CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT
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PRELIMINARY SHORT SUBDIVISION

STAFF REPORT & DECISION SUB21-002

Project No: SUB21-002

Description: The proposal is a request to subdivide the subject site into two (2) lots.

Applicant/ Owner: Mark Wischman / Angiuli Pacific Residence Trust + et al.

Site Address: 4001 West Mercer Way, Mercer Island WA 98040 Identified by King County Assessor tax parcel number: 3623500365

Zoning District: R-15

Staff Contact: Ryan Harriman, EMPA, AICP, Planning Manager

Exhibits:

1. Staff Report
2. Development Application
3. Determination of Complete Application
4. Notice of Application
5. Plan set prepared by Offe Engineers, Dated
6. Public Comments
   - 6.1 Frank Close
   - 6.2 Ed Talerman
   - 6.3 Jeff Nordberg
   - 6.4 Marilyn O'Neill
7. Response to Public Comments
8. City Review Letters
   - 8.1 First Review Letter
   - 8.2 Second Review Letter
9. Applicant Response to City Review Letters
   - 9.1 First Applicant Response to City Review Letter
   - 9.2 Second Applicant Response to City Review Letter
10. Geotechnical report, Cobalt Geosciences, Dated December 8, 2020
11. Geotechnical Letter, Cobalt Geosciences, Dated December 6, 2021
12. Geotechnical Peer Review Memo, Dated March 17, 2022
13. Geotechnical Letter - Statement of Risk, Cobalt Geosciences, Dated April 11, 2022
14. Arborist Report, Superior NW Enterprises, Dated November 16, 2021

15. Tree Inventory Worksheet
16. Public Works Review Memo
17. Title Report
18. Traffic Concurrency Certificate
19. Notice of Decision

I. APPLICATION OVERVIEW

Project Overview: On March 29, 2021, Mark Wischman, on behalf of Angiuli Pacific Residence Trust + et al. ("Applicant"), submitted a preliminary short subdivision application **(Exhibit 2)**, City File Number SUB21-002, to subdivide 0.72 acres (31,500 square feet) into two (2) single-family residential lots in the Single-Family Residential (R-15) Zone. Lot A and lot B will have ingress, egress, and a utility easement from Freeman Avenue via a joint use driveway. The adjacent property, 4007 West Mercer Way will also utilize the proposed driveway for ingress, egress, and utilities, however, the adjacent property is not part of the proposed development. **(Exhibit 5)**

Location: The subject property is located at 4001 West Mercer Way (King County parcel number 3623500365). The subject property is situated in the NW Quarter of Section 13, Township 24 north, and Range 4 east, W.M in the City of Mercer Island, King County, WA.

Existing Conditions: The subject property is 0.72 acres or 31,500 square feet. The southeast portion of the subject property is developed with a single-family residence. A driveway extends across the subject property from north to south. There are local accessory structures in the western portion of the subject property. The remainder of the subject property is undeveloped and vegetated with grasses, blackberry vines, bushes/shrubs, and sparse trees. The subject property slopes downward from east to west with total relief of approximately 45-feet. The subject property is bordered to the northeast by West Mercer Way, to the northwest by Freeman Avenue, and to the southeast and southwest by residential properties.

Sanitary sewer service for the two lots will come from a new side sewer easement needed from 4007 West Mercer Way property. There is an existing 10-foot water easement along the north side of 4007 West Mercer Way along Freeman Avenue that will need to be revised/updated to include sanitary sewer usage. Domestic water service for the two lots would come from the water main within West Mercer Way along the frontage of the proposed development. Drainage from the new lots and the shared access road would flow into the existing public storm system within Freeman Avenue and outfall into Lake Washington.

Access: The proposed development will be accessed from Freeman Avenue.

Contact Information:

Contact	Owner	Engineer
Angiuli Pacific Residence Trust + et al. C/O Mark Wischman PO Box 500 Mercer Island, WA 98040 Phone: (206) 909-5559 Email: mark@wischmanmgt.com	Same as Contact	Offe Engineers C/O Darrell Offe, P.E 13932 SE 159th Place Renton, WA 98058 Phone: 425-260-3412 Email: darrell.offe@comcast.net

Terms used in this staff report:

Term	Refers to, unless otherwise specified:

Applicant	Angiuli Pacific Residence Trust + et al. C/O Mark Wischman
Proposed development	Angiuli Pacific Preliminary Short Subdivision
Subject property	The site where development is located as defined in this staff report
City	City of Mercer Island
MICC	Mercer Island City Code.
Code Official	Community and Planning Development Director city of Mercer Island or a duly authorized designee
HOA	Homeowner's Association (or entity as defined by the Applicant and accepted by the City
CC&Rs	HOA's Covenants, Conditions, and Restrictions

II. PROCEDURE AND NOTICE REQUIREMENTS

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

2. SEPA Review: The proposed development is exempt from environmental review under the City's SEPA regulations, Chapter 19.07 MICC, and WAC 197-11-800.

3. Application: The Applicant applied for a two (2) lot preliminary short subdivision approval on March 29, 2021. Pursuant to procedures of MICC 19.15.070, the proposed development application, City File No. SUB21-002, was deemed complete on April 27, 2021 **(Exhibit 3)**.

4. Notice of Application: The City issued notice of application for the preliminary short plat application on May 3, 2021 consistent with the provisions of MICC 19.15.090, which include the following methods: a mailing sent to neighboring property owners within 300-feet of the subject parcels; a notice sign posted on the subject parcels; and publication in the City's weekly permit bulletin. The notice of application began a 30-day comment period, which took place between May 3, 2021 and June 2, 2021 **(Exhibit 4)**.

5. Opportunities for Public Comment: Several public comments were received through the comment periods associated with the Notice of Application. The city does not respond to comment letters. Comment letters are collected, evaluated, provided to the Applicant, and included in the staff report as parties of record. **(Exhibit 6)**

6. Response to Public Comment: The Applicant responded to the public comments. **(Exhibit 7)**

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

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

III. STATE ENVIRONMENTAL POLICY ACT (SEPA) COMPLIANCE

9. SEPA DNS Threshold Determination: The proposed development is exempt from environmental review under the City's SEPA regulations, Chapter 19.07 MICC, and WAC 197-11-800.

IV. ZONING AND COMPREHENSIVE PLAN DESIGNATIONS

10. Site Zoning & Land Use: The subject property is zoned Single Family Residential, (R-15). According to MICC 19.02.010, single-family dwelling units are a permitted use in the R-15 zone. The proposed development is consistent with the permitted uses provided in MICC 19.02.010.

11. Comprehensive Plan Policies: The proposed development of the subject property for a single-family residential short subdivision is consistent and compatible with the Single Family Residential, R-15, land use designation and the policies of the City of Mercer Island Comprehensive Plan: Planning for Generations 2015-2035, adopted in 2016.

12. Adjacent Zoning and Comprehensive Designations: The proposed development is compatible with the surrounding zoning and Comprehensive Plan designations as follows:

	Zoning Designation	Comprehensive Plan Designation
North	R-9.6	Single Family Residential R-9.6
South	R-15	Single Family Residential R-15
East	R-15	Single Family Residential R-15
West	R-15	Single Family Residential R-15

13. Site Calculations: The table below reflects the area designation lots for the proposed development **(Exhibit 5)**.

Lot #	Gross Lot Area (SF)	Max. GFA 40% (SF)	Net Lot Area (SF)	Max. Lot Coverage (35%) (SF)	Max. Hardscape (9%) (SF)
A	15,342	6,136 /40%	15,002	5,250/35%	1,350/9%
B	16,158	6,210/40%	15,526	5,434/35%	1,350/9%

Property Areas	Area (SF)	Area (AC)
Property (531510-1846)	31,500	0.72

V. CONSISTENCY WITH SUBDIVISION CODE STANDARDS

14. Long Subdivision or Short Subdivision Plans. Pursuant to MICC 19.08.020(C)(2), the Applicant shall provide copies of fully dimensioned plans of the project prepared by a Washington registered civil engineer or land surveyor, meeting the requirements of Chapter 19.07 MICC, Environment, and containing any other information deemed necessary by the code official. The city engineer may waive the requirement that an engineer or surveyor prepare the plans for a short subdivision. The submitted plans shall identify the proposed building pad location for each proposed lot pursuant to MICC 19.09.090.

Staff Finding: The Applicant provided dimensioned plans prepared by a professional land surveyor, identifying proposed building pad locations.

15. Preliminary Application Procedure: Pursuant to MICC 19.08.020(D)(1), All preliminary approvals or denials of long subdivisions or short subdivisions shall be accompanied by written findings of fact demonstrating that:
    a. The project does or does not make appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school;
    b. The public use and interest will or will not be served by approval of the project; and
    c. The project does or does not conform to applicable zoning and land use regulations.

    Staff Finding: The proposed development is consistent with MICC 19.08.020(D)(1)(a-c). The proposed development makes appropriate provisions for public health, safety, and general welfare by providing adequate infrastructure to support future development. The corner of West Mercer Way and Southeast 40th Street is listed as bus transportation for West Mercer Elementary, Islander Middle School, and Mercer Island High School dependent in any given year on student. The shoulders of West Mercer Way and the sidewalk of Southeast 40th Street provide safe walking paths to the bus stop which is approximately 50-feet away from the subject property.

    Goal 2.7 of the Housing Element of the City's Comprehensive Plan states that the City should "Encourage infill development on vacant or under-utilized sites that are outside of critical areas and ensure that the infill is compatible with the scale and character of the surrounding neighborhoods." The proposed subdivision is located in a single-family residential zone with adjacent single-family residential uses. The proposed development would foster infill development on a site with adequate lot area outside of critical areas. The proposed development is single-family, with a density commensurate with existing development in the vicinity. The public use and interest will be served by approval of the project due to compliance with the comprehensive plan, growth targets, and coordinated growth.

    Conformance with applicable zoning and land use regulations is documented in findings 17 through 37 below.

16. Short Subdivisions: Pursuant to MICC 19.08.020(D)(2), the code official shall grant preliminary approval for a short subdivision if the application is in proper form and the project complies with the design standards set out in MICC 19.08.030, the comprehensive plan, and other applicable development standards.

    Staff Finding: The application is in proper form and the proposed development complies with the design standards set out in MICC 19.08.030 as documented findings 17 through 37. The proposed development is consistent with Land Use Goal 15 ("Mercer Island should remain principally a low density, single family residential community.") and Land Use Policy 16.5 ("Infill development on vacant or under-utilized sites should occur outside of critical areas and ensure that the infill is compatible with the surrounding neighborhoods.") The zoning and Comprehensive Plan designation of the property described in the application is Single-Family Residential, R-15 (15,000 square foot minimum lot size). The proposed and current use of the subject property is single-family residential, which is a permitted use in the R-15 zone and consistent with the Comprehensive Plan Land Use and Housing elements.

<u>Compliance with other laws and regulations</u>:

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

    Pursuant to MICC 19.07.160(B)(3) an alteration of landslide hazard areas, seismic hazard areas and associated buffers may occur if the conditions listed MICC 19.07.060(B)(2) 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 Finding: The Applicant provided a geotechnical engineering report prepared by Cobalt Geosciences, LLC ("Cobalt") for the proposed development **(Exhibit 10)**. Cobalt provided a response letter to the first round of peer review comments as shown in **Exhibit 11**, addressing the building pad locations. The proposed development was reviewed by the city's geotechnical engineering peer review **(Exhibit 12)** and conforms to MICC 19.307.160(B)(3). Pursuant to MICC 19.07.160(B), development within geologic hazard areas require that a Geotechnical Engineer licensed within the State of Washington provide a statement of risk **(Exhibit 13)** with supporting documentation indicating that one of the conditions in MICC 19.07.160(B)(3) can be met.

    <u>Staff Finding:</u> The proposed development meets the criteria listed in MICC 19.07.160(B)(3)(c). Development practices such as proper grading, fill compaction, drainage installation, and grading can render the development safe as if it were not within a hazard area provided, they are performed in accordance with the recommendations provided by Cobalt Geosciences, LLC, the Applicant's geotechnical engineer, permit requirements, and with geotechnical oversight. Cobalt Geosciences, LLC should be on site to periodically monitor site grading, erosion control, foundation drainage placement, excavations, fill compaction, and soil bearing in footing areas. The proposed development can be completed without adversely affect geologic hazards near or within the site. A condition shall be added to this decision to reflect this finding.

18. Pursuant to MICC 19.08.030(A), the proposed development shall comply with all other chapters within Title 19 MICC; the Shoreline Management Act (SMA); and other applicable city, state, and federal legislation.

    Staff Finding: The proposed development complies with all other chapters within Title 19 MICC. The subject property is not located within the jurisdiction of the SMA.

Public Improvements:

19. Pursuant to MICC 19.08.030(B)(1), the proposed development shall be reconciled as far as possible with current official plans for acquisition and development of arterial or other public streets, trails, public buildings, utilities, parks, playgrounds, and other public improvements.

    Staff Finding: The current and official plans for acquisition and development of arterial or other public streets, trails, public buildings, utilities, parks, playgrounds, and other public improvements do not designate any portion of the subject property. This standard does not apply.

20. Pursuant to MICC 19.08.030(B)(2), if the preliminary plat includes a dedication of a public park with an area of less than two acres and the donor has designated that the park be named in honor of a deceased individual of good character, the city shall adopt the designated name.

    Staff Finding: The proposed development does not propose the dedication of a public park **(Exhibit 5)**. This standard does not apply.

Control of Hazards:

21. Pursuant to MICC 19.08.030(C)(1), Where the proposed development may adversely impact the health, safety, and welfare of, or inflict expense or damage upon, residents or property owners within or adjoining the project, other members of the public, the state, the city, or other municipal corporations due to flooding, drainage problems, critical slopes, unstable soils, traffic access, public safety problems, or other causes, the city council in the case of a long subdivision, or the code official in the case of a short subdivision, shall require the Applicant to adequately control such hazards or give adequate security for damages that may result from the project, or both.

    Staff Finding: The Applicant provided a geotechnical engineering report prepared by Cobalt Geosciences, LLC ("Cobalt") for the proposed development **(Exhibit 10)**. Cobalt provided a list of recommendations for the Applicant to follow throughout the construction of the proposed development. A condition of approval shall be added to this decision requiring the Applicant to implement all recommendations provided in the geotechnical engineering report **(Exhibit 10)** and any other letters provided by Cobalt, and by the peer reviewer.

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

22. Pursuant to MICC 19.08.030(C)(2), if there are soils or drainage problems, the city engineer may require that a Washington registered civil engineer perform a geotechnical investigation of each lot in the project. The report shall recommend the corrective action likely to prevent damage to the areas where such soils or drainage problems exist. Storm water shall be managed in accordance with Chapter 15.09 MICC and shall not increase likely damage to downstream or upstream facilities or properties.

    Staff Finding: The Applicant provided a geotechnical engineering report that provides an analysis of the conditions present on the subject property **(Exhibit 10)**. Based on this analysis, the report makes recommendations for future construction and drainage design. Field and engineering review services

will be required during the construction phase in order to provide a Final Letter for the project. All private shared utilities and shared access for Lot A and Lot B, and the adjacent property to the south shall be completed prior to plat recording. The proposed plan set **(Exhibit 5)** has been reviewed by the City Senior Development Engineer and as conditioned, complies with the provisions of Chapter 15.09 MICC.

23. MICC 19.08.030(C)(3): Alternative tightline storm drains to Lake Washington shall not cause added impact to the properties, and the Applicant shall submit supportive calculations for storm drainage detention.

    Staff Finding: Since the soils on the subject property are not feasible for infiltration, the proposed development will connect to an existing stormwater conveyance system that outfalls into Lake Washington.

Streets, Roads, and Rights-of-way:

24. Pursuant to MICC 19.08.030(D)(1), the width and location of rights-of-way for major, secondary, and collector arterial streets shall be as set forth in the comprehensive arterial plan.

    Staff Finding: Freeman Avenue is classified as a local street. No right-of-way is proposed to be dedicated as part of the proposed development. This standard does not apply.

25. Pursuant to MICC 19.08.030(D)(2), public rights-of-way shall comply with the requirements set out in MICC 19.09.030.

    Staff Finding: No right-of-way is proposed to be dedicated as part of this subdivision. This standard does not apply.

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

    Staff Finding: The shared ingress, egress, and utilities easement for Lots A and B, and the adjacent property shall be at least 20-feet in width, with at least 16-feet of that width consisting of pavement and the balance consisting of well compacted. **(Exhibit 5, sheet 6 of 9)**. The proposed improved private access road complies with this criterion.

27. Pursuant to MICC 19.08.030(D)(4), Streets of the proposed development shall connect with existing improved public streets, or with existing improved private access roads subject to easements of way in favor of the land to be subdivided.

    Staff Finding: The shared driveway providing access to both the proposed Lots A and B, and the adjacent property to the south of the subject property will connect to Freeman Avenue, consistent with this standard **(Exhibit 5, sheet 6 of 9)**.

Residential Lots:

28. Pursuant to MICC 19.08.030(E)(1), the area, width, and depth of each residential lot shall conform to the requirements for the zone in which the lot is located. Any lot which is located in two or more zones shall conform to the zoning requirements determined by the criteria set out in MICC 19.01.040(G)(2).

Staff Finding: The proposed residential lots conform to the area, width, and depth requirements for the zone in which the proposed development is located (R-15), as shown in MICC 19.02.020(A), depicted on **page 6 of 9 in Exbibit 5**, and summarized in the table below:

	Net Lot Area	**Lot Width**	**Lot Depth**
R-15 zone minimum requirement	15,000 sq ft	90-feet	80-feet
Lot A	15,002 sq ft	90-feet	150-feet
Lot B	16,158 sq ft	90-feet	150-feet

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

Staff Finding: The side yard lot lines are approximately perpendicular to the center line of the street in which the lot fronts. The lots front a shared access easement, refer to **sheet 6 of 9 in Exhibit 5.** Pursuant to Chapter 19.16 MICC the definition of street is as follows: "improved or unimproved public or private right-of-way or easement which affords or could be capable of affording vehicular access to property." The shared private access easement is a street based on the city's definition. Refer to **sheet 6 of 9 in Exhibit 5**. The proposed lot lines are consistent with this criterion.

30. Pursuant to MICC 19.08.030(E)(3), the proposed development shall identify the location of building pads for each proposed lot per MICC 19.09.090. No cross-section dimension of a designated building pad shall be less than 20-feet in width **(Exhibit 5)**.

Staff Finding: Building pads, with no cross section less than 20-feet in width, are shown on **sheet 6 of 9** of the proposed development plan set **(Exhibit 5)**. The proposed building pad locations minimize the disturbance of the existing, natural topography.

31. Pursuant to MICC 19.08.030(E)(4), the proposed development shall incorporate preferred development practices pursuant to MICC 19.09.100 where feasible.
    A. Use common access drives and utility corridors.
    B. Development, including roads, walkways and parking areas, in critical areas should be avoided, or if not avoided, adverse impacts to critical areas will be mitigated to the greatest extent reasonably feasible.
    C. Retaining walls should be designed to minimize grading, including the placement of fill, on or near an existing natural slope.

Staff Finding: Lots A and B and the adjacent property to the south will be accessed via the proposed shared driveway easement. This easement will be improved to provide access shared access to both new lots and the adjacent property to the south. A geotechnical engineering report was submitted, documenting how future development will meet the standards in MICC 19.07.160 **(Exhibit 5)**.

<u>Trees:</u>

32. Pursuant to MICC 19.08.030(E)(5), the proposed development shall be designed to comply with the provisions of Chapter 19.10 MICC.

Staff Finding: The proposed tree retention plan has been reviewed by the City Arborist and as conditioned, complies with the provisions of Chapter 19.10 MICC.

33. Pursuant to the provisions of MICC 19.10.060(A)(2)(a), the proposed development shall retain 30 percent of trees with a diameter of ten inches or greater, or that otherwise meet the definition of large tree, shall be retained over a rolling five-year period.

Staff Finding: Based on the plan set in **Exhibit 5**, the Arborist report in **Exhibit 14**, and the tree inventory worksheet in **Exhibit 15**, the proposed development meets the requirements of MICC 19.10.060(A)(2)(a) as conditioned. The city arborist reviews the arborist report and tree inventory worksheet and confirmed the proposed development will be retain 55.5 percent of the trees on the subject property.

34. Pursuant to the provisions of MICC 19.10.070(A) removed trees are required to be replaced at the ratio provided based on the diameter of the removed tree.

1. ***Staff Finding:*** According to the plan set **(Exhibit 5)**, four trees with a diameter between 10 and 24-inches will be removed. A total of six (6) trees will be required to be replaced and located consistent with MICC 19.10.070(B). A replanting plan is required to be submitted during the building permit review phase to confirm replacements can be fit on proposed lot. At least half of the trees need to be Pacific Northwest native. The trees need to be at least 10-feet apart from each other, structures, fences and utilities. If the Applicant can demonstrate no room exists on the subject property for all the replacement trees, the remainder of the replacement trees can be a fee in lieu The fee in lieu will consist of a payment of $919 per tree, plus two hours of staff maintenance, for any tree that cannot be planted at least 10-feet away from each other, existing trees and infrastructure such as fences.

<u>Other Conditions</u>:

35. Impact Fees: Pursuant to Chapter 19.17 MICC, Chapter 19.18 MICC, and Chapter 19.19 MICC the city shall collect impact fees, based on the city's permit and impact fee schedule, from any Applicant seeking a residential building permit from the city.[…] For building permits within new subdivisions approved under Chapter 19.08 MICC (Subdivisions), a credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the city subsequent to demolition of the existing dwelling unit, unless otherwise allocated by the Applicant of the subdivision as part of approval of the subdivision

Staff Finding: A condition of approval has been added to this decision and requiring that park and transportation impact fees shall be paid at the issuance of each building permit unless deferral of payment is sought pursuant to 19.18.060 or 19.19.060. Impact fees are not subject to vesting and the amount paid will be the impact fee amount in effect at the time of payment.

36. Streets, Utilities and Storm Drainage. A subdivision shall include provisions for streets, water, sanitary sewers, storm drainage, utilities and any easements or facilities necessary to provide these services. All utilities shall be placed underground unless waived by the city engineer. Detailed plans for these provisions shall not be required until after the approval of the preliminary plat and shall be a condition precedent to the official approval of the subdivision.

Staff Finding: Preliminary grading and storm drainage plans have been provided, showing that the provision of services is feasible **(Exhibit 5)**. A condition of approval has been added to this decision requiring construction of all improvements for access, utilities, all storm drainage system and all site work, shall be completed prior to final plat application.

37. Transportation Concurrency: Pursuant to MICC 19.20.020 a transportation concurrency application and transportation concurrency certificate are required for any development proposal specified in MICC 19.20.030 or any development that will otherwise result in the creation of one or more net new trips in the morning peak hour or evening peak hour. No development shall be required to obtain more than one transportation concurrency certificate, unless the Applicant or subsequent owners propose changes or modifications that require a new development permit application or result in increased net new trips, a future phase of the project requires a transportation concurrency application, or the original transportation concurrency certificate has expired.

    Staff Finding: A transportation concurrency certificate, TCC21-018, was issued for the proposed development on November 3, 2021 **(Exhibit 18)**.

VI. CONDITIONS OF APPROVAL

1. The final short plat for SUB21-002 shall be in substantial conformance with the preliminary plat drawing attached as **Exhibit 5**.

2. Expiration of approval – The final short plat shall be recorded prior to the expiration deadline set forth in Chapter 19.15 MICC – Administration.

3. Park and transportation impact fees shall be paid at the issuance of each building permit unless deferral of payment is sought pursuant to 19.18.060 or 19.19.060. Impact fees are not subject to vesting and the amount paid will be the impact fee amount in effect at the time of payment.

4. Show all the existing and proposed easements on the final plat. Clearly distinguish all public easements from the private easements. The private utility easement and public utility easement shall not be combined.

5. Easements for utilities and storm drainage facilities shall be depicted on the face of the Final Plat. Language which indicates joint rights and responsibilities of each lot with respect to all utilities and roadways shall be shown along with individual lot Joint Maintenance Easement Agreements (where applicable) for all shared usage and filed with the King County Recorder and noted on the final plat. The easement notation shall indicate whether the easement is public or private, existing or proposed.

6. The Final Plat shall be prepared in conformance with Title 58 RCW and Surveys shall comply with Chapter 332-130 WAC. Submit using Mercer Island's datum and tie the plat to at least two monuments.

7. A City of Mercer Island title block for approval signatures (Planner and City Engineer) shall be provided on the final plat along with the designated short plat number.

8. Construction of all improvements for access (except the shared access between 4001 W. Mercer Way and 4007 W. Mercer Way), utilities, all storm drainage system (conveyance system and onsite detention system), and all site work shall be completed as part of future building permits for individual

lots. The requirements will be based on the City ordinances, regulations, and requirements of the City Engineer established at the time of application for future building permits.

9. The private shared access between 4001 W. Mercer Way and 4007 W. Mercer Way shall be completed prior to plat recording. A Site Development Permit for constructing the shared access and the storm drainage system associated with the private shared access are required for the city approval. A construction bond (150% of the construction cost) for the shared access and storm drainage system associated with the shared access are required prior to issuance of the permit. All construction must be completed prior to submit the final plat.

10. The Applicant shall ensure that all work performed on the subject property, in relation to the proposed development, is executed in accordance with the recommendations provided by Cobalt Geosciences, LLC, the Applicant's geotechnical engineer **(Exhibit 10)**. Cobalt Geosciences, LLC shall be on site to monitor site grading, erosion control, foundation drainage placement, excavations, fill compaction, and soil bearing in footing areas. All recommendations in the geological engineering report shall be incorporated into the final design drawings and construction specifications.

11. The tree protection plan shall be submitted during building review. No further tree removal will be allowed unless it is justified under MICC 19.10.060.A. Showing tree protection fencing at the Arborist stated tree protection zone (TPZ).

12. The Project Arborist shall be on site and in control of any excavation or grading within trees dripline. They will document and clean cut any root over 1-inch in diameter that needs to be removed. Call this out on Tree Plan during building review.

13. A replanting plan shall be provided at the time of building permit review. At least half of the trees need to be Pacific Northwest native. The trees need to be at least 10-feet apart from each other, structures, fences and utilities. If you can show no room exists on site for all the required trees, the remainder can be a fee in lieu if requested. The fee in lieu will consist of a payment of $919 per tree, plus two hours of staff maintenance, for any tree that cannot be planted at least 10-feet away from each other, existing trees and infrastructure such as fences. The replanting/fee in lieu plan will be required at the building plan application. Very little room appears on site for replanting and no opportunity in the right of way. It will follow the requirements described in MICC 19.10.070.

14. The right of way restoration area shall be fenced off with no parking. This is in the area of tree 1. Tree 1 has been removed by the city, and replacement trees have been planted.

15. Tree protection chain link fence shall be shown during building plan review. In the area labeled CRZ on the subdivision site plan. This protection will be at the greatest extent possible and described in the Arborist Report. The tree protection fence shall be 6-feet chain-link fence secured into the ground. This will be called out on the Tree Plan during building review

16. Include the following conditions to the face of the final plat:

    a. Maintenance and repair of joint use side sewers (sewer lines from the building to the City sewer main), shared roads, access easements, storm drainage facilities shall be the responsibility of the owners of each lot served (with the exception that owners of any lot which is lower in elevation shall not be responsible for that portion of a private side sewer above their connection.) In the event that

maintenance and repair of any facilities enumerated above are not performed to the satisfaction of the City Engineer, after a timely demand has been made for such action, the City or its agent shall have the right to enter upon the premises and perform the necessary maintenance and repair to protect the safety and general welfare of the public and shall have the right to charge the owner of each lot an equal share of the total maintenance and repair costs. The City or the owner of any lot within this Short plat shall have the right to bring action in Superior Court to require any maintenance or repair and to recover the costs incurred in making or effecting repairs to improvements.

b. The monitoring, cleaning, maintenance and repair of storm drainage systems in accordance with City Ordinance No. 95C-118 is required for all lot owners within this Plat to control stormwater runoff and control erosion and flooding downstream. All costs related to stormwater runoff control shall be borne by the owners of each lot in equal share. This obligation shall be recorded separately with each individual lot sale and shall travel with the land.

c. All staging for construction shall occur on site and shall not be located in the public right-of-way.

d. Prior to the issuance of a building permit, each application shall be accompanied with a temporary erosion and sedimentation control plan, clearing and grading plan, access and utility service plan, a landscape plan (which shall identify existing vegetation to be retained, limits of all clearing and grading), and a schedule for the construction. The Applicant's Civil Engineer, experienced in soils geology and mechanics, shall review the proposed site and building construction and provide recommendations that will limit site disturbance, minimize risk of soils movement, evaluate site slope stability and define materials and construction practices for the work. The Building Official may require that the Engineer be present during construction, monitor the work, and recommend special techniques or mitigating measures. The costs associated with the Engineer's monitoring and mitigation measures shall be borne by the Applicant.

e. No permanent landscaping, structures, or fences shall be placed on or within public utility or storm drainage easements without the written approval of the City Engineer. If in the opinion of the City Engineer, utilities or storm drainage facilities require maintenance, repair or replacement, the City or its agent shall have the right to enter those lots adjoining the facility for the purpose of maintaining, repairing, relocating or replacing said facilities. Lot owners shall be responsible for the restoration of any private improvements or landscaping within said easements.

f. Installation of landscaping and/or structures including trees, shrubs, rocks, berms, walls, gates, and other improvements are <u>not</u> allowed within the public right-of-way without an approved encroachment agreement from the City prior to the work occurring.

g. The plan showing numbered retained trees and building pad will be recorded as part of the plat. This plan should be the same or consistent with the Preliminary Tree Plan.

h. No tree identified for retention may be removed unless otherwise approved by the City Arborist.

i. All building permits are subject to meeting current fire code requirements at the time of permit submittal. Access shall be provided as outlined in the International Fire Code Appendix D and MICC 19.09.040. Fire plan reviews will be conducted at time of building permit submittal and may require additional fire protection systems and/or additional fire prevention measures for building approval.

j. This request does not guarantee that the lots will be suitable for development now or in the future. The legal transfer of the property must be done by separate instrument unless all lots herein are under the same ownership.

k. At building permit application, the Applicant shall pay school, park, and transportation impact fees based on the fee schedule in place at the time of application. A credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the city subsequent to demolition of the existing dwelling unit, unless otherwise allocated by the Applicant of the subdivision as part of approval of the subdivision.

VII. DEVELOPMENT REGULATION COMPLIANCE – DISCLOSURE

1. Compliance with all local, state and federal regulations is required.
2. No construction, tree removal, grading, installation of utilities on land within a proposed long or short subdivision shall be allowed prior to preliminary approval of the long or short subdivision and until the Applicant has secured the permits required under the MICC. Following preliminary approval, tree removal, grading, and installation of utilities shall be the minimum necessary to allow for final plat approval of the long or short subdivision. (MICC 19.08.020(5)).

VIII. DECISION

Based upon the above noted Findings of Fact and Conclusions of Law, preliminary short plat application SUB21-002, as depicted in **Exhibit 5**, is hereby preliminarily **APPROVED** as conditioned. This decision is final, unless appealed in writing consistent with adopted appeal procedures, MICC 19.15.130, and all other applicable appeal regulations.

Approved this 24th day of October 2022.

Ryan Harriman

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

If you desire to file an appeal, you must submit the appropriate form, available from the department of Community Planning and Development, and file it with the City Clerk within fourteen (14) days from the date after the notice of decision is made available to the public and Applicant pursuant to MICC 19.15.130. Upon receipt of a timely complete appeal application and appeal fee, an appeal hearing will be scheduled. To reverse, modify or remand this decision, the appeal hearing body must find that there has been substantial error, the proceedings were materially affected by irregularities in procedure, the decision was unsupported by material and substantial evidence in view of the entire record, or the decision is in conflict with the city's applicable decision criteria.

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