot area. 40 percent of the 15,927 square foot lot is approximately 6,370 square feet. The combined total gross floor area for one or more accessory buildings allowed on the lot is 1,592.5 square feet. There appears to be a small shed, with a gross floor area of approximately 100 square feet to the west of the existing single-family residence, based on aerial imagery from May of 2023. The proposed detached accessory dwelling unit would have a gross floor area of 864 square feet and would result in a total gross floor area for all accessory buildings of less than 1,592.5 square feet; therefore, this requirement is met.

2) Height.

- a. Detached accessory buildings, except for buildings that contain an accessory dwelling unit, are limited to a single story and shall not exceed 17 feet in height above the average building elevation computed from existing grade or finished grade, whichever is lower, to the highest point of the roof. Average building elevation is calculated using the methodology established in MICC 19.02.020(E)(4).
- b. Detached accessory buildings that are entirely or partially used for an accessory dwelling unit shall meet the height limits established for the primary building.

**Staff Analysis:** The height limits established for the primary building are listed in MICC 19.02.020(E)(1) and (2). The proposed detached accessory dwelling unit would be approximately 13 feet above grade as shown in **Exhibit 5, Sheet A-200**; therefore, this requirement is met.

## V. CONSISTENCY WITH CHAPTER 19.07, ENVIRONMENT

17. 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 disclosure and notice on title, recorded with the King County Recorder's Office on March 21, 2025 (**Exhibit 12**) which discloses the presence of geologically hazardous areas on the property and identifies limitations associated with development in reference to Mercer Island standards. The notice shall run with the land in perpetuity, unless removed or amended pursuant to MICC 19.07.070(D).

18. 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.
  - 1) 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.
  - 2) When development and/or activity is proposed on a site containing only geologically hazardous areas, an applicant has the option of either:
    - a. Applying for a critical area review 2 in advance of construction permits, using the procedures required for a Type 3 land use review; or
    - b. Requesting consolidation of the review of geologically hazardous areas together with construction permit review.
  - 3) When development and/or activity is proposed on a site containing geologically hazardous areas and one or more of the critical area types listed in subsection (B)(2)(a) of this section or the associated buffer of one of those critical areas, a critical area review 2 reviewing all critical areas is required to be reviewed and approved prior to construction authorization, using the procedures required for a Type 3 land use review.

**Staff Analysis:** The applicant has applied for this Critical Area Review 2 in advance of construction permits; therefore, the review timing and sequencing of the application is consistent with the procedures above.

19. 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 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.
- F. Monitoring the impact and taking appropriate corrective measures to maintain the integrity of compensating measures.

**Staff Analysis:** The Geotechnical Services Report Addendum – Mitigation Sequencing prepared by Geological & Geotechnical Consulting (**Exhibit 8**) provides an analysis of mitigation sequencing consistent with MICC 19.07.100. The impact to the critical areas cannot be avoided through redesign, use of a setback deviation, and because of existing site conditions. The proposed detached accessory dwelling unit is located in the same area as an existing shed to be demolished. The qualified professional has determined that applicable measures to mitigate any impacts have been fully incorporated into the design. A post-design memorandum prepared by Geological & Geotechnical Consulting has been provided, confirming that the proposed development has incorporated all recommendations into the design (**Exhibit 10**).

20. 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 proposed development would result in an alteration to potential slide, erosion, and seismic geologically hazardous areas (**Exhibit 16**). The Geotechnical Services Report prepared by Geological & Geotechnical Consulting in **Exhibit 7** satisfies the requirements for a critical area study; therefore, this requirement is met.

21. 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 slide, erosion, and seismic geologically hazardous areas (**Exhibit 16**).

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 applicant submitted a Geotechnical Services Report prepared by Geological & Geotechnical Consultants that concludes that the proposed can effectively mitigate risks of the hazard (**Exhibit 7**). A post-design memorandum has been provided, confirming that the design conforms to the recommendations contained in the study (**Exhibit 10**); therefore, this standard 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 Geotechnical Services Report and associated addendums contained in **Exhibits 7, 8, 9, 10, and 11** find that the proposed alterations will not adversely impact other critical areas, the subject property, or adjacent properties, and the impacts will be mitigated consistent with best available science to the maximum extent reasonably possible. The applicant provided a landscaping plan that shows the landscaping of all disturbed areas

outside of building footprints and installation of hardscape (**Exhibit 14**), which is required to be completed prior to final inspection of the future building permit, as conditioned; therefore, this standard is 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 Statement of Risk prepared by Geological & Geotechnical Consultants provides a statement of risk matching (b) above (**Exhibit 11**); therefore, this standard 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;

**Staff Analysis:** The applicant provided a Geotechnical Services Report and associated addendums in **Exhibits 7, 8, 9, 10, and 11**; therefore, this standard is met.

- 2) Buffers shall be applied as follows. When more than one condition applies to a site, the largest buffer shall be applied:

- a. *Steep slopes.* 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 Geotechnical Services Report finds that there is no potential for a landslide to occur on the building site (**Exhibit 7**) and buffers have not been applied. Additionally, the entire site is located within a mapped landslide hazard area. The proposed development has been designed to mitigate any risks associated with the geologically hazardous areas according to the recommendations in the Report (**Exhibit 10**); therefore, this standard is met.

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.

**Staff Analysis:** The Geotechnical Services Report and Addendum (**Exhibits 7 and 9**) includes an evaluation by a qualified professional for seismic engineering and design, a determination of the magnitude of seismic settling that could occur, and a demonstration that the risk associated with the proposed alteration has been designed with appropriate construction methods to mitigate the risk of seismic settlement; therefore, this standard is met.

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.

**Staff Analysis:** As conditioned, the future building permit will be reviewed for compliance with chapter 15.09, stormwater management program; therefore, this standard is met.

- 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, no development or activity within an erosion hazard area may create a net increase in geological instability on or off site; therefore, this standard is met.

F. Additional criteria for specific activities:

- 1) Land clearing, grading, filling, and foundation work within: (a) an erosion hazard area, when 2,000 square feet or more of site disturbance is proposed, and/or (b) a landslide hazard area are not permitted between October 1 and April 1.

a. The code official may grant a waiver to this seasonal development limitation if the applicant provides a critical area study for the site concluding that:

- i. Geotechnical slope stability concerns, erosion and sedimentation impacts can be effectively controlled on site consistent with adopted storm water standards; and
- ii. The proposed construction work will not subject people or property, including areas off site, to an increased risk of associated impacts.

b. As a condition of the waiver, the code official may require erosion control measures, restoration plans, an indemnification, a release agreement and/or performance bond.

c. If site activities result in erosion impacts or threaten water quality standards, the city may suspend further work on the site and/or require remedial action.

d. Failure to comply with the conditions of an approved waiver shall subject the applicant to code compliance pursuant to chapter 6.10, code compliance, including but not limited to civil penalties and permit suspension.

**Staff Analysis:** The proposed development is located within a mapped landslide hazard area, so land clearing, grading, filling, and foundation work is not permitted between October 1 and April 1, unless a waiver is granted by the code official. As conditioned, this standard is met.

## VI. CONSISTENCY WITH CHAPTER 19.13, SHORELINE MASTER PROGRAM

22. MICC 19.13.040 contains tables specifying the shoreline uses and development which may take place or be conducted within the designated environments.

- A. Table A – Shoreland Uses Landward of the Ordinary High Water Mark; Accessory Dwelling Units are “Permitted via shoreline categorically exempt” (CE) within the Urbank Residential Environment.

**Staff Analysis:** A Shoreline Exemption was issued on January 21, 2026 under Project No. SHL25-032 (**Exhibit 17**).

23. MICC 19.13.050 lists development standards for all development within shoreline jurisdiction.

- A. Table C – Requirements for Development Located Landward from the OHWM

- 1) Setbacks for all structures (including fences over 48 inches high) and parking: 25 feet from the OHWM and all required setbacks of the development code, except (1) light rail transit facilities and (2) shore access structures less than 30 inches above the existing or finished grade, whichever is lower. If a wetland is adjacent to the shoreline, measure the shoreline setback from the wetland's boundary.

**Staff Analysis:** The proposed detached accessory dwelling unit would be located greater than 25 feet landward from the OHWM and within all required setbacks of the development code (**Exhibit 5, Sheet A-000**); therefore, this requirement is met.

- 2) Height limits for all structures: Shall be the same as height limits specified in the development code but shall not exceed a height of 35 feet above average building elevation, except light rail transit facilities.

**Staff Analysis:** The proposed detached accessory dwelling unit complies with the height limits specified in the development code; therefore, this requirement is met.

- 3) Maximum Hardscape and Lot Coverage: 10% between 0 and 25 feet from OHWM; 30% between 25 and 50 feet from OHWM.

**Staff Analysis:** The landscaping plan in **Exhibit 5, Sheet L2** demonstrates compliance with the maximum hardscape and lot coverage within the 0-25 feet and 25-50 feet shoreline areas; therefore, this requirement is met.

- B. General requirements. The following requirements apply to the following types of activities that may be waterward and/or landward of the OHWM:

- 1) New development totaling 500 square feet or more of any combination of additional gross floor area, lot coverage or hardscape, including the primary structures and appurtenances, shall be required to provide native vegetation coverage over 50 percent of the 20-foot vegetation area shown on Figure C. This total shall include all gross floor area, lot coverage, and hardscape added in the five years immediately prior to the development proposal.

**Staff Analysis:** The landscaping plan in **Exhibit 5, Sheet L2** shows the proposed native vegetation coverage over 50 percent of the 20 foot vegetation area shown on Figure C of the SMP; therefore, this requirement is met. As conditioned, and required as part of the Critical Area Review 2, this shall be completed prior to final inspection of the future building permit.

## VII. CONDITIONS OF APPROVAL

1. The project proposal shall be in substantial conformance with **Exhibit 5** and all applicable development standards contained within Mercer Island City Code (MICC) Chapter 19.02, Chapter 19.07 and Chapter 19.13.
2. 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 if 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. Landscaping of all disturbed areas outside of the building footprint(s) and installation of hardscape is required prior to final inspection of the future building permit.
5. No development or activity within an erosion hazard area may create a net increase in geological instability on or off site.
6. The proposed development shall comply with Chapter 15.09 MICC, Stormwater Management Program.
7. Land clearing, grading, filling, and foundation work within: (a) an erosion hazard area, when 2,000 square feet or more of site disturbance is proposed, and/or (b) a landslide hazard area are not permitted between October 1 and April 1, unless a Seasonal Development Limitation Waiver meeting the requirements in MICC 19.07.160(F)(2) is granted by the code official.

#### **VI. 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.

#### **VII. DECISION**

Based upon the above noted Findings of Fact and Conclusions of Law, Critical Area Review 2 application **CAO25-022** and Accessory Dwelling Unit Permit application **ADU25-014**, as depicted in **Exhibit 5**, is hereby **APPROVED SUBJECT TO CONDITIONS**. The 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 19th day of March 2026**



Molly McGuire, Senior Planner  
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