

## Applicant Response to Public Comments

RZN25-001 and SEP25-017

This document responds to public comments on the City’s rezone application (RZN25-001) for Parcels 2655500075 and 2655500185 and the SEPA Checklist (SEP25-017). Responses cite the Mercer Island Comprehensive Plan ([Ordinance 24C-16](#)) and the Mercer Island City Code (MICC), including [MICC 19.15.240](#) (Reclassification of property), [Chapter 19.07 MICC](#) (Environment), [Chapter 19.10 MICC](#) (Trees), and applicable [Chapter 19.11 MICC](#) design standards required for Public Institution (PI) development under [MICC 19.05.010\(C\)](#).

### RZN25-001 PUBLIC COMMENTS

- Existing use is a detriment to the neighborhood: The site is currently being used as a maintenance facility, and the City has failed to maintain this property to the standards expected in a residential neighborhood. The property is poorly maintained and has become a visual blight—a black eye on our otherwise well-kept residential area. Facilities and overgrowth visible from SE 40th St. are entirely inconsistent with the residential character our neighbors work hard to maintain. This substandard maintenance has already depreciated surrounding property values and diminished our neighborhood's appeal. The proposed rezone will only further diminish property values.**

#### Applicant Response:

The proposed rezone is consistent with the Comprehensive Plan and the approval criteria of [MICC 19.15.240\(C\)](#). Both parcels (2655500075, 2655500185) are designated Public Facility on the Future Land Use Map ([Ordinance 24C-16](#), Land Use Element, pp. 101-102), identifying civic and institutional uses such as City Hall, public safety facilities, and municipal operations. Rezoning to PI aligns zoning with this adopted designation and the site’s long-standing civic use.

The Public Safety and Maintenance (PSM) Facility will improve facility and site conditions by replacing aging buildings and reorganizing yard space for City vehicles and materials to:

- Improve operational efficiency with well-designed storage and circulation areas for large vehicles, equipment, and materials;
- Provide covered storage, improved lighting, security, and landscaping to screen parking and yard areas;
- Incorporate outdoor staff amenity spaces and pedestrian connections;
- Construct new facilities and yard structures that incorporate high-quality architectural detail with materials that are easily maintainable; and
- Utilize grade changes, retaining walls, material enclosures, and screening vegetation to visually and audibly screen site activities.

These improvements will significantly enhance the property’s appearance, functionality, and compatibility with the surrounding neighborhood, directly addressing maintenance concerns raised by residents.

Although the site is outside the Town Center, development within the PI zone must comply with the design standards of [Chapter 19.11 MICC](#), as required by [MICC 19.05.010\(C\)](#). This ensures that the PSM Facility is held to the same design standards intended to ensure compatibility, pedestrian orientation, and a human-scale built environment.

In accordance with [MICC 19.11.010\(D\)](#):

- Design Vision: New or redeveloped facilities should enhance the public realm, provide a sense of place, and incorporate landscaping, architectural detailing, and pedestrian connections.
- Function: The design must support accessibility and circulation for pedestrians, bicyclists, motorists, and service vehicles while reflecting a high-quality civic character.
- Site Features: Public amenities, greenery, and architectural treatments will help the facility fit sensitively into its setting and maintain a human scale.
- Pedestrian Orientation: Site layout and circulation will prioritize safe and convenient pedestrian movement and integrate opportunities for alternative transportation.

Through these requirements, the PSM Facility will be designed to meet the City's standards for high-quality civic development. The project will balance operational needs with context-sensitive site and building design, landscaping, and environmental performance measures consistent with the Comprehensive Plan's goal of providing efficient, durable, and well-maintained public facilities.

2. **Preference for residential development:** These parcels were originally zoned residential for good reason—they are located within an established residential neighborhood. I strongly prefer that this property be developed with homes per the original zoning intent. Residential development would enhance our community, maintain property values, increase the tax base through private ownership, and restore the neighborhood cohesion that has been disrupted by the current industrial use. The City should not be permitted to permanently convert residential land to industrial use simply because it has been operating a facility there, particularly when that facility has been poorly maintained.

#### **Applicant Response:**

While one parcel is currently zoned R-8.4, both parcels are designated Public Facility in the Mercer Island Comprehensive Plan, the City's 20-year policy document that guides future land use and development decisions. This designation reflects the long-standing civic use of the property and the City's intent for the site to continue accommodating municipal and public safety services.

Pursuant to [MICC 19.15.240\(C\)\(1\) and \(2\)](#), rezoning the parcels to PI implements the Comprehensive Plan by aligning zoning with the adopted land-use designation and ensuring that the property continues to serve essential public functions. Redeveloping the site with single-family housing would directly conflict with the City's long-range land-use map and limit the City's ability to provide critical emergency, public safety, maintenance, and operational services from a centralized, purpose-built facility.

As noted in Response 1, PI projects must also meet applicable [Chapter 19.11 MICC](#) design standards as required by [MICC 19.05.010\(C\)](#).

- 3. Retroactive legitimization of non-conforming use:** This rezoning application appears to be an attempt to retroactively legitimize a use that may not currently conform to the property's residential zoning. The City should not reward its own non-compliance by granting a rezone. If the current use violates R-8.4 residential zoning requirements, the proper remedy is to relocate the facility to appropriately zoned land and restore this property to residential use—not to change the zoning to accommodate an existing violation. Allowing retroactive rezoning to legitimize potentially non-conforming uses sets a dangerous precedent that undermines the integrity of our zoning code and eliminates protections for residential neighborhoods.

**Applicant Response:**

The proposed rezone is to align the zoning map with the City's long-standing Comprehensive Plan designation and lawful approvals for the site's current use.

The maintenance facility at 9601 SE 36th Street (Parcel No. 2655500185) was established through a Conditional Use Permit (CUP 7910-001) approved by the City of Mercer Island Planning Commission and City Council in November 1979. The facility was expressly authorized under the R-8.4 Residential zoning district, which at that time allowed public utility and governmental buildings as conditional uses. The Planning Commission staff report, Design Commission minutes, and Council action ([Bill No. 883](#)) confirm that the project met all applicable development standards, including setbacks, height limits, lot coverage, landscaping, and access requirements.

Since its approval, the facility has continuously operated as a lawful public use under that permit. It is therefore not a non-conforming use, but a permitted one consistent with the City's prior zoning code and CUP conditions.

The proposed rezone to PI is a legislative correction that brings the zoning map into conformity with the Public Facility designation established in the Comprehensive Plan ([Ordinance 24C-16](#)). Pursuant to [MICC 19.15.240\(C\)\(4\)](#), such action is a lawful policy-based reclassification that implements the City's adopted land use vision for long-term civic and institutional use of these parcels—not a site-specific action designed to cure a violation, even if there was one.

In summary, the rezone formalizes existing, legally established City operations on land that has served as a public works facility for more than four decades. It does not reward any alleged non-compliance or set precedent for zoning exceptions; rather, it ensures consistency between the Comprehensive Plan, zoning map, and long-approved public use.

- 4. Incompatibility with residential character:** The proposed rezoning would permanently authorize industrial-scale operations in a purely residential zone. Maintenance facilities generate significant noise from heavy equipment, vehicles, machinery, power tools, and backup alarms beginning in early morning hours when crews depart for daily operations. As nearby residents have already experienced, this activity directly conflicts with the quiet residential character our neighborhood was designed to maintain. Rather than formalizing this incompatible use, the City should restore the property to its intended residential purpose.

**Applicant Response:**

The proposed rezone and use are compatible with surrounding land uses under the criteria of [MICC 19.15.240\(C\)\(5\)](#). As discussed in Responses 1, 2, and 3, both parcels have long supported lawful civic functions that serve the entire community. The existing maintenance facility was approved under a Conditional Use Permit (CUP 7910-001) in 1979 and has operated continuously since that time as a permitted public use. Rezoning to Public Institution (PI) does not introduce a new or intensified activity; it aligns the zoning map with the Public Facility designation in the Comprehensive Plan and the site's historic and intended civic role.

Development within the PI zone must comply with [MICC 19.05.010\(C\)](#) and the applicable sections of [Chapter 19.11 MICC](#) (Design Standards). These provisions apply City-wide to ensure civic facilities meet consistent expectations for site layout, building form, and compatibility, even when located outside the Town Center. Standards addressing building placement, modulation, screening, lighting, and pedestrian circulation will guide project design to minimize potential impacts on adjacent homes and maintain a well-screened edge along SE 40th Street.

Operations at the facility will remain municipal in nature, limited to City fleet vehicles, equipment, and staff. These activities are regulated by City noise, traffic, and environmental codes. Collectively, the proposed rezone and required design standards will ensure the property functions efficiently for civic purposes while maintaining a compatible relationship with surrounding residential uses.

- 5. Adverse property value impacts: Research consistently demonstrates that industrial and utility facilities adjacent to residential properties decrease surrounding home values by 5-10%. The current maintenance facility—with its poor upkeep, heavy vehicle traffic, equipment storage, and industrial operations—has already created negative externalities that diminish the desirability and market value of neighboring homes. Granting this rezone would permanently codify these impacts rather than correcting them. Conversely, developing the property with quality residential homes would enhance property values throughout the neighborhood.**

#### **Applicant Response**

Concerns regarding compatibility and neighborhood character are addressed in Responses 1, 2 and 4. Property values, however, are not a decision criterion under [MICC 19.15.240](#). The City's review obligation is to demonstrate that the proposed PI zoning is consistent with the Comprehensive Plan and compatible with surrounding land uses under [MICC 19.15.240\(C\)\(1\), \(5\), and \(6\)](#).

Both parcels are designated Public Facility in the Comprehensive Plan, which identifies the site for civic and institutional functions that benefit the entire community. Rezoning to PI aligns zoning with this adopted designation and enables construction of a PSM Facility that consolidates essential City services.

Providing well-designed public facilities that improve operational efficiency and emergency responsiveness represents a community-wide public benefit that serves all Mercer Island residents. While the City does not pursue zoning changes to affect private property values, this rezone fulfills the public purpose of maintaining reliable, efficient, and accessible City services consistent with the

Comprehensive Plan’s goals for public health, safety, and welfare ([Ordinance 24C-16](#), Land Use Element, p. 101- 102 and Capital Facilities Element, pp. 183–185).

- 6. Increased traffic and safety concerns: The maintenance facility generates substantial daily truck traffic, including large municipal vehicles, equipment haulers, and service trucks. This heavy vehicle presence on residential streets poses safety risks to children, pedestrians, and local traffic patterns while degrading road conditions. Residential development would generate normal neighborhood traffic patterns consistent with surrounding properties and far less disruptive than industrial operations.**

#### **Applicant Response**

A transportation analysis included in the SEPA Checklist ([SEP25-017](#), section 14.f) estimates approximately eight additional PM-peak-hour trips compared with existing operations - an increase well within City concurrency standards ([Chapter 19.20 MICC](#)). The proposed access will remain on SE 36th Street, maintaining existing circulation patterns and avoiding neighborhood cut-through traffic on SE 40th Street.

As described in Responses 1 and 4, development within the PI zone is subject to the design and access standards of [MICC 19.05.010](#) and applicable sections of [Chapter 19.11 MICC](#). These requirements ensure that site circulation, frontage improvements, and access points are designed to maintain safe and efficient operations for pedestrians, vehicles, and service equipment.

Final permits will include detailed review of frontage and access design to confirm compliance with applicable City standards and to maintain neighborhood safety.

- 7. Environmental and quality of life impacts: The SEPA review identifies probable significant adverse environmental impacts. Maintenance facilities typically involve fuel storage, chemical handling, equipment washing operations, and outdoor material storage—all of which are inappropriate adjacent to residential properties and may pose long-term environmental and health concerns. The fact that these operations may already be occurring—and that the City has failed to properly maintain the site—does not justify making them permanent through rezoning.**

#### **Applicant Response**

The SEPA Checklist ([SEP25-017](#), sections 3 and 7) did not identify any probable significant adverse environmental impacts associated with the proposed rezone or redevelopment. The checklist and supporting technical studies - including the Wetland and Stream Delineation Report (Facet, April 22, 2024)—found that all potential impacts can be mitigated through standard measures required under [Chapter 19.07 MICC](#) (Environment), [Chapter 19.10 MICC](#) (Trees), and state environmental regulations in WAC 197-11 (SEPA Rules).

Fuel storage, chemical handling, and vehicle maintenance activities will be conducted in compliance with state and local environmental requirements. Any above-ground or underground storage tanks will be permitted, managed, or decommissioned consistent with the Washington State Department of Ecology (Ecology) standards for hazardous materials management and spill prevention. The new

facility will include designated, contained areas for vehicle washing, equipment storage, and material handling designed to prevent runoff and protect nearby critical areas and groundwater.

Under the new PI zoning, site redevelopment will trigger full environmental and building permit review, ensuring compliance with [MICC 19.07.090](#) (Critical Area Review 2) and Ecology's Stormwater Management Manual for Western Washington. The project will include stormwater treatment, detention, and spill-control systems that comply with current City and Ecology standards.

The rezone does not authorize site operations or exempt the property from environmental regulation. Future construction and facility use will remain subject to City, state, and federal environmental review to ensure all activities are properly contained and managed. These reviews will ensure the redeveloped site meets current environmental and public health requirements.

- 8. Alternative sites available for city operations: The City owns other properties already zoned for public or commercial use that would be appropriate for maintenance facility operations. If the City requires this facility, it should be relocated to properly zoned land. These residential parcels should be made available for their intended use—residential development. The City could even sell the property to recover costs and reduce its maintenance burden while allowing private homeowners to develop quality residences that enhance rather than detract from our neighborhood.**

The City does not own other property that is zoned for public or commercial use that is appropriate for public safety and maintenance facilities. The City proposes to continue using its existing, City-owned municipal campus for the PSM Facility. This site has long served as the location for City Hall and Public Works operations and is already developed and equipped for municipal use.

As described in Responses 1 and 2, both parcels are designated Public Facility in the Comprehensive Plan ([Ordinance 24C-16](#)), which identifies this property for civic and institutional functions. Rezoning to PI aligns the zoning map with that adopted designation and provides a consistent regulatory framework for redevelopment.

The proposal is supported by Goal 1 of the Comprehensive Plan's Capital Facilities Element (pp. 183–185), which emphasize providing public facilities in a fiscally responsible and cost-effective manner. Using existing City property avoids the need for land acquisition or relocation of infrastructure while modernizing facilities that serve the entire community.

- 9. Facility expansion concerns: The application notes plans to "construct a new Public Safety and Maintenance (PSM) Facility on the site." This suggests not merely continuing existing operations, but potentially expanding them. Any such expansion would further intensify the incompatible industrial use in our residential neighborhood, increase the visual blight, and compound the negative impacts we already experience.**

#### **Applicant Response**

The proposed PSM Facility will replace and consolidate existing City functions that already operate from the site. It does not expand the scope or intensity of municipal operations beyond their current

civic purpose. The new facility is designed to improve efficiency, safety, and long-term reliability of essential services by replacing aging and undersized buildings that no longer meet operational needs.

As described in Responses 1 and 2, both parcels are designated Public Facility in the Mercer Island Comprehensive Plan ([Ordinance 24C-16](#)), which identifies this site for civic and institutional use. The rezone to PI aligns zoning with this adopted designation and provides a consistent regulatory framework for redevelopment.

Redevelopment of the site will occur through the City's standard permit process and will be subject to all applicable development, environmental, and design standards under [Title 19 MICC](#). These requirements ensure that site layout, building scale, landscaping, and operations are reviewed to maintain compatibility with surrounding properties.

- 10. Double standard: It is particularly troubling that the City, which enforces strict maintenance and appearance standards on residential property owners, has failed to maintain its own property to acceptable standards in our neighborhood. Private residents face fines and citations for far less egregious violations than what the City has allowed on this property. If the City cannot maintain this property to residential neighborhood standards, it should not own property in residential zones.**

#### **Applicant Response**

As noted in Response 3, the existing maintenance facility was lawfully established under Conditional Use Permit (CUP 7910-001) approved in 1979 and has operated as a permitted civic use since that time. City-owned properties are subject to the same maintenance, environmental, and development regulations as any other property. Redevelopment under the Public Institution (PI) zone will require full compliance with applicable building, environmental, and design standards. Construction, operations, and site maintenance will continue to be reviewed and inspected through the City's established permitting and code-enforcement processes to ensure consistent compliance with City regulations.

- 11. Request for denial and residential restoration: I respectfully urge the Planning Commission to deny this reclassification request and direct City staff to:**

- Investigate whether current operations comply with R-8.4 residential zoning requirements
- Identify alternative sites that are appropriately zoned for maintenance facility operations
- Develop a plan to relocate this facility to a non-residential location
- Restore the subject property to residential use through sale or development of single-family homes consistent with surrounding properties

#### **Applicant Response**

As noted in Response 3, the existing maintenance facility was lawfully established under Conditional Use Permit (CUP 7910-001), approved by the City Council in 1979. The permit authorized public utility and governmental uses within the R-8.4 zone and confirmed that the facility met all applicable development standards in effect at that time. The site has operated continuously as a permitted civic use and remains in compliance with that approval.

City staff also investigated whether alternative locations could accommodate public works and public safety operations as part of the PSM Facility pre-design process. That analysis determined there were

no feasible alternative sites on Mercer Island that met the operational, access, and land area requirements necessary for these essential municipal functions.

The comment's proposal to relocate operations or redevelop the site for residential use is not consistent with the Comprehensive Plan ([Ordinance 24C-16](#)), which designates both parcels as Public Facility for long-term civic and institutional use. As discussed in Responses 1, 2, and 3, the site has long served as a lawful and essential civic facility. Rezoning to PI aligns the zoning map with this adopted designation and ensures the property remains available for the continued delivery of critical City services consistent with adopted land use policy.

The rezone also ensures that any future redevelopment is reviewed under current design, environmental, and permitting standards, maintaining compatibility with the surrounding neighborhood and improving site conditions over time.

- 12. Alternate proposal suggestion: I would however be willing to entertain a revised rezone that provides residential properties continuously along SE 40th St. and a public walking/bike path from SE 40th for neighborhood access to city hall and surrounding businesses and the bike trail (especially now that the JCC has closed the trail that used to exist next to the JCC). Converting a small amount of Parcel 9601 to actual residential properties would raise funds for the project and better align with the original intended use, significantly increasing the quality of the neighborhood.**

#### **Applicant Response**

The suggestion to redevelop a portion of the site for residential use is not consistent with the Comprehensive Plan. Both parcels are designated Public Facility, reflecting the City's intent for long-term civic and institutional use.

As noted in Responses 1, 2, and 11, rezoning to PI aligns the zoning map with this adopted designation and supports continued use of the property for essential public services. Converting any portion of the site to residential use would conflict with this designation and with the City's capital planning goals.

Opportunities for improved pedestrian and bicycle connections will be reviewed during site design to ensure safe and accessible circulation consistent with the City's adopted [Pedestrian and Bicycle Facilities Plan \(2010\)](#). In addition, construction of new sidewalks and connections along SE 36th Street will occur as part of the upcoming [Water System Improvement Project](#), and further evaluation of multi-modal (bike, pedestrian, and vehicle) improvements will be undertaken through the City's annual [Transportation Improvement Program](#) (TIP) process. These planned improvements will enhance access and connectivity for nearby residents while supporting the site's long-term public use.

- 13. What set back or greenbelt do you envision between the hoped for redevelopment and our residential homes? It would be great if we didn't have to look directly at the comings and goings and had a green shield of existing trees in the setback to protect our view.**

#### **Applicant Response**

As described in Responses 1, 2, and 4, development within the PI zone is subject to the design standards of [MICC 19.05.010](#) and applicable sections of [Chapter 19.11 MICC](#) (Town Center Development and Design Standards). These provisions establish site layout, building form, landscaping, and pedestrian circulation standards intended to ensure high-quality civic design and compatibility with surrounding uses.

Pursuant to [MICC 19.11.030\(A\)\(6\)](#), no minimum setbacks are required, except along public rights-of-way where space must be provided for sidewalks and landscaping. Along SE 36th Street, structures must be set back to provide at least 12 feet of sidewalk between the building and the curb, with additional setback encouraged for landscaping or pedestrian features.

Due to the presence of steep slopes and critical areas along the southeast, south, and southwest portions of the site, the City is limited in where development can occur, resulting in natural buffers along those property edges. Together, these design standards, natural site constraints, and the City's landscaping and tree retention requirements will ensure a visually compatible and well-landscaped transition between future PI development and adjacent residential properties.

#### **SEP25-017-001 PUBLIC COMMENTS**

- 1. The applicant proposes to increase impervious surfaces, reconstruct and expand one overwater structure, and construct one new overwater structure over a Type F stream. Given the proximity of these developments to a wetland associated with the unnamed tributary to Lake Washington, which is known for salmonids utilizing this area, several concerns arise. The Department is concerned that reducing buffer distance at this location may adversely impact fish and their aquatic habitat (WAC 220-660-100).**
  - Per the Department's management recommendations, the provided materials must document the average bankfull width of the channel in the project reach and include hydraulics. We request to see the critical areas report and the hydraulic analysis once they are prepared.
  - We require side profiles to be included in the plan set for the new structure. The new structure is necessary to meet the fish passage structure criteria, including unimpeded fish passage, as well as convey the 100-year flow and associated debris (WAC 220-160-200).
  - WDFW would prefer the new structure design be changed to a bridge if possible (WAC 220-660-190 & 200). Although initial costs may be higher, it will save money over time with lower maintenance costs and will not become a barrier for fish in the future.
  - If the mitigation sequence (WAC 197-11-768) is assessed and avoidance of impacts is infeasible, then, considering the benefits lost from mature tree removal, and to fulfill no-net-loss requirements, we recommend a minimum of a 4:1 replacement ratio to mitigate the buffer reduction and tree removal. We also recommend planting native coniferous tree species near the stream to maximize shade. If cutting down trees is part of the plan, we would like to see them utilized on site, such as for making benches, fencing, or Large Woody Material (LWM) in the wetland system.

- Due to its proximity to a regulated stream and given the two water crossing structures, this project will require an HPA. Consequently, we encourage people planning hydraulic projects to submit a general concept (pre-application) for review through the Aquatic Protection Permitting System (APPS). At any stage of the planning process, you may contact your local habitat biologist, Maria McNaughton (maria.mcnaughton@dfw.wa.gov or 360-890-2975), to ask questions and get feedback on project design and compliance with WAC 220-660 (the Hydraulic Code).

### Applicant Response

WDFW's comments are consistent with the intent of [MICC 19.07](#) (Environment), which requires protection of critical areas, fish and wildlife habitat, and compliance with state and federal regulations. Several of the Department's recommendations go beyond the City's adopted requirements and will be reviewed for consistency with applicable City and state codes during permitting.

- Hydraulics / bankfull width documentation: [MICC 19.07.110](#) requires a critical area study prepared by a qualified professional using best available science consistent with the standards in the Washington Administrative Code [WAC Chapter 365-195](#). The study will evaluate site conditions and provide the level of detail necessary to demonstrate compliance with City and state standards.
- Side profiles and fish passage design: The City acknowledges WDFW's requirement under [WAC 220-660-200](#) for side profile drawings to demonstrate compliance with fish passage and hydraulic design criteria. Side profiles will be included in the final plan set for the proposed replacement structure to illustrate invert elevations, streambed alignment, slope, and hydraulic capacity to convey the 100-year flow and associated debris. These drawings, along with plan and cross-section views, will ensure the project meets WDFW fish passage and hydraulic performance standards and will be provided with the submittal for Hydraulic Project Approval (HPA) review.
- Bridge preference: The City's code allows bridges or culverts provided they comply with applicable standards under [MICC 19.07.180\(D\)\(1\)](#) and [WAC 220-660-190](#). The selection of structure type will be based on site conditions, engineering feasibility, and regulatory compliance.
- Tree replacement and buffer mitigation: Mitigation for buffer or tree impacts will follow the requirements of [MICC 19.07.100](#) (Mitigation Sequencing), [MICC 19.07.180\(E\)](#) (Watercourses), [MICC 19.07.190\(E\)](#) (Wetlands), and [Chapter 19.10 MICC](#) (Trees). These provisions require avoidance, minimization, and compensatory mitigation sufficient to achieve no net loss of ecological function.
- Hydraulic Project Approval (HPA): As required by [MICC 19.07.030\(B\)](#) and [WAC 220-660](#), an HPA will be obtained for any work in or over regulated waterbodies. Coordination with WDFW will occur as part of that permitting process.

The project will comply with all applicable environmental regulations under [Chapter 19.07 MICC](#), [Chapter 19.10 MICC](#), and [WAC 220-660](#). Recommendations from WDFW that extend beyond these

requirements will be considered within the context of adopted City and state standards but are not mandatory unless required by law or regulation.