



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND**

**AB 5916
July 20, 2021
Regular Business**

AGENDA BILL INFORMATION

TITLE:	AB 5916: Acceptance of Grant of Public Access Easements for Sidewalks and Extinguishment of Public Access and Landscape Easements – Xing-hua Project	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed:
RECOMMENDED ACTION:	Approve acceptance of grant of public access easements and extinguishment of public access and landscape easements.	<input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

DEPARTMENT:	Community Planning and Development
STAFF:	Jeff Thomas, Interim Director
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Vicinity Map 2. Public Access Easement Recording No. 20050902001543 3. Public Landscape Easement Recording No. 8201220491 4. Proposed Granting / Extinguishment of Easements
CITY COUNCIL PRIORITY:	n/a

SUMMARY

This is an authorization to approve the granting of three new public access easements to the City for sidewalks on 77th Avenue SE, 29th Street SE, and 78th Avenue SE (plus an easement replacement on the NW corner of 29th Street SE and 78th Avenue SE) associated with the Xing-hua project. Additionally, the extinguishment of one public access easement is proposed on the corner of 29th Street SE and 78th Avenue SE and one public landscape easement on 78th Avenue SE to accommodate these new public access easements. Per State law, the City Council must authorize changes to property interests for all public property.

BACKGROUND

An application for Design Commission Design Review of a new four-story mixed-use building has been approved for the properties at 2750 77th Ave SE and 2885 78th Ave SE, shown on Exhibit 1 and known as the Xing-hua project. This project includes the provision of sidewalks and other frontage improvements as required by the Mercer Island Municipal Code (MICC). To construct the required sidewalks, the granting of three new public access easements to the City are required as follows:

- 77th Avenue SE = 3.6'
- 29th Street SE = 2.0'
- 78th Avenue SE = 0.85' (plus an easement replacement on the NW corner of 29th Street SE and 78th Avenue SE)

Additionally, the extinguishment of two existing easements – one public access easement to be replaced as described in Exhibit 2 and one public landscape easement as described in Exhibit 3 - are proposed to accommodate these three new public access easements.

The public landscape easement was originally executed in 1981 and is for landscaping within a 2.5' strip along the eastern edge of the property, adjacent to the 78th Ave SE right-of-way, less areas currently used for driveways. To accommodate access to the new development, City Council approved amendments to this easement in January 2021 – see [AB5790](#). The resulting amended public landscape easement was not recorded, therefore never became effective.

During the subsequent civil engineering review of the development permit application for the Xing-hau project, it was determined that there was insufficient public right-of-way by 0.85' to construct the required frontage improvements on 78th Avenue SE. Due to the presence of the adjacent 2.5' public landscape easement, no additional dedication or easement can be granted to the City without further modification or extinguishment of the public landscape easement.

The applicant has chosen to propose the extinguishment of this public landscape easement, replaced partially with the 0.85' public access easement and generally incorporate the remaining 1.65' into their required private landscaping requirement except where access to the new development is required.

A graphic supplementing Exhibit 4 and summarizing the location of the proposed easements is under development and will be available to support the City Council discussion on July 20.

RECOMMENDATION

Authorize the City Manager to execute instruments, subject to approval as to form by the City Attorney, accepting the grant of three new public access easements to the City for sidewalks on 77th Avenue SE, 29th Street SE and 78th Avenue SE (plus an easement replacement on the NW corner of 29th Street SE and 78th Avenue SE), as well as the extinguishing one public access easement on the corner of 29th Street SE and 78th Avenue SE and one public landscape easement on 78th Avenue SE, substantially in the form proposed in Exhibit 4.