



HEARING EXAMINER

OPEN RECORD PUBLIC HEARING AGENDA

Friday, January 23, 2026, at 9:00 AM

We strive to create an inclusive and accessible experience. Those requiring accommodation for public hearings should notify the Deputy City Clerk's Office 3 days prior to the meeting at (206) 275-7791 or by emailing cityclerk@mercerisland.gov

CALL TO ORDER

SHORELINE CONDITIONAL USE PERMIT & SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

- 1. SHL25-007 and SHL25-008: Mercer Island Beach Club Marina Configuration and Replacement Project**
The existing configuration includes seven (7) moorage docks. Five (5) of those moorage docks would be replaced, the day dock would be replaced and integrated into the outer floating moorage and the swim dock and swim area and would also be updated. The total existing facility currently provides moorage for seventy (70 boats) and seven (7) jet skis (in repurposed boat slips). The proposed reconfiguration provides moorage for seventy (70) boats and twelve (12) jet skis. The subject property is located on the shoreline of Lake Washington.

ADJOURNMENT

MIBC Marina Renewal

Item (1)

Today

- Most of the current Marina is 60+ years old.
- Wooden marina is structurally at end of life.
- Current design is not compliant with new City and Gov't regulations.
- Increased boat dimensions (max of 25' long) need different slip configuration.

Proposed

- New Marina designed to be compliant with City and Gov't regulations.
- Solid surfaces will be replaced with light penetrating decking.
- Safer design for swimmers and boaters with separation of swim dock and marina.
- Same number of boat slips will be in the new marina as in current design.
- No increase in number of members



CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

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STAFF REPORT

SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT (SHL25-007)

SHORELINE CONDITIONAL USE PERMIT (SHL25-008)

Project Name:	Mercer Island Beach Club Marina Reconfiguration and Replacement Project
Project Numbers:	SHL25-007 and SHL25-008
Description:	The Mercer Island Beach Club (MIBC) proposes a reconfiguration and expansion of a portion of the existing marina and swim dock. The existing configuration includes 6 moorage docks, 4 of which would be replaced with a single access point marina. A wave attenuator would be installed to replace the existing log boom around the existing swimming area to protect swimmers from boats and 60 linear feet of rock and timber bulkhead located to the south of the swimming area would be replaced with a beach cove area. The replacement portions of the marina configuration will include moorage for 52 boats and 12 Jet Skis. The total boat slip count after project completion will be the exact same as the current marina with the addition of 5 new jet ski lifts.
Applicant / Owner:	Brad Thiele (Northwest Environmental Consulting, LLC) / Gardner Morelli (Mercer Island Beach Club)
Site Address:	8326 Avalon Drive, Mercer Island, WA 98040; Identified by King County Assessor Tax Parcel Number: 3124059003.
Zoning District:	Single Family Residential (R-8.4)
Staff Contact:	Grace Manahan – Code Compliance Planner grace.manahan@mercerisland.gov (206) 275-7764
Exhibits:	<ol style="list-style-type: none"> Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, and SEPA Review Application, received by the City of Mercer Island on April 4, 2025 Plan Set, dated October 27, 2025

	<ol style="list-style-type: none"> 3. Project Narrative, received on April 4, 2025 4. JARPA form, received October 28, 2025 5. Demand Analysis, received April 4, 2025 6. Ecological No Net Loss Assessment Report and Critical Areas Study prepared by Northwest Environmental Consulting, LLC, dated March 2025, revised October 2025 7. Technical Memorandum prepared by Northwest Environmental Consulting, LLC, dated July 10, 2025 8. Geotechnical Engineering Report prepared by PanGeo Inc, dated February 5, 2024 9. Wave Reflection Study, prepared by PND Engineers, dated July 25, 2025 10. Cultural Resources Report, prepared by Drayton Archaeology, dated June 24, 2025 11. Determination of Completeness for SHL25-007, SHL25-008, SEP25-007, dated April 9, 2025 12. Notice of Application for SHL25-007, SHL25-008, SEP25-007, dated April 14, 2025 13. City of Mercer Island Review Letters <ol style="list-style-type: none"> 13.1. SUB1 Review Letter, sent May 22, 2025 13.2. SUB2 Review Letter, sent August 29, 2025 14. Comment provided by the State of Washington Department of Ecology, received May 20, 2025 15. Public Comments <ol style="list-style-type: none"> 15.1. Mark and Marian Sinkey, received May 6, 2025 15.2. Mark and Marian Sinkey, received August 27, 2025 15.3. Patricia Bostrom, received May 10, 2025 15.4. Mike and Tina Hartley, received May 11, 2025 16. Comment provided by the Snoqualmie Indian Tribe, received May 14, 2025 17. Applicant Response to Public Comments, dated August 10, 2025 18. Applicant Response to Additional Public Comment, dated October 15, 2025 19. Environmental Peer Review prepared by FACET, dated May 14, 2025 20. SEPA Checklist, received April 4, 2025 21. SEP25-007 SEPA Determination of Nonsignificance Issued by the City of Mercer Island on November 17, 2025 22. Hydraulic Project Approval issued by the Washington Department of Fish & Wildlife on January 5, 2026
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Contact Information:

Applicant's Agent	Applicant
Northwest Environmental Consulting, LLC c/o Brad Thiele 3639 Palatine Ave., Seattle, WA 98103 Phone: (206) 234-2520 Email: brad@northwest-environmental.com	Mercer Island Beach Club c/o Gardner Morelli 8326 Avalon Drive, Mercer Island, WA 98040 Phone: (630) 363-5699 Email: gardner.morelli@gmail.com

Terms used in this staff report:

Term	Refers to, unless otherwise specified:
Applicant	Gardner Morelli, Mercer Island Beach Club
Applicant's Agent	Brad Thiele, Northwest Environmental Consulting, LLC
Proposed development, proposal, and project.	Mercer Island Beach Club Marina Reconfiguration and Replacement Project
Subject property or site.	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 Planning and Development Director, City of Mercer Island, or a duly authorized designee
MIBC	Mercer Island Beach Club
SMP	Shoreline Master Program
SMA	Shoreline Management Act
WAC	Washington Administrative Code
RCW	Revised Code of Washington
SSDP	Shoreline Substantial Development Permit
SCUP	Shoreline Conditional Use Permit
SEPA	State Environmental Policy Act

I. PROJECT DESCRIPTION

The Mercer Island Beach Club ("MIBC"), established in 1954 as a local 500 member owned nonprofit swim and recreational club, is planning a reconfiguration and replacement project of the approximately 50-year-old portion of the existing marina and swim dock. Due to the age of the marina, the MIBC has faced significant ongoing repairs over the past several years.

The MIBC (Applicant) proposes a reconfiguration and replacement of a portion of the existing marina and swim dock ("proposed development"). The MIBC proposes to construct a single point access marina to replace the fixed A, B, C, and D docks with a new hybrid marina consisting of a new fixed shoreward and floating seaward slip marina.

The existing moorage configuration includes 6 docks for a total overwater coverage of 9668.2 square feet (Piers A - F plus a floating day dock attached to the end of Dock C). No work will occur at Piers E or F. Therefore, a total existing overwater coverage of 7532.6 square feet will be replaced or altered (**Exhibit 2 Sheet 4 of 28**). Pier A is a combined swim dock and moorage dock, Piers B through D are moorage docks only. A cedar log boom surrounds the swim area at the south end of the marina. A boat ramp is present on the north side of the property between Piers E and F. Paddle craft racks are located near the boat ramp and members use the boat launch and adjacent areas to launch kayaks and paddleboards.

The reconfigured moorage will increase the total overwater coverage by 4,084.4 square feet. However, within 30 feet of the OHWM, overwater coverage will be reduced by 380 square feet and shadowing will be reduced by using grated decking. Boat moorage will be farther from the OHWM starting approximately 80 feet from shore. The new configuration meets Washington Administrative Code criteria (WAC 332-30-139) for freshwater marinas by creating a single point access marina in place of the existing multi-point access moorages.

Based on aerial imagery the Piers A – D are approximately 50 years old and located in water too shallow for boats along the shore to moor without bottoming out or causing propeller wash. In

addition, swimmers and boats both currently access Pier A, which creates the potential for conflict and injury. The project would remove 4 moorage docks with a combined overwater footprint of 7532.6 square feet and install 2 new mooring structures with a new total combined overwater coverage of 13,752.6 square feet (**Exhibit 2 Sheet 5 of 28**). The project would also replace a log boom, remove 60 linear feet of rock and timber bulkhead, replace it with approximately 60 linear feet of beach south of the swim area, remove 8 cubic yards of debris, install 25 cubic yards of beach nourishment gravel, and install 2 Douglas Fir (*Pseudotsuga Menziesii*) and 3 Red Flowering Currant (*Ribes Sanguineum*) (**Exhibit 2, Sheet 23**).

II. SITE DESCRIPTION, ZONING, AND LAND USE CONTEXT

The subject property is located at 8326 Avalon Drive, Mercer Way (King County parcel number 3124059003) in the City of Mercer Island, Washington. The MIBC was incorporated in 1954 and is owned by its membership, which is limited to 500 equity members.

The existing moorage configuration includes 6 docks (Piers A - F plus a floating day dock attached to the end of Dock C). No work will occur at Piers E or F. The existing docks A through D have a combined overwater coverage of 7532.6 square feet (**Exhibit 2 Sheet 4 of 28**). Pier A is a combined swim dock and moorage dock. A cedar log boom surrounds the swim area at the south end of the marina. A boat ramp is present on the north side of the property between Piers E and F. Paddle craft racks are located near the boat ramp and members use the boat launch and adjacent areas to launch kayaks and paddleboards.

The subject property is zoned Single Family Residential (R-8.4) and is located within the Urban Residential Shoreline Environment pursuant to Appendix F of Title 19 MICC and described in MICC 19.13.030(B). Adjacent properties are within the R-8.4 zones and contain residential uses.

III. SUMMARY OF APPLICATIONS AND REQUESTS

A. SHL25-007 – Shoreline Substantial Development Permit

A request for a Shoreline Substantial Development Permit (SSDP) with State Environmental Policy Act (SEPA) Review (SEP25-007) for the proposed in-water and overwater activities at the MIBC. In-water and overwater activities include the replacement and reconfiguration of piers A through D, the installation of a wave attenuator and the replacement of an existing bulkhead with a new beach cove.

The SSDP consists of the following components:

1. A request for the reconstruction of the existing marina and to update the swim dock and swim area subject to the standards of MICC 19.13.050.

B. SHL25-008 – Shoreline Conditional Use Permit

5. A request for a Shoreline Conditional Use Permit (SCUP) for the reconfiguration and replacement of a portion of the existing marina. A marina within the Urban Residential Environment requires a SCUP per MICC 19.13.040(A) Table B.

The SCUP consists of the following components:

1. A request for the reconstruction of the existing marina subject to the standards of MICC 19.13.050 and WAC 173-27-160.

IV. GENERAL FINDINGS OF FACT

1. The proposed development requires three separate land use permit applications.
 - a. A SSDP for the work within the shoreline jurisdiction of Lake Washington, a shoreline of statewide significance.
 - b. A SCUP for the reconstruction of the existing marina as required by the City's Shoreline Master Program (SMP).
 - c. SEPA Review for work within Lake Washington. The SEPA Determination of Nonsignificance for SEP25-007 was issued by the City of Mercer Island on November 17, 2025 (**Exhibit 21**).
2. The shoreline at the MIBC is bulkheaded with rock, timber, concrete, and shotcrete armoring. A section of beach is present in the swim area. A boat ramp is present on the north side of the property by dock E and F. The MIBC shoreline is landscaped with ornamental trees, shrubs, and ground covers. Decks, picnic areas, and sitting areas are along the shoreline. Paddle craft racks are located near the boat ramp and members use the boat launch and adjacent areas to launch kayaks and paddleboards.
3. The marina is a series of 5 docks, with a day dock that runs parallel to shore connected to the end of C dock. E and F dock are newer, do not need to be repaired, and no work is proposed at these docks. A swim dock is present south of the marina. 7 slips are present on the north side of the swim dock. A log boom surrounds the swim area.
4. The Applicant proposes the reconfiguration and consolidation of several existing docks to a single point access marina by replacing the fixed A, B, C, and D docks with a new hybrid marina consisting of a new fixed shoreward and floating seaward slip marina. The new configuration is in accordance with WAC 220-660-160 for freshwater marinas by creating a single point access marina in place of the existing multi-point access moorages, designed to allow light penetration and minimize the coverage in the shallow water areas.
6. The replacement portions of the marina configuration will include moorage for 52 boats and 12 Jet Skis. The total boat slip count after project completion will be the exact same as the current marina with the addition of 5 new jet ski lifts.
7. The existing fixed swim platform will be replaced with a reconfigured and separated platform having a narrower fixed walkway and moved slightly further into the lake to access deeper water for safety purposes.
8. A replacement wave attenuator will be installed around the existing swim area to protect swimmers from boats.
9. The reconfigured moorage will increase overwater coverage by 4,084.4 square feet and will reduce overwater coverage within 30 feet of the OHWM by 380 square feet and reduce shadowing by using grated decking. Boat moorage will be farther from shore starting approximately 80 feet from shore.
10. In addition to removal of overwater coverage in the nearshore, the proposal will remove 60 linear feet of rock and timber bulkhead and replace it with approximately 60 linear feet of beach south of the swim area.
11. The subject property size is approximately 327,518 square feet or 7.52 acres. The site features, including pathways, buildings, and parking, make up approximately 143,839 square feet of the parcel.

12. The MIBC uplands are landscaped with beds, mature shrubs and trees, a parking area, a building, an outdoor swimming pool, sports courts, and other recreational facilities. The shoreline is heavily used by recreational boaters in the summer months and the waterfront for swimming and enjoying the water views.
13. The applications for SSDP, SCUP, and SEPA were received on April 4, 2025 and determined to be complete on April 9, 2025 (**Exhibit 11**).
14. Pursuant to MICC 19.15.030, Table A, applications for a SSDP must undergo Type III review. Applications for a SCUP must undergo Type IV review. Pursuant to MICC 19.15.030(F), a development proposal that involves the approval of two or more Type II, III and IV reviews may be processed and decided together, including any administrative appeals, using the highest numbered land use decision type applicable to the proposed development applications; therefore, the SSDP and SCUP will undergo Type IV review. The Hearing Examiner will provide a recommendation to the Washington State Department of Ecology (Ecology) for final approval.
15. The City issued the notice of application for the SSDP, SCUP, and SEPA review on April 14, 2025, consistent with the requirements of MICC 19.15.090 (**Exhibit 12**). The notice of application was mailed to neighboring property owners within 300 feet of the subject property, a notice board/sign was posted on the subject property, and the notice was listed in the City's weekly permit bulletin. The public comment period lasted for 30 days, from April 14, 2025 to May 15, 2025.
16. Public Comment: 6 public comments were submitted to the city (**Exhibit 14, 15.1, 15.2, 15.3, 15.4, 16**).
17. Response to Public Comments: The applicant provided a Public Comment Response which addresses the concerns raised in the public comments received (**Exhibit 17, 18**).
18. The City is the SEPA Lead Agency for the proposed development. The City's SEPA responsible official issued a Determination of Nonsignificance (DNS) for the proposed development on November 17, 2025 (**Exhibit 21**), following the review of a complete SEPA Checklist (**Exhibit 20**), utilizing the optional DNS process per Washington Administrative Code (WAC) 197-11-355. The SEPA review is identified by City of Mercer Island project number SEP25-007. The DNS appeal period ended on December 1, 2025, and no appeals were filed.
19. A SSDP is required for any development within a shoreline jurisdiction not covered under a Categorical Exemption. Compliance with all applicable federal and state regulations is also required.
20. Pursuant to MICC 19.13.040(A) Table B, a marina within the Urban Residential Environment requires a SCUP.
21. The final decision in approving, approving with conditions, or denying a SCUP is rendered by the Washington Department of Ecology ("Ecology") in accordance with WAC 173-27-200, and all other applicable local, state, or federal laws. The City shall send the permits and documentation of final local decision to the applicant, the Ecology, the Washington State Attorney General and to all other applicable local, state, or federal agencies. The decision shall be sent to Ecology by return receipt requested mail or as regulated by WAC 173-27-130.
22. The SMP regulations are supplemental to the City of Mercer Island Comprehensive Plan, the Mercer Island Development Code and various other provisions of City, State and Federal laws.

Applicants must comply with all applicable laws prior to commencing any use, activity, or development.

23. The City of Mercer Island Comprehensive Plan ensures shoreline protection through the implementation and enforcement of the SMP and other applicable shoreline regulations. Consequently, as conditioned, the proposed development is consistent with the comprehensive plan.
24. The Washington State Legislature enacted the Shoreline Management Act (SMA) in 1971 (Chapter 90.58 RCW) to provide a uniform-set of rules governing the development and management of shoreline areas. As a basis for the policies of the SMA, the Legislature incorporated findings that the shorelines are among the most valuable and fragile of the state's resources, that they are under ever increasing pressure of additional uses and that unrestricted construction on the privately or publicly owned shorelines of the state is not in the best public interest. The Legislature further finds that coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state, while, at the same time, recognizing and protecting private property rights consistent with the public interest.
25. The proposed development, as conditioned, is in compliance with the City's SMP and is therefore consistent with the provisions of the SMA. The proposed development protects the public interest associated with the shorelines of the state, while, at the same time, protects private property rights consistent with the public interest.

V. SHL25-007– SSDP FINDINGS, CONCLUSIONS, AND RECOMMENDED CONDITIONS OF APPROVAL

A. MICC 19.13.050(A), table C lists requirements for development located landward from the OHWM:

1. Setbacks for all structures (including fences over 48 inches high) and parking shall be 25 feet from the OHWM and all required setbacks of the development code, except (1) light rail transit facilities and (2) shoreline 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 Finding: The proposed development does not include any structures located within 25 feet of the OHWM; therefore, this standard does not apply.

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 Finding: All existing structures in the shoreline jurisdiction have been legally established and most recently permitted through building permit 0510-075 and design review application DSR05-020 for the addition/remodel of the MIBC. The proposed development does not include any new structures landward from the OHWM; therefore, this standard does not apply.

3. Maximum hardscape and lot coverage shall be 10 percent between 0 and 25 feet from the OHWM and 30 percent between 25 and 50 feet from the OHWM.

Staff Finding: The existing site contains 47 percent hardscape and lot coverage between 0 and 25 feet from the OHWM and 49 percent hardscape and lot coverage between 25 and 50 feet from the OHWM (**Exhibit 2, sheet 27 of 28**). The current hardscape and lot coverage within 50 feet of the OHWM was previously permitted through building permit 0510-075 for the remodel and addition to the existing MIBC. Because the existing hardscape and lot coverage were in

conformance with all applicable code provisions in effect at the time of their creation but are not in compliance with current land use codes, they are considered legally nonconforming per MICC 19.01.050(A)(2). The proposed development does not propose any increase in lot coverage or hardscape in the shoreline area, increase the existing nonconformity or create any new nonconformity; therefore, this standard is met.

4. Minimum land area requirements for all semi-private, commercial and noncommercial recreational tracts and areas shall be 200 square feet per family, but not less than 600 square feet, exclusive of driveways or parking areas. Screening of the boundaries with abutting properties.

Staff Finding: The subject property size is approximately 327,518 square feet or 7.52 acres, and there are no proposed changes to the existing screening; therefore, this standard is met.

B. MICC 19.13.050(B) lists requirements for bulkheads and shoreline stabilization measures.

1. *MICC 19.13.050(B)(1)* An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves, and the following conditions apply:

- i. The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

Staff Finding: The new bulkhead is designed to ensure no net loss of ecological function, which is evaluated in the Ecological No Net Loss Assessment Report and Critical Area Study prepared by Northwest Environmental Consulting, LLC (**Exhibit 6**). This report was peer reviewed by FACET confirming the findings (**Exhibit 19**); therefore, this standard is met.

- ii. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the primary structure was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.

Staff Finding: The new bulkhead will be landward of the existing structure and landward of the OHWM; therefore, this standard is met.

- iii. For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

Staff finding: The existing creosote bulkhead located in the southeast portion of the site, and south of the swim dock is decaying. The existing bulkhead needs to be replaced with an inert bulkhead to provide stabilization for the landward features. The new bulkhead will not increase the size of the existing structure; therefore, this is met.

- iv. Construction and maintenance of normal protective bulkhead common to single-family dwellings requires only a shoreline exemption permit, unless a report is required by the code official to ensure compliance with the above conditions; however, if the construction of the

bulkhead is undertaken wholly or in part on lands covered by water, such construction shall comply with SEPA mitigation.

- a. **Staff Finding:** The applicant has applied for a Shoreline Substantial Development Permit (SSDP) with State Environmental Policy Act (SEPA) Review (SEP25-007) for the proposed development. The SEPA Determination of Nonsignificance for SEP25-007 was issued by the City of Mercer Island on November 17, 2025 (**Exhibit 21**); therefore, this requirement has been met.
2. *MICC 19.13.050(B)(2)* New structures for existing primary structures. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, are not allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. New or enlarged erosion control structure shall not result in a net loss of shoreline ecological functions.

Staff Finding: The proposed development does not include the installation of a new or enlarged structural stabilization measure for an existing primary structure; therefore, this requirement does not apply.

3. *MICC 19.13.050(B)(3)* New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis, in compliance with subsection (B)(7) of this section and building and construction codes.

Staff Finding: The proposed development does not include new development on steep slopes or bluffs; therefore, this requirement does not apply.

4. *MICC 19.13.050(B)(4)* New structural stabilization measures in support of water-dependent development shall only be allowed when all of the conditions below apply:
 - i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
 - ii. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report, in compliance with subsection (B)(7) of this section and building construction codes.
 - iv. The erosion control structure will not result in a net loss of shoreline ecological functions.

Staff Finding: The proposed development does not include new structural stabilization measures in support of water-dependent development; therefore, these requirements do not apply.

5. *MICC 19.13.050(B)(5)* New structural stabilization measures to protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to RCW Chapter 70.105D shall only be allowed when all of the conditions below apply:

- i. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

Staff Finding: The proposed development does not include new structural stabilization measures in support of water-dependent development; therefore, these requirements do not apply.

- ii. The erosion control structure will not result in a net loss of shoreline ecological functions.

Staff Finding: The proposed development does not include new structural stabilization measures in support of water-dependent development; therefore, these requirements do not apply.

- 6. *MICC 19.13.050(B)(6)* Bulkheads shall be located generally parallel to the natural shoreline. No filling may be allowed waterward of the ordinary high water mark, unless there has been severe and unusual erosion within two years immediately preceding the application for the bulkhead. In this event the city may allow the placement of the bulkhead to recover the dry land area lost by erosion.

Staff Finding: The proposed inert bulkhead would be located parallel to the natural shoreline. No filling for shoreline stabilization is proposed waterward of the OHWM (**Exhibit 2**); therefore, this requirement is met.

- 7. *MICC 19.13.050(B)(7)* Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

Staff Finding: The proposed development is not being installed to prevent potential damage to a primary structure; therefore, this requirement does not apply.

- 8. *MICC 19.13.050(B)(8)* When any structural shoreline stabilization measures are demonstrated to be necessary, pursuant to the above provisions, the following shall apply:

- i. Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of ecological functions. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.
- ii. Ensure that the publicly financed or subsidized shoreline erosion control measures do not permanently restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access provisions: WAC 173-26-221(4). Where feasible, incorporate restoration and public access improvements into the project.
- iii. Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment

conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt master program provisions for a beach management district or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.

Staff Finding: As stated in Finding VI.B.2, the stabilization measure is not for an existing primary structure, dwelling, or business. The size of the proposed stabilization measures are limited to the minimum necessary to replace the existing decaying bulkhead. The development is designed to ensure no net loss of ecological functions (**Exhibit 6**); therefore, these requirements are met.

- C. MICC 19.13.050(C) lists requirements for transportation and parking.

Staff Finding: The proposed development does not include changes to the existing transportation and parking facilities; therefore, these requirements do not apply.

- D. MICC 19.13.050(D), TABLE D lists requirements for moorage facilities and development located waterward from the OHWM:

1. Setbacks for all moorage facilities, covered moorage, and floating platforms shall be 10 feet from the lateral line, except where the moorage facility is built pursuant to the agreement between adjoining property owners.

Staff Finding: The proposed waterward development would be located greater than 10 feet from the lateral line (**Exhibit 2, Sheet 5 of 28**); therefore, this standard is met.

2. Setbacks for boat ramps and other facilities for launching boats by auto or hand, including parking and maneuvering space, shall be 25 feet from any adjacent private property line.

Staff Finding: The existing boat ramp is located greater than 25 feet from any adjacent private property (**Exhibit 2, Sheet 5 of 28**) and no new boat launch is proposed; therefore, this requirement is met.

3. The length or maximum distance from the OHWM for moorage facilities, covered moorage, boatlifts and floating platforms shall be a maximum of 100 feet. In cases where water depth is less than 11.85 feet below the OHWM, length may extend up to 150 feet or to the point where water depth is 11.85 feet at OHWM, whichever is less.

Staff Finding: Per MICC 19.13.050(L)(1) the proposed marina is not required to meet the Table D requirements for moorage facilities related to width and length; therefore, this requirement does not apply.

4. The width of moorage facilities within 30 feet waterward from the OHWM shall be a maximum of 4 feet. This maximum width may increase to 5 feet if one of the following is met:
 - a. Water depth is 4.85 feet or more, as measured from the OHWM.
 - b. A moorage facility is required to comply with Americans with Disabilities Act (ADA) requirements.
 - c. A resident of the property has a documented permanent state disability as defined in WAC 308-96b-010(5).
 - d. The proposed development includes mitigation option a, b or c listed in table e; and for replacement actions, there is either a net reduction in overwater coverage within 30 feet

waterward from the OHWM, or a site-specific report is prepared by a qualified professional demonstrating no net loss of ecological function of the shorelands. Moorage facility width shall not include pilings, boat ramps and lift stations.

Staff Finding: Per MICC 19.13.050(L)(1) the proposed marina is not required to meet the Table D requirements for moorage facilities related to width and length; therefore, this requirement does not apply.

5. The width of moorage facilities more than 30 feet waterward from the OHWM shall be a maximum of 6 feet. Moorage facility width shall not include pilings, boat ramps and boatlifts.

Staff Finding: Per MICC 19.13.050(L)(1) the proposed marina is not required to meet the Table D requirements for moorage facilities related to width and length; therefore, this requirement does not apply.

6. The maximum height limits for walls, handrails and storage containers located on piers shall be 3.5 feet above the surface of a dock or pier. Ramps and gangways designed to span the area between 0 and 30 feet from the OHWM may be 4 feet above the surface of the dock or pier.

Staff Finding: The proposed handrail on the main ramp would extend 3 feet 6 inches above the surface of the proposed decking (**Exhibit 2, Sheets 5 and 9 of 28**); therefore, this standard is met.

7. The height limit for mooring piles, diving boards and diving platforms shall be 10 feet above the elevation of the OHWM.

Staff Finding: The proposed moorage piles would not exceed 10 feet above the elevation of the OHWM (**Exhibit 2, Sheet 6 of 28**). The proposed development does not include diving boards or diving platforms; therefore, this requirement is met.

8. The minimum water frontage for a dock used by one single-family lot on the shoreline is 40 feet, shared lots is 40 feet combined, and semi-private recreational tracts is 40 to 275 depending on the number of families served by the tract.

Staff Finding: The proposed development is not located on a single-family lot, shared lot, or semi-private recreational tract; therefore, these standards do not apply.

9. Covered moorage is permitted on single-family residential lots subject to the following:
 - a. Maximum height above the OHWM: 16 feet; 16 to 21 feet subject to criteria of MICC 19.13.050(E)(1).
 - b. Location/area requirements: The covered portion of a moorage shall be restricted to the area lying within a triangle as illustrated in Figure A (MICC 19.13.050(E)), except as otherwise provided in subsection (E)(1) of this section.
 - c. A covered moorage is allowed outside the triangle, or a canopy up to 21 feet in height, if the covered moorage meets all other regulations and: Will not constitute a hazard to the public health, welfare, and safety, or be injurious to affected shoreline properties within the vicinity; Will constitute a lower impact for abutting property owners; and Is not in conflict with the general intent and purpose of the SMA, the shoreline master program and the development code.
 - d. Building area: 600 square feet; however, a covered moorage may be built larger than 600 square feet within the triangle subject to a shoreline conditional use permit.

- e. Covered moorage shall have open sides.
- f. Prohibited in semi-private recreational tracts and noncommercial recreational areas.
- g. Translucent coverings are required.

Staff Finding: Covered moorage is not included in the proposed development; therefore, these standards do not apply.

- C. MICC 19.13.050(E) lists standards for covered moorage.

Staff Finding: The proposed development does not include covered moorage; therefore, these standards do not apply.

- D. MICC 19.13.050(F) lists requirements for new and expanded moorage facilities, other than marinas and public access piers or boardwalks.

Staff Finding: The proposed development is a marina; therefore, these standards do not apply.

- E. MICC 19.13.050(G) states that breakwaters, jetties, groins, weirs, and similar structures are prohibited, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams. Breakwaters, jetties, groins, and weirs shall be designed to protect critical areas and shall provide for mitigation according to the sequence defined in WAC 173-26-201(2)(e).

Staff Finding: The proposed wave attenuator will be a replacement of the existing log boom and meets the definition of a breakwater pursuant to MICC 19.16.010. The wave attenuator would provide protection to ecological functions in the shoreline restoration area as well as provide greater wave dissipation and will not result in an increase of wave reflection towards adjacent properties, as shown in the Wave Reflection Study (**Exhibit 9**). The proposed wave attenuator would be a float that is intended to provide the wave attenuation necessary to protect the restored shoreline area and those areas providing public access to the shoreline; therefore, this requirement is met.

- F. MICC 19.13.050(I) states that the code official may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects consistent with the criteria and procedures in WAC 173-27-215.

Staff Finding: The applicant is not requesting relief from shoreline master program development standards and use regulations; therefore, this section does not apply.

- G. MICC 19.13.050(J) lists standards for dredging.

Staff Finding: The proposed development does not include dredging; therefore, these standards do not apply.

- H. MICC 19.13.050(K)(4) provides requirements for native vegetation coverage for certain new development. 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 shall include all gross floor area, lot coverage, and hardscape added in the five years immediately prior to the development proposal.

Staff Finding: The proposed development would not result in an increase in gross floor area; therefore, these requirements do not apply.

- I. WAC 173-27-150 lists review criteria for substantial development permits.

- a. A substantial development permit shall be granted only when the development proposed is consistent with:
 - a. The policies and procedures of the act;
 - b. The provisions of this regulation; and
 - c. The applicable master program adopted or approved for the area. Provided, that where no master program has been approved for an area, the development shall be reviewed for consistency with the provisions of chapter 173-26 WAC, and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.

Staff Finding: The proposed development is consistent with the policies and procedures of the act (SMA) and the provisions of the WAC by showing compliance with the SMP and completing SEPA review; therefore, these standards are met.

- b. Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

Staff Finding: The City adopted a new SMP with an effective date of March 18, 2015. The proposed request is consistent with the SMP, which is consistent with the SMA.

Staff Finding: The City may attach conditions to the approval of permits as necessary to assure consistency of the proposed development with the act and the local master program. The City is attaching recommended conditions of approval to the permit to ensure consistency with the SMA and SMP.

J. MICC 19.13.050(L)

Marinas. Marinas must comply with the following standards:

1. With the exception of the requirements for moorage facilities related to width and length, marinas shall comply with design standards required for moorage facilities listed in Table D, Requirements for Moorage Facilities and Development Located Waterward from OHWM.

Staff Finding: The proposed development is consistent with the requirements for moorage facilities except for the regulations related to width and length (**Exhibit 2, Sheet 5 of 28**); therefore, this requirement is met.

2. Marinas are only allowed if they provide significant public access to the shoreline. A proposed marina provides significant public access by meeting one of the following conditions.
 - a. The marina is owned or operated by the city of Mercer Island;
 - b. The marina is owned or operated by an organization or corporation serving at least 50 people; or
 - c. The marina is open to the general public and access is not limited to membership in an organization.

Staff Finding: The proposed development is for a marina owned and operated by an organization or corporation serving at least 50 people (**Exhibit 3**); therefore, this requirement is met.

3. *Application requirements.* Applications for marinas must include the following.
- a. A no net loss plan, consistent with MICC 19.13.020(C), which demonstrates that the proposed project will not create a net loss in ecological function of the shorelands.
 - b. A demand analysis or master plan that projects future needs for pier or dock space during the life of the development.
 - i. The total amount of moorage spaces proposed;
 - ii. The total number of commercial moorage spaces in the city of Mercer Island within a one-mile radius of the proposed facility; and
 - iii. The expected population and vessel characteristics of the potential users of the facility and how these characteristics relate to specific facility design elements including slip sizes, pier and dock length, and necessary water depth.

Staff Finding: The Applicant provided an Ecological No Net Loss Assessment Report and Critical areas Study prepared by Northwest Environmental Consulting, LLC (**Exhibit 6**) which demonstrates the proposed development will not create a net loss in ecological function in the shorelands and a Demand Analysis (**Exhibit 5**) consistent with the above requirements; therefore, this requirement is met.

4. *General requirements.* The following standards apply to all marinas.
- a. Marinas shall be designed and operated consistent with federal and state water quality laws and established best management practices (BMPs) for marina operators, such as BMPs for bilge water discharge, hazardous waste, waste oil and spills, sewer management, and spill prevention and response. Rules for spill prevention and response, including reporting requirements, shall be posted on site.

Staff Finding: The marina would be operated consistent with federal and state water quality laws and established BMPs, including those listed on the plan set (**Exhibit 2, Sheet 19-21 of 28**) and rules for spill prevention and response will be posted on site as conditioned; therefore, this requirement is met.
 - b. Marinas shall be designed and sited to prevent the need for maintenance dredging during the life of the development. Moorage must be designed to avoid vessels resting on the lakebed.

Staff Finding: The marina is designed to pull development away from the nearshore and out to the inner harbor line to further avoid potential impacts to the shoreline and lakebed, including vessels resting on the lakebed; therefore, this requirement is met.
 - c. Marinas must not be larger than necessary to accommodate the expected need as determined by the required demand analysis, this includes:
 - i. Overwater structures must not be wider or longer than necessary to accommodate the expected need;
 - ii. The number of slips provided must not exceed the expected need; and
 - iii. The slip dimensions must not be larger than necessary to moor the expected vessels moored.

Staff Finding: As stated in the Demand Analysis (**Exhibit 5**) the marina is the minimum size necessary to meet all competing demands. The overwater structures are the minimum width necessary to accommodate the expected need of multiple users accessing their vessels, including families with small children and elderly members. The proposed development will provide the same number of boat slips as the previous configuration and the slip dimensions are designed to be the minimum size necessary to moor the expected MIBC member vessels; therefore, this requirement is met.

- d. Marinas shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. All other exterior finishes above the waterline must be nonreflective.

Staff Finding: The proposed marina will be marked by red solar-powered marine navigation lights, and by reflectors, as shown on **Sheet 5, 25 and 27** of the plan set (**Exhibit 2**); therefore, this requirement is met.

- e. Marinas must not include materials treated with pentachlorophenol, creosote, chromated copper arsenate, or comparably toxic compounds. Any paint, stain or preservative applied to components of the marina must be leach resistant and completely dried or cured prior to installation.

Staff Finding: The proposed development does not contain materials treated with pentachlorophenol, creosote, chromated copper arsenate, or comparably toxic compounds. Any paint, stain or preservative applied to components of the marina must be leach resistant and completely dried or cured prior to installation; therefore, this requirement is met.

- f. Marinas must not interfere with the public use and enjoyment of the water or create a hazard to navigation.

Staff Finding: The proposed marina will not interfere with the public use and enjoyment of the water or create a hazard to navigation. The proposal does not propose to create any new boat slips and while the reconfiguration is located further out into the lake, it is only to the extent required to avoid potential impact to the shoreline and lakebed; therefore, this requirement is met.

- g. At least one restroom must be provided upland of the OHWM.

Staff Finding: The proposed development provides multiple restrooms located in the upland facilities. One restroom upland of the OHWM can be found on **Sheet 27** of the plan set (**Exhibit 2**); therefore, this requirement is met.

- h. At least one covered and secured waste receptacle must be provided upland of the OHWM.

Staff Finding: The proposed development provides at least one covered and secured waste receptacle upland of the OHWM which can be located on **Sheet 27** of the plan set (**Exhibit 2**); therefore, this requirement is met.

- i. Utility and service lines located waterward of the OHWM must be affixed below the pier deck and above the water. Utility and service lines located upland of the OHWM shall be underground, where feasible.

Staff Finding: The proposed development does not include any utility or service lines; therefore, this standard does not apply.

- j. Covered moorage is prohibited in marinas.

Staff Finding: Covered moorage in marinas is prohibited and not part of the proposed development; therefore, this standard is met.

- k. Floating homes and living within vessels are prohibited in marinas.

Staff Finding: Floating homes and living within vessels in marinas is prohibited and not part of the proposed development; therefore, this standard is met.

- l. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings must occur prior to final approval of the building permit. Woody vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success.

Staff Finding: The applicant provided an Ecological No Net Loss Assessment Report and Critical Areas Study by Northwest Environmental Consulting, LLC (**Exhibit 6**) which found the disturbance of bank vegetation is limited to the minimal amount necessary and the proposed development includes a shoreline planting plan (**Exhibit 2, Sheet 23 of 28**) to remove non-native vegetation and replace with native vegetation; therefore, this requirement is met.

- m. Exterior lighting mounted on piers, docks or other overwater components of a marina shall be at ground or dock level, be directed away from adjacent properties and the water, be of the lowest intensity needed, and designed and located to prevent light from spilling onto the lake water. The following development activities are exempt from this requirement:
 - i. Emergency lighting required for public safety incidents;
 - ii. Lighting required by state or federal regulations;
 - iii. Lighting for public rights-of-way;
 - iv. Outdoor lighting for temporary or periodic events (e.g., community events at public parks); and
 - v. Seasonal decorative lighting beyond 30 feet of the ordinary high water mark.

Staff Finding: There are no proposed lights as part of this project; therefore, these standards do not apply.

- n. The applicant must provide documentation of approval of the marina by both the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife.

Staff Finding: As conditioned, the proposed development will be required to obtain any permits from state and federal agencies that are applicable to the proposed development; therefore, this requirement will be met.

- o. Vessels shall be restricted from extended mooring on waters of the state, except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

Staff Finding: The proposed development will not result in an increase in mooring on the waters of the state. As conditioned, vessels shall be restricted from extended mooring on waters of the state, except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated; therefore, this standard is met.

- 5. *Piles.* Piles associated with a marina must comply with the following requirements.

- a. Piles shall be placed at least 18 feet from the OHWM.

Staff Finding: Piles associated with the proposed development are at least 18 feet from the OHWM (**Exhibit 2, Sheet 5 of 28**); therefore, this standard is met.

- b. Piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate or comparably toxic compounds.

Staff Finding: The proposed development utilizes steel external epoxy coated piles (**Exhibit 2, Sheet 5 of 28**); therefore, this standard is met.

- c. Piles must be spaced at least 18 feet apart. The code official may authorize alternate spacing of piles provided the applicant demonstrates that the alternate spacing reduces the total number of piles needed for the project.

Staff Finding: The proposed development includes piles spaced greater than 18 feet apart measured lengthwise. The proposed spacing of the piles would result in new piles equaling 78.5 percent of the existing piles; therefore, this requirement is met.

- d. Piles must not exceed 12 inches in diameter. The code official may authorize larger piles provided the applicant demonstrates that the larger piles reduce the total number of piles needed for the project.

Staff Finding: The piles vary between eight inches in diameter to 16 inches in diameter. The larger piles are needed due to the size of the proposed development. The proposed development would remove the existing 121 timber pilings and replace with 98 epoxy coated steel pilings; therefore, this requirement is met.

- e. Piles must be fitted with devices to prevent perching by fish-eating birds.

Staff Finding: All piles that extend above the surface of the dock will be fitted with anti-perching caps (**Exhibit 2, Sheet 6 of 28**); therefore, this standard is met.

- 6. *Overwater structures.* Overwater structures associated with a marina must comply with the following requirements.

- a. Overwater structures must be designed to minimize the lakebed shading to the greatest degree feasible.
 - i. Overwater structures within 30 feet of the OHWM must not exceed six feet in width.

Staff Findings: A portion of the swim dock and main ramp are located within 30 feet of the OHWM. Both have a proposed width of 6 feet; therefore, this requirement is met.

- ii. Overwater structures more than 30 feet from the OHWM may be wider than six feet provided:
 - A. Overwater structures wider than six feet must be approved by the Army Corps of Engineers and/or Washington Department of Fish and Wildlife;
 - B. Potential environmental impacts of overwater structures with a width greater than six feet must be addressed in the required no net loss plan; and
 - C. The code official may condition approval to require mitigation for any overwater structure exceeding six feet in width.

Staff Finding: The applicant has provided a no net loss plan (**Exhibit 6**) which addresses the portion of the marina with a width of 7, 8 and 10 feet beyond 30 feet from the OHWM (**Exhibit 2, Sheet 5 of 28**). As conditioned, the proposed development is required to obtain any permits from state and federal agencies that are applicable to the proposed development; therefore, this requirement will be met.

- iii. Overwater structures must be grated in compliance with state and federal law.

Staff Finding: The marina is designed to meet the grating requirements of State and Federal law as it will use “sunwalk” grating for the swim dock, and ECO-Grate 62 for the marina docs; therefore, this requirement is met.

- b. *Length.* Overwater structures that compose a marina must be designed to avoid adversely affecting navigability of waterways.
 - i. Overwater structures associated with the marina shall not exceed the minimum length necessary to accommodate facility needs as demonstrated in the required demand analysis or master plan.
 - ii. The code official may condition approval of the length to reduce the effects of overwater structures on navigability of the waterway.

Staff Finding: The applicant has provided a demand analysis (**Exhibit 5**) that confirms the swim dock and marina are designed to avoid adverse effects on the navigability of the waterways; therefore, this requirement is met.

- c. *Floats.* Floats must comply with the following requirements.
 - i. All floats shall be designed to prevent the bottom of the float from resting on the lakebed.
 - ii. All floats must be fully enclosed and contained in a shell, tub, or wrap. The shell, tub, or wrap must prevent breakup or loss of the flotation material into the water. The shell or wrap must not be readily subject to damage by ultraviolet radiation and abrasion.

Staff Finding: The proposed floats are designed to be further out into the lake to prevent the bottom of the float from resting on the lakebed. All floats will be fully enclosed and made of durable material; therefore, this requirement is met.

7. *New marinas.* New marinas shall only be located where there are existing marinas on the effective date of this chapter.

Staff Finding: The proposed development is for a new marina to be located where an existing marina is located on the effective date this section of code was codified; therefore, this requirement is met.

SHL25-007 – Conclusions of Law

The following conclusions are hereby made based on the findings of fact listed above in **Section V**:

1. Subject to the following Conditions of Approval, the proposed development meets the Mercer Island Shoreline Master Program MICC 19.07.110 Table B - requirements for development located waterward from the Ordinary High Water Mark.
2. The proposed development is consistent with the City of Mercer Island Comprehensive Plan in place at the time the application was deemed complete.
3. The proposed development as conditioned meets the applicable requirements of the Shoreline Management Act under RCW Ch. 90.58 & WAC Ch. 173-27.
4. The application materials adequately discuss the existing conditions and impacts of the site.
5. The proposed development as conditioned would not have probable significant adverse environmental impacts.
6. Any of the above listed findings of fact that are conclusions are hereby incorporated as conclusions.

SHL25-007 – Recommended Conditions of Approval

1. Construction of the proposed development shall only occur during approved fish windows by local, state, and/or federal government agencies. The applicant is responsible for obtaining permit approvals from all state and federal agencies.
2. The applicant shall obtain any permits from state and federal agencies that are applicable to the proposed development. The applicant is also responsible for documenting any required changes in the proposed development due to conditions imposed by any applicable local, state, and federal government agencies.
3. Piles, floats, or other structures in direct contact with the water shall not be treated or coated with toxic substances harmful to the aquatic environment. Chemical treatment of structures shall comply with all applicable state and federal regulations. Any pollutants entering Lake Washington shall be reported immediately to the Department of Ecology N.W. Regional Office: (425) 649-7000 and the City of Mercer Island: (206) 275-7605.
4. The mitigation and construction BMPs described in **Exhibit 6** and the planting plan, nearshore habitat restoration, and aquatic habitat improvements discussed in **Exhibit 6** are required to be implemented prior to final inspection of the building permit.

5. Vessels shall be restricted from extended mooring on waters of the state, except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated
6. A sign providing rules for spill prevention and response, including reporting requirements consistent with MICC 19.13.050(L)(4)(a) must be posted on site prior to final inspection.

VI. SHL25-008– SCUP FINDINGS, CONCLUSIONS, AND RECOMMENDED CONDITIONS OF APPROVAL

- A. The purpose of a SCUP is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.
1. WAC 173-27-160(1) lists review criteria for approving a SCUP. Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

- a. WAC 173-27-160(1)(a). That the proposed use is consistent with the policies of RCW 90.58.020 and the master program.

Staff Finding: The applicant has demonstrated that proposed development is consistent with RCW 90.58.020 by fostering reasonable use of the shoreline while also restoring the natural character of the shoreline. The proposed development would reduce overwater coverage within 30 feet of the shore by 380 square feet and reduce shadowing by using grated decking. Additionally, 60 linear feet of rock and timber bulkhead will be replaced with beach which will provide an additional 25 cubic yards of beach nourishment gravel as well as additional shoreline plantings. The shoreline stabilization measures have been designed to restore the natural character of the shoreline and have been minimized to provide necessary support for access while preserving the natural character of the shoreline the extent feasible; therefore, this requirement is met.

- b. WAC 173-27-160(1)(b). That the proposed use will not interfere with the normal public use of public shorelines.

Staff Finding: The subject property is privately owned property, and the proposed development will not interfere with the normal use of public shorelines; therefore, this requirement is met.

- c. WAC 173-27-160(1)(c). That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program.

Staff Finding: The MIBC has been established since 1958, and the proposed marina is an authorized use in the R-8.4 zone and Urban Residential shoreline environment designation through the Shoreline Conditional Use Permit process. The proposed development has been designed to reduce impact to the surrounding residential properties, including implementing noise mitigation on the docks (**Exhibit 2, Sheet 5 “Note 3” of 28**); therefore, this requirement is met.

- d. WAC 173-27-160(1)(d). That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located.

Staff Finding: The applicant has demonstrated that the proposed development would not result in significant adverse effects on the shoreline environment through an Ecological No Net Loss Assessment and Critical Areas Study, prepared by Northwest Environmental Consulting, LLC (**Exhibit 6**). The applicant would also implement best management practices during construction to avoid or minimize potential impacts on the shoreline environment (**Exhibit 6**); therefore, this requirement is met.

- e. WAC 173-27-160(1)(e). That the public interest suffers no substantial detrimental effects.

Staff Finding: The subject property is privately owned property, and the proposed development will not interfere with the normal use of public shorelines; therefore, this requirement is met.

2. WAC 173-27-160(2). In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

Staff Finding: A SCUP was granted in 2024 for the Luther Burbank Waterfront Improvements Project. It has been found that the Luther Burbank Park is located approximately 4 miles from the proposed development which provides sufficient distance not to render cumulative impact and will not create any adverse impacts to the shoreline environment; therefore, this standard is met.

3. WAC 173-27-160(3). Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.

Staff Finding: The applicant demonstrated consistency with the requirements of this section and the requirements for a SCUP contained in the SMP; therefore, this standard is met.

4. WAC 173-27-160(4). Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section.

Staff Finding: The uses are not specifically prohibited by the SMP; therefore, this standard is met.

SHL25-008 – Conclusions of law

The following conclusions are hereby made based on the findings of fact listed above in **Section VI**:

1. As conditioned, the proposed development, to reconstruct and reconfigure the MIBC marina, is consistent with the standards in the MICC, SMP, and WAC; therefore, the proposed Shoreline Conditional Use Permit SHL25-008 is allowed.
2. The proposed development is consistent with the City of Mercer Island Comprehensive Plan in place at the time the application was deemed complete.
3. The proposed development as conditioned meets the applicable requirements of the Shoreline Management Act under RCW Ch. 90.58 & WAC Ch. 173-27.
4. The application materials adequately discuss the existing conditions and impacts of the site.

5. The proposed development as conditioned would not have probable significant adverse environmental impacts.
6. Any of the above listed findings of fact that are conclusions are hereby incorporated as conclusions.

SHL25-008– Proposed Conditions of Approval

1. The applicant shall obtain any permits from state and federal agencies that are applicable to the proposed development. The applicant is also responsible for documenting any required changes in the proposed development due to conditions imposed by any applicable local, state, and federal agencies.
2. Piles, floats, or other structures in direct contact with the water shall not be treated or coated with toxic substances harmful to the aquatic environment. Chemical treatment of structures shall comply with all applicable state and federal regulations. Any pollutants entering Lake Washington shall be reported immediately to the Department of Ecology N.W. Regional Office: (425) 649-7000 and the City of Mercer Island: (206) 275-7605.
3. Construction of the proposed development shall only occur during approved fish windows by local, state, and/or federal government agencies. The applicant is responsible for obtaining permit approvals from all state and federal agencies.

VII. RECOMMENDED CONDITIONS OF APPROVAL

General Conditions of Approval

- a. The proposed development shall be in substantial conformance with **Exhibit 2** and all applicable development standards contained within Chapter 19.13 of the Mercer Island City Code (MICC).
- b. The applicant shall obtain any permits from state and federal agencies that are applicable to the proposed development. The applicant is also responsible for documenting any required changes in the proposed development due to conditions imposed by any applicable local, state, and federal government agencies.
- c. Construction shall not be authorized, nor may begin within twenty-one days of the date of filing of the decision as defined in RCW 90.58.140(6).
- d. A City of Mercer Island Building Permit may be required for construction of the proposed development. The Building Official may require an appropriate performance bond in an amount to be determined prior to Building Permit issuance to ensure all required vegetation installation is completed in compliance with applicable code requirements.
- e. Construction of the proposed development shall only occur during approved fish windows by local, state, and/or federal government agencies. The applicant is responsible for obtaining permit approvals from all state and federal agencies.
- f. Construction of the proposed development shall only occur during approved construction hours by the City of Mercer Island and/or as otherwise restricted by the Building Official.
- g. The applicant shall provide the Community Planning and Development Department (CPD) with documentation of approval of the proposed development from the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife. This documentation shall be received by CPD prior to issuance of building permits for the proposed development.

- h. The applicant shall provide the City with development plans that reflect the field verified location of the sewer lake line pre-construction prior to building permit issuance. If the lakebed is being disturbed, please contact Fish and Wildlife and the U.S. Army Corps of Engineers, as a permit may be required. **Please note:** Field verification should be performed with due care as the sewer lake line is pressurized in some locations and the pipe material could be prone to damage.

The applicant shall provide development plans based upon a pre-construction field survey locating the sewer lake line, and shall deliver the results to the City in one of the formats listed below, ranked from top to bottom, (i) being the top preferred method:

- i. A hand-drawn or plotted as-built of the lake line location with accurate distance measurements to multiple visible and permanent reference points. Reference points can include dock corners, utilities, structures, stairs, etc.-
- ii. A CAD file including the lake line and surveyed area in WGS-1984 or Washington State Plane North coordinate systems.
- iii. A CAD file including the lake line and surveyed area in an assumed coordinate system, including multiple visible and permanent reference points.
- iv. A list of coordinates denoting the lake line location, in WGS-1984 or Washington State Plane North coordinate systems.
- v. If none of the above options are viable, the City will consider reasonable efforts to provide field verification of the sewer lake line. Possible constraints that may make field verification nonviable includes, but is not limited to, the following: if the sewer pipe is too deep to locate or if there are fish window constraints.

If a coordinate system is used, the survey must be performed using high accuracy GPS or total station (half-foot accuracy). This **excludes** cellphone or handheld GPS surveys.

- i. The applicant shall inform the Mercer Island Maintenance Department at (206) 275-7608 of the anticipated start date of in-water work prior to commencement of construction.
- j. Piles, floats, or other structures in direct contact with water shall not be treated or coated with toxic substances harmful to the aquatic environment. Chemical treatment of structures shall comply with all applicable state and federal regulations. Any pollutants entering Lake Washington shall be reported immediately to the Department of Ecology N.W. Regional Office: (425) 649-7000 and the City of Mercer Island: (206) 275-7605.
- k. Construction or substantial progress toward construction of a development for which a permit has been granted must be undertaken within two years after the approval of the permit or the permit shall terminate. The code official shall determine if substantial progress has been made. A single extension before the end of the time limit, with prior notice to parties of record, for up to one year, based on reasonable factors may be granted.
- l. The mitigation, planting plan, nearshore habitat restoration plan, and construction BMPs described in **Exhibit 6** are required to be implemented prior to final inspection of the building permit.

DEVELOPMENT REGULATION COMPLIANCE – DISCLOSURE

1. The applicant is responsible for obtaining any required permits or approvals from the appropriate Local, State, and Federal Agencies. The applicant is responsible for meeting the conditions required by the agencies pursuant to MICC 19.13.010(E) and 19.13.040.
2. All required permits must be obtained prior to the commencement of construction.

RECOMMENDATIONS

SHL25-007 (Shoreline Substantial Development Permit): The Hearing Examiner **RECOMMENDS APPROVAL TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY SUBJECT TO CONDITIONS** the Mercer Island Beach Club Marina Reconfiguration and Replacement Project - Shoreline Substantial Development Permit, SHL25-007 as the Applicant has demonstrated that the criteria enumerated within **Section V** of this staff report have been met.

SHL25-008 (Shoreline Conditional Use Permit): The Hearing Examiner **RECOMMENDS APPROVAL TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY SUBJECT TO CONDITIONS** the Mercer Island Beach Club Marina Reconfiguration and Replacement Project - Shoreline Conditional Use Permit, SHL25-008 as the Applicant has demonstrated that the criteria enumerated within **Section VI** of this staff report have been met.

Recommended this 23 day of January, 2026

Grace Manahan

Grace Manahan – Code Compliance Planner
Community Planning & Development
City of Mercer Island