CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT
9611 SE 36TH STREET | MERCER ISLAND, WA 98040
PHONE: 206.275.7605 | www.mercerisland.gov

DESIGN STANDARD REVIEW

STAFF REPORT & RECOMMENDATION DSR25-009 (Exhibit 1)

Project Number: DSR25-009

Project Name: Herzl-Ner Tamid Conservative Congregation PreK-8 Project (Barnabie Point Project)

Land Use Review Type: Type IV

Description: A request for Design Standard Review for the construction of a new PreK-8 school and office building and associated site improvements, including construction of a trash enclosure, parking lot reconfiguration, installation of utilities, a play area, and pedestrian pathways, and removal and replacement of trees

Applicant/ Owner: Anjali Grant (Anjali Grant Design) / Herzl-Ner Tamid Conservative Congregation

Site Address: 3700 E Mercer Way and surrounding properties, Mercer Island, WA 98040
Identified by King County Assessor tax parcel numbers: 0824059045, 1515600010, 2107000010, 151560TRCT.

Zoning District: Business (B) and Single-Family Residential (R-9.6)

Key Project Dates:

Date of Application:	June 18, 2025
Determined to Be Complete:	June 27, 2025
Bulletin Notice:	July 7, 2025
Date Mailed:	July 7, 2025
Date Posted on the Subject Property:	July 7, 2025
Comment Period Ended:	5:00 PM on August 7, 2025
Notice of Public Hearing Issued:	September 29, 2025
Notice of Public Hearing Bulletin Notice:	September 29, 2025
Notice of Public Hearing Date Mailed:	September 29, 2025
Notice of Public Hearing Date Posted on the Subject Property:	September 29, 2025
Date of Open Record Public Hearing:	October 31, 2025 at 9:00 AM

Staff Contacts: Molly McGuire, Senior Planner

Exhibits:

1. DSR25-009 Staff Report, dated October 31, 2025;

2. Development Application;
3. Development Plan Set;
4. Project Narrative;
5. Conditional Use Permit (CUP24-001) Approval, issued by Hearing Examiner Galt on July 18, 2025;
6. Conditional Use Permit (CUP24-001) Correction Notice, issued by Hearing Examiner Galt on July 21, 2025;
7. SEPA Revised Mitigated Determination of Non-Significance for SEP24-003, issued by the City of Mercer Island on April 7, 2025;
8. Hearing Examiner Ruling on SEPA Appeal (APL25-003), issued by Hearing Examiner Galt on July 18, 2025;
9. Critical Area Review 1 (CAO24-014), issued by the City of Mercer Island on April 8, 2025;
10. Critical Area Review 1 (CAO25-006), issued by the City of Mercer Island on April 29, 2025;
11. Shoreline Exemption (SHL25-006), issued by the City of Mercer Island on April 29, 2025;
12. Hazard Map, generated by the City of Mercer Island on June 11, 2025;
13. Synagogue Seating Capacity Diagram;
14. Arborist Report, prepared by Davey Resource Group, Inc., dated September 29, 2023;
15. Arborist Supplemental Identification of Additional Trees, prepared by Davey Resource Group, Inc., dated July 3, 2025;
16. Fee-in-lieu analysis for Grove mitigation (Parcel 0824059045), prepared by Davey Resource Group, Inc., dated October 9, 2025;
17. Title Report, dated April 1, 2025;
18. Affidavit of Ownership, dated April 9, 2025;
19. Affidavit of Agent Authority, dated April 9, 2025;
20. Review Letters, issued by the City of Mercer Island;
    - 20.1 DSR25-009 Review Letter 1, dated August 8, 2025
    - 20.2 DSR25-009 Review Letter 2, dated September 30, 2025
    - 20.3 DSR25-009 City Engineer Review Letter, dated October 13, 2025
21. Applicant Response to Review Letters;
    - 21.1 Applicant Response to Review Letter 1, dated August 25, 2025
    - 21.2 Applicant Response to Review Letter 2, dated October 10, 2025
22. Public Comments;
    - 22.1 Sarah Fletcher, received July 7, 2025
    - 22.2 Matthew Goldbach and John Hall, received August 6, 2025
    - 22.3 Sarah Fletcher, received October 8, 2025
23. Public Comment Response Letters;
    - 23.1 Response to Sarah Fletcher, dated August 11, 2025
    - 23.2 Response to Matthew Goldbach and John Hall, dated August 23, 2025
24. Zoning Map;
25. Traffic Impact Analysis (TIA), prepared by Transpo Group, dated January 2025;
26. Parking Memorandum for Cooperative Parking, dated October 14, 2025;
27. City of Mercer Island Engineer Parking Reduction Approval, dated October 16, 2025;
28. Transportation Concurrency Certificate, issued June 17, 2025;
29. Historic Records;
    - 29.1 Synagogue and Social Center Plans, dated December 17, 1970
    - 29.2 Certificate of Occupancy for Synagogue and Social Center, dated December 14, 1971
    - 29.3 Application for Conditional Use Permit, dated March 28, 1979
    - 29.4 Planning Commission Meeting Minutes for Denial of 1979 CUP Application, dated June 20, 1979

29.5 Appeal of Planning Commission Decision, dated June 29, 1979
29.6 Letter from City Attorney to City Council, dated July 17, 1979
29.7 Letter from City Attorney to Applicant, dated July 19, 1979
29.8 City Council Appeal Hearing Meeting Minutes, dated July 23, 1979
29.9 City Council Appeal Hearing Record, dated July 23, 1979
29.10 Planning Commission Conditional Use Permit Public Hearing, dated December 5, 1979
29.11 City Council Approval of Conditional Use Permit, dated December 10, 1979
29.12 City Council Meeting Materials, dated December 10, 1979
29.13 Letter from Applicant to City, dated November 26, 1979
29.14 Letter from City to Applicant, dated November 26, 1979
29.15 Notice from City to Applicant, dated December 11, 1979
29.16 FASPS SEPA MDNS SEP07-024, dated October 15, 2007
29.17 FASPS Parking Agreement, dated June 6, 2007
29.18 Aerial Imagery from March 1978, generated by the City of Mercer Island on October 8, 2025

30. DSR25-009 Notice of Complete Application, dated June 27, 2025;
31. DSR25-009 Notice of Application, dated July 7, 2025;
32. DSR25-009 Notice of Public Hearing, dated September 29, 2025;
33. Affidavits of Mailing and Posting for the Notice of Public Hearing, completed September 26, 2025.

I. APPLICATION OVERVIEW

Project Overview: The Applicant requests Design Standard Review to construct a new PreK-8 school and office building on parcel number 0824059045, and new pedestrian pathways, utilities, fencing, landscaping, and parking located on parcel numbers 151560TRCT, 2107000010, and 1515600010 which are split zoned Business (B) and Single-Family Residential (R-9.6) (**Exhibit 24**). Pursuant to MICC 19.01.040(G)(2), where a boundary between zones divides a lot into two or more pieces, the entire lot shall be deemed to be located in the first zone on the following list in which any part of the lot is located: R-15, R-12. R-9.6, R-8.4, MF-2L, MF-3, MF-2, PI, PBZ, C-0, TC, and B. Parcel numbers 151560TRCT, 2107000010, and 1515600010 are designated R-9.6. Parcel 0824059045 is entirely within the Business (B) zoning designation, which permits outright both public and private schools accredited or approved by the state for compulsory school attendance and office uses. The proposed associated developments would be shared between the existing synagogue (place of worship) and the new preschool, K-8 school, and office building. MICC 19.02.010(C)(3) allows places of worship when authorized by the issuance of a conditional use permit. Due to the proposed changes to the property containing the place of worship, a new conditional use permit was required per MICC 19.15.200(B)(1) since the proposed revision to the existing conditional use permit results in substantial changes to the site. The construction of the proposed preK-8 school and office space building on parcel number 0824059045 does not trigger the requirement for a conditional use permit as the B zoning designation already permits outright the school and office uses (MICC 19.06.110(A)(5)(c)). A Conditional Use Permit was granted on July 18, 2025 (**Exhibit 5**).

Background: The existing synagogue on parcel number 1515600010 was permitted in December of 1970 for a sanctuary and social center (**Exhibit 29.1**) and a Certificate of Occupancy was issued on December 14, 1971 (**Exhibit 29.2**). After July 1975, the development standards were revised to require a conditional use permit for a church use in a single-family zone. HNT submitted an application for a conditional use permit on March 28, 1979 for a non-commercial recreational area, including "occasional outdoor services, classes when appropriate, limited play area, occasional picnics, cottage for on-site custodian, garden meditation quiet areas" (**Exhibit 29.3**). On June 20, 1979, the Planning Commission denied the conditional use permit application for a portion of the property to be developed with a non-commercial recreational area (**Exhibit 29.4**). The decision was appealed by the applicant on June 29, 1979, with the claim that the proposed improvements were accessory and incidental to the main buildings and should not require a conditional use permit (**Exhibit 29.5**).

In letters from the acting city attorney dated July 17 and July 19, 1979, it was determined that a conditional use permit was required for the non-commercial recreational area as it was an expansion of the synagogue use, which was legally nonconforming due to the development code revision in 1975 (**Exhibits 29.6 and 29.7**). During the appeal hearing on July 23, 1979, the City Council passed a motion to remand the application back to the Planning Commission to allow the applicant to apply for a conditional use permit for the entire property of the Herzl-Ner Tamid congregation, rather than a conditional use permit for a non-commercial recreational area (**Exhibits 29.8 and 29.9**). The Planning Commission held a public hearing for a conditional use permit for the entire property on December 5, 1979. The request was recommended for approval to the City Council unanimously by the Planning Commission at this hearing (**Exhibit 29.10**). Records from the applicant and City on November 26, 1979 clearly state that the conditional use permit application is for the entire property (**Exhibits 29.13 and 29.14**). The City Council affirmed the Planning Commission's recommendation on December 10, 1979 (**Exhibit 29.11**). The application materials that were approved on December 10, 1979 can be found in **Exhibit 29.12**. A Notice to the applicant from the City was issued on December 11, 1979 explaining the next steps in the process for final approval from the Design Commission for the care-taker's cottage. The Notice states that "This final review by the Design Commission does not jeopardize the approved Conditional Use Permit" (**Exhibit 29.15**). The granting of this conditional use permit brought the entire site into conformance with the then existing development regulations. A building permit for the construction of a building appurtenant to the synagogue for the use of a care-takers cottage was issued on December 27, 1979 (**Exhibit 29.16**).

In 2005, the French American School of Puget Sound (FASPS) located across E Mercer Way at 3795 E Mercer Way applied for a conditional use permit to increase their enrollment number. Within this conditional use permit approval was a SEPA Mitigated Determination of Non-Significance (MDNS), File No. SEP07-024, contains a condition stating "A minimum of 66 parking spaces shall be available on-site. An additional 30 spaces shall be available at the [Herzl-Ner] Tamid for school staff and faculty. The French American School will submit a copy of the lease agreement with the [Herzl-Ner] Tamid for the use of 30 parking spaces at the [Herzl-Ner] Tamid property. If it is determined that additional parking is necessary for staff and faculty, the FASPS shall procure additional off-site parking spaces" (**Exhibits 29.17 and 29.18**). Historically, this agreement has been renewed on an annual basis since 2005. However, the French American School has been notified that the agreement will not be renewed for the 2025-2026 school year due to the parking required as part of the preK-8 school and offices development. The French American School will be required to locate additional parking spaces to account for the 30 spaces no longer available. This is enforced through the SEPA MDNS Condition No. 5, which states "If the City receives complaints regarding parking associated with the school or JCC uses at this location and determines the parking is problematic, the City shall require that all vehicle parking be accommodated on-site and/or otherwise mitigated to the City's satisfaction. If this condition is implemented, overflow parking will not be allowed on public streets (weekdays, weeknights, and weekends)".

On June 17, 2025, the City Council adopted Ordinance 25C-17. This ordinance amended Chapter 3.34 MICC, dissolved the Design Commission, and re-assigned all quasi-judicial duties from the Design Commission to the Hearing Examiner. The procedural requirements for design review remained the same but through the amendments to Chapter 3.34 MICC, decision-making authority for quasi-judicial design review now rests with the Hearing Examiner.

Vesting: On June 17, 2025, the City Council adopted Ordinance 25C-11, which amended the MICC to comply with House Bill 1293 requiring locally adopted design standards to be "clear and objective". This Ordinance went into effect on June 30, 2025. The Design Standard Review application for the proposed development was submitted on June 18, 2025 and determined to be complete on June 27, 2025 (**Exhibit 30**). Pursuant to MICC 19.15.170(B), the department's issuance of a letter of completion causes an application to be conclusively deemed to be vested. Land use reviews that are subject to the provisions of MICC 19.15.170 shall be considered

under the zoning and land use control ordinances in effect on the date of complete application; therefore, DSR25-009 shall be reviewed for compliance with the development code in effect prior to June 30, 2025. Additionally, with the dissolution of the Design Commission and requirement for a single open record public hearing for a project, a study session has not been conducted.

Summary of Requests for Relief: The development code applicable to the proposal contains several requirements that may be reduced, waived, or modified by the Design Commission, now Hearing Examiner. In addition to the standard design review required of the Hearing Examiner, the Hearing Examiner must also decide the following:

1. **MICC 19.04.040(B)(7)** ***Compact vehicles.*** Up to 50 percent of the required off-street parking spaces may be designed for accommodating compact vehicles. Such parking spaces must be clearly designated as compact stalls. The Design Commission may increase the percentage of compact stalls permitted if the applicant can demonstrate that no adverse impacts will occur.

   Request: The proposed design includes 50 standard parking stalls and 55 compact parking stalls. The applicant requests an increase to the number of compact stalls to accommodate the required fire lane. The applicant asserts that no adverse impact would occur because currently, the site does not contain any stalls that meet the dimensional requirements for standard stalls; therefore, they would be improving the condition by reconfiguring the parking to add 50 standard spaces.

   Hearing Examiner Action: Determine whether the applicant has demonstrated that no adverse impacts will occur by permitting an increase in the percentage of compact stalls to 52 percent.

2. **MICC 19.04.040(B)(8)** ***Loading space*****.** An off-street loading space, having access to a public street, shall be required adjacent to each building, hereafter erected or enlarged. Such loading space shall be of adequate size to accommodate the maximum number and size of vehicles simultaneously loaded or unloaded, in connection with the business or businesses conducted in such building. No part of the truck or van using the loading space may project into the public right-of-way.

   Request: The proposed building is not adjacent to a public street where a loading space would be feasible nor effective. The property is adjacent to the Boat Launch Access Road, however, a pedestrian path runs between the property and the public street. The sloped hill-side would also make the construction of a loading space with access to this street impractical. The site circulation plan in **Exhibit 3, Sheet C6.00** demonstrates that there are adequate opportunities for loading in connection with the business and school uses. The Traffic Impact Analysis also provides a plan for queuing for the school use (**Exhibit 25**).

   Hearing Examiner Action: MICC 19.04.040(B)(9) allows the code official to grant variances from the minimum parking requirements with the approval of the City Engineer and the Design Commission for project reviewable by the Design Commission. The Hearing Examiner must determine whether the proposed development must provide a loading space adjacent to the proposed building, that has access to a public street.

3. **MICC 19.04.040(E)** ***Cooperative parking.*** Cooperative parking between two or more adjoining property owners is allowed; provided, the code official, with approval from the Design Commission and City Engineer, may reduce the total required spaces by 25 percent of the total combined required spaces with the applicant has demonstrated that no adverse impact will occur due to the reduced number of stalls.

   Request: Reduce the required 139 parking spaces to 105 parking spaces. The City Engineer has determined that the applicant has demonstrated that no adverse impact would occur with this reduction (**Exhibit 27**).

Hearing Examiner Action: Determine whether the applicant has demonstrated that no adverse impact will occur due to the reduced number of stalls.

4. **MICC 19.10.070(B)(4)** ***Reduction*****.** The city arborist may reduce the number of replacement trees as follows, where other measures designed to mitigate the tree loss by restoring the tree canopy coverage and its associated benefits are considered to be effective and consistent with the purposes of this chapter. The city arborist may consider, but it not limited to, the following measures:

    a. Replacement of hazardous, undesired, or short-lived trees with healthy new trees that have a greater chance of long-term survival;

    b. Restoration of critical tree areas with native vegetation; and

    c. Protection of small trees to provide for successional stages of tree canopy.

    Request: The applicant proposes to remove 82 regulated trees. 78 of these trees are defined as "Exceptional" and/or "Grove" trees, which require 6 replacement trees each. 6 of these trees are classified as "Priority 1" removal by the project arborist, which means that these trees have defects that cannot be cost-effectively or practically treated, have a high amount of deadwood, or pose an immediate hazard to property or person. Davey (the project arborist) recommends that these trees be removed immediately. The replacement trees for these 6 trees should be reduced to 0 given their condition. This leaves 441 total replacement trees required for the removal of 82 regulated trees. The applicant further requests reduction of these required replacement trees due to the following, which is detailed in **Exhibit 16**:

    > Davey Resource Group, Inc. evaluated the 82 removed trees against the "i-Tree suite of software tools", which reveals how the grove provides an estimated $651 in environmental services each year. "The trees in the grove have an estimated 31 tons of carbon stored and intercept 32,000 gallons of rainfall (as avoided runoff) each year. The value of stored carbon in these trees is estimated to be $13,313. Over a 20-year timeframe, the trees store more carbon and provide the other annual benefits [totaling] $26,553 in environmental services [(Table 1)]". To replace the grove benefits, "the City requires mitigation that would restore the tree canopy coverage and associated benefits of the grove. Over the same 20-year timeframe modelled through i-Tree, one (1) 2" diameter Maple tree would provide $183.39 of environmental services. To replace services provided by the grove, 145 trees will need to be planted ($26,553/$183.39 = 145 trees)". The applicant proposes to reduce the 441 required replacement trees by 67 percent.

    Hearing Examiner Action: MICC 19.10.060(B)(2) requires that a tree permit for a development proposal, resulting in regulated improvements located in a commercial zone, that has previously received Design Commission approval must first be reviewed and approved by the city's Design Commission prior to permit issuance by the city. DSR25-009 serves as the Design Commission review. MICC 19.10.020(B) allows permit approval to remove one or more nonhazardous trees to take the form of a tree removal permit or other construction permit approval. The applicant has submitted a construction permit under City File No. 2506-131, which serves as the construction permit required for the nonhazardous tree removals. To avoid a second open-record public hearing, the tree removal application has been consolidated with the Design Standard Review application for Hearing Examiner review. MICC 19.16.010 defines "City arborist" as "[t]he person designated by the code official to administer the provisions of chapter 19.10 MICC"; therefore, the Hearing Examiner must act as the "City arborist" for the purposes of allowing a reduction in required replacement trees under MICC 19.10.070(B)(4). The Hearing Examiner must determine whether the 67 percent reduction in required

replacement trees mitigates the tree loss in a manner consistent with the purposes of Chapter 19.10 MICC.

5. **MICC 19.10.070(C)** ***Fee-in-lieu.*** If the city arborist determines there is insufficient area to replant on the site or within the adjacent public right-of-way, the city arborist may authorize payment of a fee-in-lieu provided:

    a. There is insufficient area on the lot or adjacent right-of-way for proposed on-site tree replacement to meet the tree replacement requirements of this chapter; or

    b. Tree replacement or management provided within public right-of-way or a city park in the vicinity will be of greater benefit to the community.

    c. Fees provided in lieu of on-site tree replacement shall be determined based upon:

        i. The expected tree replacement cost including labor, materials, and maintenance for each replacement tree; and

        ii. The most current council of tree and landscaper appraisers guide for plant appraisal.

    d. Any fee-in-lieu is also optional for the applicant and requires an explicit written agreement.

    Request: The applicant has proposed 34 replacement trees to be planted on-site as shown in **Exhibit 3, Sheets L-301, L-302, and L-302.1**. Should Request for Relief Item 2 be approved by the Hearing Examiner, the applicant would be required to provide 145 replacement trees for the removal of 82 regulated trees. The applicant asserts that the site is extremely constrained with regard to replacing trees on-site due to existing underground utilities, proposed security fencing, existing buildings, parking areas, and program areas. Adjacent public right-of-way is also constrained by existing improvements, including pedestrian walkways, roads, driveways, and utilities. The applicant requests to pay a fee-in-lieu for the planting of the remaining 111 required replacement trees. Should Request for Relief Item 2 not be approved by the Hearing Examiner, and the applicant will be required to provide the full 441 replacement trees as required by MICC 19.10.070(A), the applicant would be requesting to pay a fee-in-lieu for the planting of the remaining 407 required replacement trees.

    Hearing Examiner Action: As described in Request for Relief Item 2 above, the Hearing Examiner must act as the city arborist for determining the above fee-in-lieu request due to the requirement for the tree removal permit to be reviewed by the Design Commission in MICC 19.10.060(B)(2). The 2024 Fee Schedule adopted by the City Council under Resolution 1668 sets the fee-in-lieu of planting replacement trees to $1,081 per tree. The Hearing Examiner must determine whether there is insufficient area on-site or on adjacent public right-of-way to replant the remaining required replacement trees.

6. **MICC 19.12.030(B)(2)(b)** ***Modulation guidelines.***

    (i) Horizontal building facade modulation should occur at no less than every 50 feet of wall length. Forms of both vertical and horizontal building modulation may include, but are not limited to: facade indentations and extrusions; actual building separation; connecting atriums, courtyards and plazas; variable roof forms and overhangs; and decks and balconies.

    Request: Where “should” is used in a design standard, MICC 19.12.010(E) allows the applicant to demonstrate to the satisfaction of the Design Commission that the proposed design is an equal or better means of satisfying the standard or objective. The proposed design includes horizontal façade modulation at greater than 50 feet of wall length on the south and east facades, with the greatest horizontal measurement without modulation being a portion of the south façade at 87.4 feet (Exhibit ,

Sheet LU-7). The applicant asserts that the intent of this standard is to "break up the overall bulk and mass of the exterior buildings and structures". The south façade would be broken into three sections and provide horizontal building façade modulation with the inclusion of a canopy across the middle indentation to provide a deep shadow and texture. The applicant accomplishes the intent of this section by providing an upper level set back along the entire length of the south façade in order to reduce the apparent bulk and mass. The east façade would include window shrouds and a stepping roof line to create texture and modulation. The greatest horizontal measurement at the east façade would be 56 feet in order to accentuate the large window and provide a quiet backdrop to a densely landscaped area. Horizontal façade modulation would occur at greater than every 50 feet on both the north and west facades.

Hearing Examiner Action: Determine that the proposed horizontal façade modulation at greater than every 50 feet on both the north and west facades is an equal or better means of satisfying the standard in MICC 19.12.030(B)(2)(b)(i).

7. **MICC 19.12.030(B)(6)(b)** ***Roofline variation, numeric standard*****.** Roof line variation shall occur on all multifamily structures with roof lines which exceed 50 feet in length, and on all commercial, office or public structures which exceed 70 feet in length. Roof line variation shall be achieved using one or more of the following methods:

    a. Vertical off-set ridge or cornice line;

    b. Horizontal off-set ridge or cornice line;

    c. Variations of roof pitch between 5:12 and 12:12; or

    d. Any other approved technique which achieves the intent of this section.

    Request: The applicant has requested approval of a technique that achieves the intent of this section by providing a north façade that steps back at each level, and façade modulation over all four elevations. The design would also include projecting canopies and varying materials to provide visual interest and depth through shadows.

    Hearing Examiner Action: Determine whether the proposed technique for roofline variation achieves the intent of this section.

8. **MICC 19.12.040(B)(3)(b)** Fences should be made of ornamental metal or wood, masonry, or some combination of the three. The use of razor wire, barbed wire, chain link, plastic or wire fencing is prohibited if it will be visible from a public way or adjacent properties, unless there are security requirements which cannot feasibly be addressed by other means.

    Request: Chain link fencing is proposed along the north property line of 151560TRCT for security and most of this fence would not be visible from the public way as it is adjacent to property owned by Puget Sound Energy (PSE).

    Hearing Examiner Action: Determine whether the proposed chain link fencing along the north property line of 151560TRCT may be allowed for security requirements which cannot feasibly be addressed by other means. It is important to note that this fence would be located within an easement for utilities and emergency vehicle access. Pursuant to MICC 19.02.020(H), the applicant must provide demonstration that the fence would not interfere with emergency vehicle access and is mutually agreed in writing between the grantee and grantor of the easement.

9. **MICC 19.12.040(B)(4)(b)** ***Impervious surfaces.*** For all zones, area landscaped by impervious surfaces should constitute no more than 25 percent of the total required landscape area; provided, for

multifamily residential zones, area landscaped by impervious surfaces should constitute no more than ten percent of the total required landscape area.

Request: Where "should" is used in a design standard, MICC 19.12.010(E) allows the applicant to demonstrate to the satisfaction of the Design Commission that the proposed design is an equal or better means of satisfying the standard or objective. The applicant proposes a 462 square foot increase of the maximum impervious surface area and a 1,845 square foot increase in the minimum required pervious surface area. 540 square feet of the impervious surface area would be for the preschool play area which is required by the Washington State Department of Children, Youth and Families (DCYF). 762 square feet of the impervious surface area would be for the accessible route on the east side of the proposed building, which provides an accessible connection between the existing synagogue, parking area, and proposed building. 152 square feet is identified as "Not Landscape" on the site plan in **Exhibit 3, Sheet A-010**, however, this area is impervious and should be included in the calculation. These 152 square feet are for the trash loading area which is required by Recology. The remaining 688 square feet are for other walkways and patios located at the entrance to the building and on the north side of the proposed building in the art/science terrace. The applicant asserts that the 1,845 square foot increase in minimum required pervious surface area offsets the 462 square foot increase in the maximum allowed impervious surface area.

Hearing Examiner Action: Determine whether the 462 square foot increase in maximum impervious surface area is an equal or better means of satisfying the standard in MICC 19.12.040(B)(4)(b).

10. **MICC 19.12.040(B)(9)** ***Surface parking lot planting.*** Surface parking lot planting is required in addition to required perimeter landscape screens. The requirements for surface parking lot planting for new parking lots with fewer than 20 spaces and for additions or remodels may be waived or modified if the applicant can demonstrate that these standards would reduce the amount of parking below the minimum required for the site.

    Request: The required parking on parcels 2107000010 and 1515600010 for the proposed and existing uses on parcels 0824059045 and 1515600010 is 139 spaces, unless a 25 percent reduction is granted by the code official following approval by the City Engineer and Design Commission, in which case the required parking would be 105 spaces. The design proposes 105 parking spaces across both parcels 2107000010 and 1515600010, which is the maximum amount of parking that can reasonably fit on these parcels given the existing development. The applicant has requested that the surface parking lot planting requirements be waived as the applicant has demonstrated that these standards would reduce the amount of parking below the minimum 105 spaces required for the site in **Exhibit 3, Sheets A-011 and A-012**.

    Hearing Examiner Action: Determine whether the applicant has demonstrated that the required surface parking lot planting standards would reduce the amount of parking below the minimum required for the site.

Location: The subject property is located at 3700 E Mercer Way (King County parcel numbers 1515600010, 2107000010, 0824059045, 151560TRCT), situated in the SW 1/4 of Section 8, Township 24 north, and Range 5 east, W.M., in the City of Mercer Island, King County, WA.

Existing Conditions: The proposed preschool, K-8 private school, and offices would be located on parcel number 0824059045, which is currently undeveloped and contains vegetation including ground cover, trees, and shrubs. Parcel numbers 2107000010 and 1515600010 contain existing facilities, including parking and several buildings currently used by HNT. Parcel number 151560TRCT is a tract that contains an access road to the east parking lot, located on parcel number 1515600010. The Arborist Report, prepared by Davey Resource Group, Inc., identified 137 regulated trees across all properties owned by HNT (**Exhibits 14 and 15**). Pursuant

to MICC 19.10.060(A), tree retention is not required for the portions of the proposed development located within the R-9.6 zoning designation. MICC 19.10.060(B) contains the standards for tree removal located within commercial zones.

Access: Access to the subject property is from Boat Launch Access Road off E Mercer Way.

Contact Information:

Contact:	Applicant:	Engineer:
Anjali Grant Grant Design, LLC 3427 Beacon Ave S Seattle, WA 98144 (206) 512-4209	Same as Contact	N/A

Terms used in this staff report:

Term:	Refers to, unless otherwise specified:
Applicant	Anjali Grant (Grant Design, LLC) / Herzl-Ner Tamid Conservative Congregation
Proposed development	Herzl-Ner Tamid Conservative Congregation PreK-8 Project
Subject property, site	The subject property or site where the proposed development is located as defined in this staff report
City	City of Mercer Island
MICC	Mercer Island City Code
Code Official	City of Mercer Island Community Planning and Development Director or a duly authorized designee
Design Standard Review	The application request by the Applicant
HNT	Herzl-Ner Tamid Conservative Congregation
DSR	Design Standard Review

II. PROCEDURE AND NOTICE REQUIREMENTS

1. **Review Type:** Applications for Design Standard Review ("DSR") approvals are required to be processed as a Type IV land use review pursuant to MICC 19.15.030. Type IV land use reviews require a notice of application, a 30-day public comment period, and a notice of decision. Processing procedures and requirements for Type IV land use reviews are further detailed in MICC 19.15.030. DSR approval criteria for development in zones outside of the Town Center are located within Chapter 19.12 MICC, approval criteria for development in the Business zone are located in MICC 19.04.050, approval criteria for development within the R-9.6 zone are located in MICC 19.02.020, and approval criteria for tree removals are located in Chapter 19.10 MICC.

   Staff Finding: The application for the proposed development was correctly classified and processed as a Type IV land use review.

2. **Application:** The application for the proposed development **(Exhibit 2)** was submitted on June 18, 2025. On June 27, 2025, the application for the proposed development was deemed complete for the purpose of review, pursuant to MICC 19.15.070 **(Exhibit 30)**.

   Staff Finding: The application for the proposed development is consistent with the procedures of MICC 19.15.070.

3. **Notice of Application:** The City issued a notice of application for the proposed development on July 7, 2025, 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 property; a notice sign posted on the subject property; publication in the City's weekly permit bulletin; and made available to the general public upon request. The notice of application began a 30-day comment period, which took place on July 7, 2025 through August 7, 2025 **(Exhibit 31)**.

   Staff Finding: The notice of application and comment period are consistent with the provisions of MICC 19.15.090.

4. **Preliminary Plan Set:** The Applicant provided a preliminary plan set **(Exhibit 3)** for the proposed development.

5. **Opportunities for Public Comment:** The 30-day public comment period took place on July 7, 2025 through August 7, 2025.

   Staff Finding: Public comments were received during the public comment period contained in **Exhibit 22**, and summarized below:

Name:	Date Received:	Summary:
Sarah Fletcher	July 7, 2025	Concerns regarding the number of students and the affiliation with the Jewish Day School of Seattle, located in Bellevue; concerns regarding the zoning designation of the property; concerns regarding the removal of trees as part of a grove; concerns regarding traffic circulation on-site and congestion on E Mercer Way; concerns regarding surrounding development; concerns regarding spillover lighting; and concerns regarding the application process.
Matthew Goldbach and John Hall (representatives of Concerned Neighbors for the Protection of the Neighborhood)	August 7, 2025	Concerns regarding the required south-bound left turn lane on E Mercer Way and suggestion for the inclusion of a priority turn signal; concerns regarding safety on E Mercer Way for pedestrians and kids crossing; concerns for the reduced parking request and the parking that was previously used by the French American School that they will now need to secure elsewhere.
Sarah Fletcher	October 8, 2025	Concerns regarding the proposed chain link fencing.

6. **Response to Public Comment:** While the City accepts public comments at any time prior to the closing of the record of an open record predecision hearing, common practice is to request that the applicant provide responses only to those public comments received within the 30-day public comment period. The code does not require the applicant to respond to any public comments received. The applicant provided responses to the public comments received during the public comment period, contained in **Exhibit 23**.

7. **SEPA Review:** A Mitigated Determination of Non-Significance (MDNS) was issued on March 17, 2025. This MDNS was later withdrawn due to the City becoming aware that some parties of record were not

provided notice. The City issued a Revised MDNS on April 7, 2025 (**Exhibit 7**) in order to provide adequate notice to all parties entitled to such notice. The Revised MDNS was appealed by the Applicant and a public hearing was held on July 9, 2025. The Hearing Examiner issued a decision on July 18, 2025 (**Exhibit 8**), which contained the following conditions:

a. [1] Provide a left turn lane from southbound East Mercer Way to the Frontage Road serving the site. The turn lane length shall be designed to accommodate left turn demand during the AM and PM peak hour, and during site peak if it does not coincide with the AM and/or PM peak hour. Where the Washington State Department of Transportation (WSDOT) has permitting authority over the right-of-way, the widths of all lanes of East Mercer Way shall comply with Washington State Department of Transportation ("WSDOT") standards and procedures (including, without limitation, standards and procedures for deviations). The applicant shall apply for and obtain all necessary approvals that WSDOT may require. To the extent any improvements are within solely City right-of-way (not subject to WSDOT authority, design or otherwise), the widths of all lanes of East Mercer Way shall comply with applicable American Association of State Highway and Transportation Officials ("AASHTO") standards. Requests for deviations from AASHTO design guidelines shall be supported with written justification that has been stamped and signed by a licensed civil engineer; the City shall have the sole discretion to approve or deny such requests.

   The addition of the southbound left turn lane may reduce the length of the adjacent northbound left turn lane at the SE 36th Street/East Mercer Way intersection. If such a reduction in the length of said northbound left turn lane is necessary, the analysis called for by Mitigation Measure 2 shall be undertaken.

b. [2] The addition of the southbound left turn lane may reduce the length of adjacent northbound left turn lane at the SE 36th Street/East Mercer Way intersection. Verify with a traffic operations analysis that, with the addition of the southbound left turn lane to the Frontage Road, the northbound left turn lane at the SE 36th Street/East Mercer Way intersection will have sufficient storage length to accommodate vehicles during the AM and PM peak hours.

c. [3] The left turn lane from southbound East Mercer Way to the Frontage Road serving the site may consequently require narrowing of the northbound lane on East Mercer Way, especially as approaching the Frontage Road serving the site. Confirm adequacy of curb radii for right turning vehicles exiting from the Frontage Road onto northbound East Mercer Way based on lane width designed for East Mercer Way, if said East Mercer Way lane width is narrower than existing condition. The design vehicle shall be a S-BUS-40 (school bus). Modify curb radii if reasonably warranted.

d. [4] The Transportation Impact Analysis states that the school bus unloading/loading will occur at the east end of the school. The site plan and circulation plan do not show the location of the bus loading zone or walkways along the east side of the building for students to access the bus loading zone. Revise the site plan and circulation plan to show the bus loading zone and how students will safely access the bus loading zone. Parent drop-off and pick-up traffic will also use the roadway east of the school. The Transportation Impact Analysis should describe how the school buses will safely interact with parent drop-off and pick-up queuing and traffic that is using the same roadway.

8. **Critical Areas Ordinance Review:** The subject properties 151560TRCT, 2107000010, and 1515600010 contain geologically hazardous areas (**Exhibit 12**), which require authorization for alterations pursuant

to MICC 19.07.020. The applicant applied for a Critical Area Review 1 (CAO24-014), demonstrating that the project is consistent with MICC 19.07.130(A) for an addition to or reconstruction of an existing legally established structure or building within a critical area and/or buffer constructed on or before January 1, 2005. The critical area authorization is required for the removal and replacement of the existing parking area, which was established prior to 2005. The alteration would not result in an expansion of the footprint or increase in impervious surfaces on the subject site. A Critical Area Review 1 authorization was issued on April 8, 2025 consistent with the procedures in MICC 19.15.030(H) Table A – Type I Land Use Reviews (**Exhibit 9**).

The applicant also applied for an additional Critical Area Review 1 (CAO25-006) for the repair of the existing storm system consistent with MICC 19.07.130(A). The existing storm system was constructed prior to January 1, 2005. Reconstruction of legally established nonconforming structures is allowed provided the nonconformity is not increased per MICC 19.01.050(A)(4). The updated stormwater system would be constructed in the same location as the existing stormwater system. A Critical Area Review 1 was issued on April 29, 2025, consistent with the procedures in MICC 19.15.030(H) Table A – Type I Land Use Reviews (**Exhibit 10**). Portions of this project would be located within 200 feet of the Ordinary High Water Mark (OHWM) of Lake Washington, a shoreline of statewide significance. The applicant applied for a Shoreline Exemption for the normal repair of the existing stormwater system via replacement. Replacement is the common method of repair for the type of structure as the existing stormwater system is deteriorating and no longer functioning as intended. A Shoreline Exemption was issued on April 29, 2025 (**Exhibit 11**).

9. **Public Hearing:** Pursuant to MICC 19.15.030 Table D, a public hearing is required for DSRs. A Notice of Public Hearing **(Exhibit 32)**, for the October 31, 2025 public hearing, was provided to the public as required by MICC 19.15.100(D) on September 29, 2025.

   Staff Finding: The public hearing was noticed appropriately pursuant to the provisions of MICC 19.15.100 (**Exhibit 33**).

III. ZONING AND COMPREHENSIVE PLAN DESIGNATIONS

10. **Site Zoning & Land Use:** The subject properties are zoned Business (B) and Single Family Residential, R-9.6, per MICC 19.01.040(G)(2). According to MICC 19.02.010(C)(3), places of worship are permitted when authorized by the issuance of CUP24-001, which was issued on July 18, 2025 (**Exhibit 5**). The construction of the proposed preK-8 school and office space building on parcel number 0824059045 does not trigger the requirement for a conditional use permit as the B zoning designation already permits outright the school and office uses.

    Staff Finding: The proposed development is consistent with the permitted uses provided in MICC 19.02.010.

11. **Comprehensive Plan Policies:** The City of Mercer Island Comprehensive Plan is a forward-looking plan for the development of the City, fulfilling the Washington Growth Management Act (GMA) requirements. The subject property is zoned R-9.6 and Business, and the use is consistent with the MICC. The proposed development conforms to the MICC, which ultimately means it complies with the spirit of the comprehensive plan since these regulations have been created to ensure the vision of the plan is met. The proposed development is consistent and compatible with the Single Family Residential (R-9.6) and Business (B), land use designation and the following goals and policies of the City of Mercer Island Comprehensive Plan: Planning for Generations 2024-2044, adopted in 2024:

    2. Land Use Element, V. Land Use Policies, Goal 7: Mercer Island should remain principally a low-density, single-family residential community.

Policy 7.4: Social and recreational clubs, schools, and religious institutions are predominantly located in single family residential areas of the island. The City may consider measures within the land use code to address the maintenance, updating, and renovation of these facilities, while ensuring compatibility with surrounding neighborhoods. Such facilities contribute to the mental, physical, and spiritual well-being of Mercer Island residents. Land use decisions should balance the retention of these facilities with overall community planning and zoning regulations.

Policy 7.5: Encourage compatible uses such as education, recreation, open spaces, government, social services, and religious activities.

2. Land Use Element, V. Land Use Policies, Goal 9: The allowed uses in commercial and mixed-use zones balance the City's economic development and housing needs.

Policy 9.2: Commercial uses and densities near the I-90/East Mercer Way exit and SE 36th Street are appropriate for that area. All activities in the Commercial Office zone are subject to design review, and supplemental design guidelines may be adopted.

4. Transportation Element, II. Transportation Goals and Policies, Goal 1: Encourage the most efficient use of the transportation system through effective management of transportation demand and the transportation system.

Policy 1.2: Encourage businesses and residential areas to explore opportunities for shared parking and other parking management strategies.

4. Transportation Element, II. Transportation Goals and Policies, Goal 6: Ensure coordination between transportation and land use decisions and development.

Policy 6.1: Ensure compatibility between transportation facilities and services and adjacent land uses, evaluating aspects such as:

6.1.1: potential impacts of transportation on adjacent land use;

6.1.2: potential impacts of land development and activities on transportation facilities and services; and

6.1.3: need for buffering and/or landscaping alongside transportation facilities.

4. Transportation Element, II. Transportation Goals and Policies, Goal 9: Balance the maintenance of quality Island neighborhoods with the needs of the Island's transportation system.

Policy 9.2: Address parking overflow impacts on neighborhoods caused by major traffic generators such as schools, businesses, parks, and multifamily developments.

Staff Finding: The proposed development is consistent with the Comprehensive Plan.

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-12
South	R-9.6	Single Family Residential R-9.6
East	R-9.6	Single Family Residential R-9.6 and Lake Washington
West	C-O	Commercial Office

IV. CONSISTENCY WITH DEVELOPMETNT STANDARDS IN THE BUSINESS ZONE

13. MICC 19.04.040 contains parking requirements which apply to all uses in the C-O and B zones.

A. ***MICC 19.04.040(B) General requirements.***

1. ***(B)(1) Surfacing and grading.*** All off-street parking areas shall be graded and surfaced to a standard comparable to the street which serves the parking area. The parking area shall be developed and completed to the required standards before an occupancy permit for the building to be served is issued.

   Staff Finding: The street that serves the parking area is the Boat Launch Access Road, also known as Frontage Road, which is paved. The existing parking area is paved and will be resurfaced to a standard comparable to Boat Launch Access Road and the existing parking area. A condition of approval has been included to ensure the parking area is graded and surfaced to a comparable standard; therefore, this requirement will be met prior to issuance of the associated building permit for the proposed building.

2. ***(B)(2) Traffic control devices.*** All traffic control devices such as parking strips designating car stalls, directional arrows or signs, bull rails, curbs and other structures shall be installed and completed as shown on the approved plans. Hard surfaced parking area shall use paint or similar devices to delineate parking stalls and directional arrows.

   Staff Finding: Plans for traffic control devices are shown in **Exhibit 3, Sheets A-011, A-012, C6.01, and C6.02**. A condition of approval is recommended to ensure the hard surfaces parking area will use paint or similar devices to delineate parking stalls and directional arrows consistent with the approved plans; therefore, this requirement will be met prior to final inspection of the associated building permit for the proposed building.

3. ***(B)(3) Design.*** Parking lot design should conform to the diagrams set out in appendix A of this development code, unless alternative design standards are approved by the Design Commission and City Engineer.

   Staff Finding: Appendix A requires standard parking stalls to be a minimum of 9 feet by 18.5 feet and compact parking stalls to be a minimum of 8.5 feet by 16 feet. Lane widths vary depending on the parking angle, as shown in Appendix A. As shown in **Exhibit 3, Sheet A-011**, the portions of the parking lot that are proposed to be repaved and/or restriped conform to the diagrams in Appendix A; therefore, this requirement has been met. The remaining existing parking area includes approximately 20 parking stalls which do not meet the standards in Appendix A and will not be repaved or restriped as a result of the proposed development. This parking area has existed in its current condition since at least March of 1978, based on aerial imagery (**Exhibit 29.19**), and is legally nonconforming and allowed to be maintained pursuant to MICC 19.01.050(A)(4) provided the nonconformance is not increased.

4. ***(B)(4) Location.*** Off-street parking shall be located on the same lot or on an adjoining lot or lots to the building to be served; except, that off-street parking may be located in an area beginning within 500 feet of the front entrance of the building to be served; provided, there are no intersecting streets between the parking area and building to be served.

   Staff Finding: Off-street parking would be located on adjoining parcel 2107000010, and the proposed development has requested to utilize the cooperative parking allowance in MICC 19.04.040(E). The parking area is in an area beginning within 500 feet of the front entrance of the proposed building, and there are no intersecting streets between the parking area and the proposed building to be served; therefore, this requirement is met.

5. ***(B)(5) Ingress and egress.*** The City Engineer shall have the authority to fix the location and width of vehicular ingress or egress to and from property, and to alter existing ingress and egress as may be required to control street traffic in the interest of public safety and general welfare.

   Staff Finding: The City Engineer has reviewed the proposed development for vehicular ingress and egress to and from the property. The SEPA Revised Mitigation Determination of Non-Significance (MDNS) includes mitigation measures to require the applicant to confirm the adequacy of curb radii for right turning vehicles exiting from the Frontage Road onto northbound East Mercer Way based on land width designed for East Mercer Way, if said East Mercer Way lane width is narrowed than the existing condition (**Exhibits 7 and 8**). The design vehicle shall be a S-BUS-40 (school bus). Therefore, this standard is met, as conditioned.

6. ***(B)(6) Handicapped standards.*** Off-street parking shall meet the relevant state design standards for the physically disabled.

   Staff Finding: The proposed development includes 9 parking spaces for the physically disabled. As conditioned, the proposed development must meet the relevant state design standards for the physically disabled.

7. ***(B)(7) Compact vehicles****.* Up to 50 percent of the required off-street parking spaces may be designed for accommodating compact vehicles. Such parking spaces must be clearly designated as compact stalls. The Design Commission may increase the percentage of compact stalls permitted if the applicant can demonstrate that no adverse impacts will occur.

   Staff Finding: The proposed development requires 139 off-street parking spaces. If cooperative parking is approved, as proposed, 105 parking spaces would be required and provided. The proposed development includes approximately 51 compact parking spaces and 47 standard parking spaces. 20 of the 51 compact parking spaces do not meet the dimensional standards in Appendix A, however, they have existed in their current condition since at least March of 1978 based on aerial imagery (**Exhibit 29.19**) and are legally nonconforming. Pursuant to MICC 19.01.050(A)(4), the spaces are allowed to remain provided the nonconformity is not increased. The remaining seven parking spaces are reserved for ADA accessible parking. Four of these are compact spaces and three are standard spaces, bringing the total count of compact parking spaces to 55 and standard parking spaces to 50 (**Exhibit 3, Sheets A-011 and A-012**). The applicant asserts that no adverse impact would occur because the proposal increases the site's compliance with this requirement. The existing site currently contains no parking spaces that meet the dimensional standards for a standard parking space. The proposal would add 50 new standard parking spaces to the site. The Hearing Examiner, as the Design Commission authority, must determine whether the applicant has demonstrated that no adverse impacts will occur due to the increase in compact parking spaces to 52 percent.

8. ***(B)(8) Loading space.*** An off-street loading space, having access to a public street, shall be required adjacent to each building, hereafter erected or enlarged. Such loading space shall be of adequate size to accommodate the maximum number and size of vehicles simultaneously loaded or unloaded, in connection with the business or businesses conducted in such building. No part of the truck or van using the loading space may project into the public right-of-way.

   Staff Finding: The proposed building is not adjacent to a public street where a loading space would be feasible nor effective. The property is adjacent to the Boat Launch Access Road, however, a pedestrian path runs between the property and the public street. The sloped hill-side would also make the construction of a loading space with access to this street impractical.

The site circulation plan in **Exhibit 3, Sheet C6.00** demonstrates that there are adequate opportunities for loading in connection with the business and school uses. The Traffic Impact Analysis also provides a plan for queuing for the school use (**Exhibit 25**).

9. ***(B)(9) Variances.*** Notwithstanding any of the minimum parking requirements set out in subsection C of this section, the code official may grant variances from the minimum parking requirements with the approval of the City Engineer and the Design Commission for projects reviewable by the Design Commission.

   Staff Finding: The applicant has requested a variance from the requirement for an off-street loading space, as described in **Finding IV.13.A.9.** A condition of approval is recommended by the City Engineer.

B. ***MICC 19.04.040(C) Minimum parking requirements for specific uses.*** A use which is similar to any of the below-referenced uses shall adhere to the minimum parking requirements for the referenced use or uses. The Design Commission shall determine the minimum parking requirements for a use in a commercial zone that is not referenced in this section.

The proposed parking on parcel numbers 2107000010 and 1515600010 would be used as cooperative parking to satisfy the parking requirements for the proposed private preK-8 school, and rental offices on parcel number 0824059045.

The existing place of worship requires 82 parking spaces, based on the Synagogue Seating Capacity Diagram (**Exhibit 13**). The proposed building contains a variety of uses which require different amounts of parking, summarized in the table below:

Code Requirement (MICC 19.04.040(C))	Proposed Development	Parking Spaces Required
(4) Financial and insurance services, healthcare services, office uses and professional, scientific, and technical services shall provide one parking space for every 300 square feet of gross floor area of the building.	The gross floor area of the office use would require 33 parking spaces for 10,000 square feet of gross floor area.	33
(16) Public and private schools shall provide at a minimum two off-street parking spaces per classroom unless additional parking spaces are deemed necessary through Design Commission or administrative SEPA review and shall provide adequate off-street loading and unloading facilities as determined by the City Engineer.	The proposed preK-8 school and existing school would contain 12 classrooms which would require 24 parking spaces.	24

Code Requirement (MICC 19.02.010))		
(C)(2) Private schools accredited or approved by the state for compulsory school attendance, subject to conditions set out in subsection (A)(4) of this section. (A)(4)(b) Off-street parking shall be established and maintained at a minimum ratio of one parking space per classroom with high schools providing an additional one parking space per ten students.	This is included in the count above for classrooms in the B zone.	
(C)(3)(b) Off-street parking for places of worship shall be established and maintained at a ratio of one parking space for each five seats in the chapel, nave, sanctuary, or similar worship area.	The existing synagogue contains 408 seats, which requires 82 parking spaces.	82
Total Parking Spaces Required	139	
MICC 19.04.040(E) allows for cooperative parking between two or more adjoining property owners; provided, the code official, with approval from the Design Commission and City Engineer, may reduce the total required spaces by 25 percent of the total combined required spaces when the applicant has demonstrated that no adverse impact will occur due to the reduced number of stalls. With this 25 percent reduction, a total of 105 parking spaces are required.		
Total Parking Spaces Required	Total Parking Spaces Required with 25 percent Reduction	Total Parking Spaces Provided
139	105	105

Staff Finding: The applicant has provided a memorandum for cooperative parking (**Exhibit 26**) to demonstrate that no adverse impact will occur due to the reduced number of stalls, which includes the following information:

> The existing conditions include typical weekday operations of the synagogue, which do not generate much traffic and High Holidays which are held in the synagogue with a capacity of 408 people. The existing agreement with the French American School (**Exhibit 29.18**) will terminate on November 30, 2025, provided the anticipated construction start date of December 1, 2025 is maintained. The existing parking area contains 105 spaces.

The applicant submitted a parking matrix in **Exhibit 26, Attachment 1** which shows both existing and proposed uses. The matrix includes the code-required parking for each use and the projected amount of parking necessary based on the Transportation Impact Analysis by Transpo Group (**Exhibit 25**). The proposed building would include three new uses: 1) typical weekday office uses which require 33 parking spaces in the MICC and require 23 parking spaces based on the projected peak parking demand; 2) typical weekday school uses which require 24 parking spaces in the MICC and require 21 parking spaces based on the projected peak parking demand; 3) special events at the proposed building which do not require additional parking spaces in the MICC but, if the same logic is applied based on the square footage of the proposed multipurpose rooms, the required parking would range from 50 to 72 parking spaces; and 4) large events that cannot comfortably coexist with the proposed school functions and will require the school to be closed during these events, such as High Holiday services.

In summary, the projected parking need for the entire HNT campus on typical weekdays during business and school hours ranges from 62-67 spaces; on typical weekday evenings, projected parking ranges from 20-30 spaces; on typical weekends, projected parking ranges from 20-62 spaces; and special events on weekday evenings and weekends could increase the parking demand to 92-102 spaces. The proposed parking area contains 105 parking spaces.

The City Engineer has reviewed the proposal and concurs with the applicants' demonstration in **Exhibit 26** that no adverse impacts would occur as a result of the reduced number of stalls, provided the conditions related to the Transportation Demand Management Plan are met to ensure the site uses are managed to work within available parking capacity (**Exhibit 27**).

Staff Finding: On June 17, 2025, the City Council passed Ordinance No. 25C-14 to transfer all Design Commission review authority to the Hearing Examiner and dissolve the Design Commission, effective June 30, 2025. The approval of the reduction in parking shall be approved by the Hearing Examiner during design review, as conditioned.

Staff Finding: The proposed reduction in parking is consistent with City of Mercer Island Comprehensive Plan Transportation Element, II. Transportation Goals and Policies, Goal 1: Encourage the most efficient use of the transportation system through effective management of transportation demand and the transportation system.

Policy 1.2: Encourage businesses and residential areas to explore opportunities for shared parking and other parking management strategies.

14. MICC 19.04.050 contains development standards for uses in the Business (B) zone. The proposed uses contain a private PreK-8 school and rental office spaces. Public and private schools accredited or approved by the state for compulsory school attendance, office uses, and preschools, nursery schools and day care centers are allowed uses within the B zoning designation.

A. ***MICC 19.04.050(B)(26).*** Preschools, nursery schools and day care centers, are permitted uses subject to the following conditions:

1. Such facilities shall meet all applicable safety and licensing laws and requirements.

2. All outdoor play areas shall be adequately fenced.

Staff Finding: As conditioned, the preschool facility shall meet all applicable safety and licensing laws and requirements prior to issuance of construction authorization. The play area at the west side of the proposed building would be fenced with a steel picket fence; therefore, these conditions have been met.

B. ***MICC 19.04.050(C) Structure setback requirements.*** All structures shall have a minimum setback from any public right-of-way of ten feet; except, service station pump islands which shall have a setback from the street line of at least 15 feet to provide for safe access or egress to or from such street.

Staff Finding: The proposed building is set back from public right-of-way by ten feet (**Exhibit 3, Sheet A-010**). The proposed development does not include a service station pump island; therefore, this requirement is met.

C. ***MICC 19.04.050(D) Building height limit.*** Maximum allowable building height shall be the lesser of (1) three stories or (2) 36 feet, calculated using the method described in MICC 19.11.030(A)(3).

Staff Finding: Exhibit 3, Sheet A-003 contains height diagrams, which demonstrate that the proposed building height is consistent with the method described in MICC 19.11.030(A)(3):

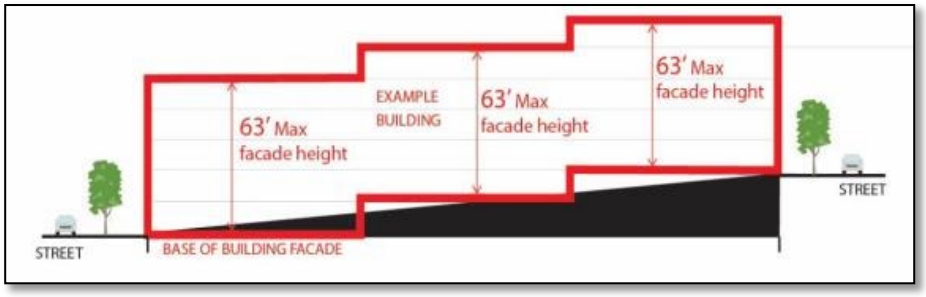
Calculation of building height.

a. The intent of the building height calculation in this section is to limit the visual mass of a building so that it does not appear to exceed the maximum height limit in subsection (A)(1) of this section.

b. The maximum allowable building height in subsection (A)(1) of this section shall be calculated as the vertical distance measured from the base of a building façade to the highest point of the roof structure excluding appurtenances. The base of the building façade shall be measured from the adjacent public sidewalk, if applicable, or from the lower of existing or finished grade along building facades that are not adjacent to a public sidewalk. See Figure 4.

c. If the bases of the opposite building facades are at approximately the same elevation, then the building height at any point between the facades can never exceed the maximum building height. If the bases of the opposite building facades are not at approximately the same height, then the building must be configured to go down in height as between the higher and lower facades in a manner similar to Figure 4 or in an equivalent manner such that the average of the building heights calculated between the facades is approximately equal to or less than the maximum permitted building height.

Figure 4:



The table in **Exhibit 3, Sheet A-003** shows that the highest proposed façade height is approximately 38.05 feet and the lowest is approximately 28.6 feet. The average of the building heights calculated between the facades is 33.8 feet, which is less than the maximum allowed building height of 36 feet; therefore, this requirement is met.

V. CONSISTENCY WITH APPLICABLE RESIDENTIAL DEVELOPMENT STANDARDS

The proposed development that is subject to residential development standards is for appurtenances to a non-single-family use within a single-family zone, which include utilities, pedestrian pathways, and revisions to the existing parking area. The standards below are applicable to the proposed development. Standards that apply only to single-family development are omitted from this staff report.

15. MICC 19.02.020 – Development standards.

A. ***MICC 19.02.020(B) Street frontage.*** No building will be permitted on a lot that does not front onto a street acceptable to the city as substantially complying with the standards established for streets.

B. ***MICC 19.02.020(C)(1) Minimum yard requirements.*** This section contains minimum yard requirements for front, rear, and side yards on each lot.

C. ***MICC 19.02.020(C)(2) Yard determination.*** This section establishes where the front, rear, and side yards are determined on each lot.

D. ***MICC 19.02.020(C)(3) Intrusions into required yards.*** This section provides standards for minor building elements, hardscape and driveways, fences, retaining walls and rockeries, garages and other accessory buildings, heat pumps, air compressors, air conditioning units, and other similar mechanical equipment, architectural features, and other structures that may encroach into required yards.

E. ***MICC 19.02.020(D) Gross floor area.*** This section establishes the maximum gross floor area for the sum of the floor area(s) bounded by the exterior faces of each building on a residential lot.

F. ***MICC 19.02.020(E) Building height limit.*** This section establishes the maximum allowed building height based on both average building elevation and maximum façade height on the downhill side of a sloping lot.

Staff Finding: The portions of the proposed development located within the R-9.6 zoning designation include the parking area, pedestrian walkways, and utilities on parcels 2107000010, 1515600010, and 151560TRCT. The proposed fencing complies with MICC 19.02.050(E), as discussed in **Finding V.16**. The place of worship was originally permitted in December of 1970, making it legally nonconforming (**Exhibits 29.1 and 29.2**). The building and use are allowed to continue pursuant to MICC 19.01.050(A)(4). No changes are proposed to the existing building and use that would be subject to the residential development standards above. The existing parking on parcel number 2107000010 is proposed to be reconfigured to meet the parking requirements for the various uses proposed in the new building on parcel number 0824059045 and the existing place of worship and religious school as cooperative parking at a 25 percent reduction from the total amount of parking as authorized by MICC 19.04.040(E), subject to Hearing Examiner approval.

G. ***MICC 19.02.020(G) Parking.***

1. Except as otherwise provided in this chapter, each lot shall provide parking deemed sufficient by the code official for the use occurring on the lot; provided, any lot that contains ten or more parking spaces shall also meet the parking lot requirements set out in Appendix A of this development code, except as provided below.

2. Existing parking spaces that do not conform to the requirements of this section by June 6, 2024 are not required to be modified or resized, except for compliance with the Americans with Disabilities Act. Existing paved parking lots are not required to change the size of existing

parking spaces during resurfacing if doing so will be more costly or require significant reconfiguration of the parking space locations.

Staff Finding: The proposed development would establish cooperative parking on parcels 2107000010 and 1515600010 for the existing place of worship and religious school, and proposed preschool, K-8 school, and office building on parcel 0824059045. The various uses in the proposed development require 57 parking spaces, while the existing place of worship requires 82 parking spaces. Parking for the various proposed uses is summarized in the table in **Finding IV.13.B**. Cooperative parking is allowed pursuant to MICC 19.04.040(E); provided the code official, with approval from the Hearing Examiner and City Engineer, may reduce the total required spaces by 25 percent of the total combined required spaces when the applicant has demonstrated that no adverse impact will occur due to the reduced number of stalls. The City Engineer has provided approval of the proposed reduction in **Exhibit 27**. With this reduction, the total number of required parking spaces is 105 spaces. Parking would be further managed in the Transportation Demand Management Plan, as is included as a recommended condition of approval. These conditions of approval were also included in the decision for CUP24-001, issued on July 18, 2025 (**Exhibits 5 and 6**).

H. ***MICC 19.02.020(H) Easements.*** Easements shall remain unobstructed.

1. ***(H)(1) Vehicular access easements.*** No structures shall be constructed on or over any vehicular access easement. A minimum five-foot yard setback from the edge of any easement that affords or could afford vehicular access to a property is required for all structures; provided, that improvements such as gates, fences, rockeries, retaining walls and landscaping may be installed within the five-foot setback so long as such improvements do not interfere with emergency vehicle access or sight distance for vehicles and pedestrians.

2. ***(H)(2) Utility and other easements.*** No structure shall be constructed on or over any easement for water, sewer, storm drainage, utilities, trail or other public purposes unless it is permitted within the language of the easement or is mutually agreed in writing between the grantee and grantor of the easement.

Staff Finding: The proposed development on the properties in the single-family zones subject to these standards would not impact vehicular access, utility, or other existing easements. A six-foot-tall fence is proposed within the access easement on 151560TRCT (**Exhibit 3, Sheet A-012**). As conditioned, this fence would not be permitted, unless the applicant provides documentation that improvements are authorized within the easement.

16. MICC 19.02.050(E) establishes the maximum height allowed for fences or gates within required yards.

A. ***MICC 19.02.050(E) Height limits.***

1. ***(E)(1) Side and rear yards.*** Fences and gates are allowed to a maximum height of 72 inches within required side or rear yards, provided the combined height of a fence and retaining wall or rockery for a fill slope authorized pursuant to subsection (D)(5) of this section shall not exceed a total height of 72 inches.

2. ***(E)(2) Front yards****.* Fences, gates, or any combination of retaining walls, rockeries and fences are allowed to a maximum height of 42 inches within required front yards.

Staff Finding: The proposed development includes the construction of a six-foot-tall (72 inches) steel picket fence and vehicle gate along the west side and a six-foot-tall steel picket fence along the south edge of the parking area on parcel number 2107000010 (**Exhibit 3, Sheet A-011**). Based

on the yard determinations found in MICC 19.02.020(C)(2), the west side of parcel number 2107000010 would be the front yard as this is the yard abutting the improved street from which the lot gains primary access. The proposed 72-inch fence would be located outside of the front yard, and within the side yard setbacks; therefore, the proposed fence and gate comply with the maximum height allowed for fences and gates within required yards.

17. MICC 19.02.060 lists lot coverage standards for regulated improvements.

A. ***MICC 19.02.060(A) Applicability.*** This section shall only apply to regulated improvements (for example, schools or religious buildings) in the residential zoning designations of R-8.4, R-9.6, R-12, and R-15.

B. ***MICC 19.02.060(B) Maximum impervious surface limits for lots.*** The total percentage of a lot that can be covered by impervious surfaces (including buildings) is limited by the slope of the lot for all single-family zones as follows: Less than 15% slope = 50%* lot coverage limit; 15% to less than 30% slope = 35% lot coverage limit; 30% to 50% slope = 30% lot coverage limit; greater than 50% slope = 20% lot coverage limit. *Public and private schools, religious institutions, private clubs and public facilities (including public parks or designated open space) in single-family zones with slopes of less than 15 percent may be covered by the percentage of legally existing impervious surface that existed on May 1, 2006, as determined by the code official.

C. ***MICC 19.02.060(C) Exemptions.*** This section lists improvements that will be exempt from the calculation of the maximum impervious surface limits set forth in subsection B.

D. ***MICC 19.02.060(D) Variance****.* Regulated improvements in the R-8.4, R-9.6, R-12, and R-15 zoning designations may request a variance to increase impervious surface pursuant to MICC 19.15.230(F).

Staff Finding: The existing development is legally nonconforming due to the existing impervious surface exceeding the maximum allowed pursuant to the above standards. The existing impervious surface is allowed to be maintained in legal nonconforming status as long as no new nonconformances are created, there is no expansion of any existing nonconformity, and legal nonconforming status is not lost per MICC 19.01.050. The proposed development does not create a new nonconformity, result in an increase in the existing nonconformity, and legal nonconforming status is not lost under MICC 19.01.050. As conditioned, new impervious surfaces would be offset by removed impervious surfaces to maintain existing impervious surface areas and not increase the nonconformity; therefore, these standards are met.

VI. CONSISTENCY WITH TREE STANDARDS

18. MICC 19.10.060 – Tree removal – Associated with a development proposal.

A. ***MICC 19.10.060(A) Single-family zoning designations.***

1. ***(A)(1).*** In the R-8.4, R-9.6, R-12, and R-15 zoning designations, tree retention is required for the following development proposals:

a. An addition or removal to an existing single-family dwelling that will result in the addition of more than 500 square feet of gross floor area on a lot with a net lot area of 6,000 square feet or more;

b. A new single-family dwelling on a lot with a net lot area of 6,000 square feet or more;

c. A subdivision or short subdivision.

Staff Finding: The proposed development in the single-family zone does not meet the criteria for tree retention; therefore, tree retention is not required.

B. ***MICC 19.10.060(B) Commercial or multifamily zoning designations – Tree removal.***

1. ***(B)(1).*** In the PI, B, C-O, PBZ, TC, MF-2, MF-2L, and MF-3 zoning designations a tree permit is required and will be granted if it meets any of the following criteria:

   a. It is necessary for public safety, removal of hazardous trees, or removal of diseased or dead trees;

   b. It is necessary to enable construction work on the property to proceed and the owner has used reasonable best efforts to design and locate any improvements and perform the construction work in a manner consistent with the purposes set forth in MICC 19.10.005;

   c. It is necessary to enable any person to satisfy the terms and conditions of any covenant, condition, view easement or other easement, or other restriction encumbering the lot that was recorded on or before July 31, 2001; and subject to MICC 19.10.090(B);

   d. It is part of the city's forest management program or regular tree maintenance program and the city is the applicant;

   e. It is desirable for the enhancement of the ecosystem or slope stability based upon professional reports in form and content acceptable to the city arborist.

   Staff Finding: The applicant has demonstrated that the removal of 82 regulated on-site trees is necessary to enable construction work on the property or because the trees are in poor condition and are recommended for removal based on the arborist report in **Exhibit 14**. The proposed trees to be removed are mostly limited to the footprint and excavation boundaries of the proposed building, except those recommended for removal by the arborist, and trees are retained where feasible. While the proposed development is exempt from tree retention requirements in MICC 19.10.060(A)(2), approximately 49 percent of the trees on-site would be retained, or 55 of the 137 trees across all four properties. Additionally, several of the trees proposed for removal are diseased or dead, based on the arborist report.

2. ***(B)(2) Design Commission review required in commercial zones*.** A tree permit for a development proposal, resulting in regulated improvements located in a commercial zone, that has previously received Design Commission approval must first be reviewed and approved by the city's Design Commission prior to permit issuance by the city.

   Staff Finding: MICC 19.10.060(B)(2) requires that a tree permit for a development proposal, resulting in regulated improvements located in a commercial zone, that has previously received Design Commission approval must first be reviewed and approved by the city's Design Commission prior to permit issuance by the city. DSR25-009 serves as the Design Commission review. MICC 19.10.020(B) allows permit approval to remove one or more nonhazardous trees to take the form of a tree removal permit or other construction permit approval. The applicant has submitted a construction permit under City File No. 2506-131, which serves as the construction permit required for the nonhazardous tree removals. To avoid a second open-record public hearing, the tree removal application has been consolidated with the Design Standard Review application for Hearing Examiner review. MICC 19.16.010 defines "City arborist" as "[t]he person designated by the code official to administer the provisions of chapter 19.10 MICC"; therefore, the Hearing Examiner must act as the "City arborist" for the purposes of administering the standards in Chapter 19.10, MICC.

19. MICC 19.10.070 – Tree replacement.

A. ***MICC 19.10.070(A) Tree replacement ratio.*** Removed trees shall have the following base replacement ratio:

Diameter of removed tree	Number of replacement trees required
Less than 10 inches	1
10 inches up to 24 inches	2
24 inches up to 36 inches	3
More than 36 inches and any exceptional tree(s)	6

Staff Finding: The proposed development would result in the removal of three trees that are between 10 and 24 inches, one tree between 24 and 36 inches, and 78 trees that are more than 36 inches, or considered to be an exceptional tree. Based on the City's Tree Inventory Worksheet, replacement trees are not required for trees that are less than 10 inches, are not part of a grove, and are not replacement trees from another permit. Replacement trees also are not required for trees that are dead, as these do not meet the definition of a "tree" in MICC 19.16.010. Based on these findings, 82 regulated trees are proposed to be removed, which require 441 replacement trees.

The applicant asserts that the trees that are part of a grove are not considered "exceptional" under the City's definition of "Tree, exceptional" in MICC 19.16.010. The City does not agree with this interpretation of the definition. "Tree, grove" is defined as "A grove means a group of eight or more trees each ten inches or more in diameter that form a continuous canopy. Trees that are part of a grove shall also be considered exceptional trees, unless they also meet the definition of a hazardous tree". "Tree, exceptional" is defined as "A tree or group of trees that because of its unique historical, ecological, or aesthetic value constitutes an important community resource. An exceptional tree is a tree that is rare or exceptional by virtue of its size, species, condition, cultural/historic importance, age, and/or contribution as part of a tree grove. Trees with a diameter of more than 36 inches, or with a diameter that is equal to or greater than the diameter listed in the Exceptional Tree Table, are considered exceptional trees". Trees that contribute as part of a tree grove are considered exceptional trees and removal of an exceptional tree requires six replacement trees each.

The applicant has proposed 34 replacement trees to be planted on-site (**Exhibit 3, Sheets L-104, L-301, L-302, and L-302.1**). The applicant has also requested a reduction in the number of required replacement trees as discussed in **Finding VI.19.B.4**.

B. ***MICC 19.10.070(B) Replacement trees.***

1. ***(B)(1) Location.*** Replacement trees shall be located in the following order of priority from most important to least important:

   a. On-site replacement adjacent to or within critical tree areas as defined in chapter 19.16 MICC;

   b. On-site replacement outside of critical tree areas adjacent to other retained trees making up a grove or stand of trees;

   c. On-site replacement outside of critical tree areas; and

d. Off-site in adjacent public right-of-way where explicitly authorized by the city.

Staff Finding: The location of the 34 proposed replacement trees are shown in **Exhibit 3, Sheets L-301, L-302, and L-302.1**. The replacement trees are located on-site and outside critical tree areas as defined in Chapter 19.16 MICC.

2. ***(B)(2) Species.*** Replacement trees shall primarily be those species native to the Pacific Northwest. In making a determination regarding the species of replacement trees, the city arborist shall defer to the species selected by the property owner unless the city arborist determines that the species selected is unlikely to survive for a period of at least ten years, represents a danger or nuisance, would threaten overhead or underground utilities or would fail to provide adequate protection to any critical tree area.

   Staff Finding: A condition of approval is recommended to ensure the replacement trees meet the species requirements above.

3. ***(B)(3) Size.***

   a. Coniferous trees shall be at least six feet tall; and

   b. Deciduous trees shall be at least one and one-half inches in caliper.

   The city arborist may authorize the planting of smaller-sized replacement trees if the applicant can demonstrate that smaller trees are more suited to the species, the site conditions, neighborhood character, and the purposes of this section, and that such replacement trees will be planted in sufficient quantities to meet the intent of this section. The city arborist shall not authorize the planting of shrubs or bushes in lieu of required replacement trees.

   Staff Finding: A condition of approval is recommended to ensure the replacement trees meet the size requirements above.

4. ***(B)(4) Reduction.*** The city arborist may reduce the number of replacement trees as follows, where other measures designed to mitigate the tree loss by restoring the tree canopy coverage and its associated benefits are considered to be effective and consistent with the purposes of this chapter. The city arborist may consider, but is not limited to, the following measures:

   a. Replacement of hazardous, undesired, or short-lived trees with healthy new trees that have a greater chance of long-term survival;

   b. Restoration of critical tree areas with native vegetation; and

   c. Protection of small trees to provide for successional stages of tree canopy.

   Staff Finding: Davey Resource Group, Inc. evaluated the 82 removed trees against the "i-Tree suite of software tools", which reveals how the grove provides an estimated $651 in environmental services each year. "The trees in the grove have an estimated 31 tons of carbon stored and intercept 32,000 gallons of rainfall (as avoided runoff) each year. The value of stored carbon in these trees is estimated to be $13,313. Over a 20-year timeframe, the trees store more carbon and provide the other annual benefits [totaling] $26,553 in environmental services [(Table 1)]". To replace the grove benefits, "the City requires mitigation that would restore the tree canopy coverage and associated benefits of the grove. Over the same 20-year timeframe modelled through i-Tree, one (1) 2" diameter Maple tree would provide $183.39 of environmental services. To replace services provided by the grove, 145 trees will need to be planted ($26,553/$183.39 = 145 trees)". The applicant proposes to reduce the 441 required

replacement trees by 67 percent (from 441 to 145 trees), subject to Hearing Examiner approval.

5. ***(B)(5) Timing.*** Replacement trees shall be planted in the wet season (October 1 through April 1), following the applicable tree removal or, in the case of a development proposal, completion of the development work, provided the city arborist may authorize an extension to ensure optimal planting conditions for tree survival.

   Staff Finding: A condition of approval is recommended to ensure the replacement trees are planted in the wet season following completion of the development work.

C. ***MICC 19.10.070(C) Fee-in-lieu.*** If the city arborist determines there is insufficient area to replant on the site or within the adjacent public right-of-way, the city arborist may authorize payment of a fee-in-lieu provided:

1. ***(C)(1).*** There is insufficient area on the lot or adjacent right-of-way for proposed on-site tree replacement to meet the tree replacement requirements of this chapter; or
2. ***(C)(2).*** Tree replacement or management provided within public right-of-way or a city park in the vicinity will be of greater benefit to the community.
3. ***(C)(3).*** Fees provided in lieu of on-site tree replacement shall be determined based upon:
   a. The expected tree replacement cost including labor, materials, and maintenance for each replacement tree; and
   b. The most current council of tree and landscaper appraisers guide for plant appraisal.
4. ***(C)(4).*** Any fee-in-lieu is also optional for the applicant and requires an explicit written agreement.

Staff Finding: The applicant has requested to pay a fee-in-lieu for the remainder of the required replacement trees due to there being insufficient area on the development site and adjacent public right-of-way. The Hearing Examiner must act as the city arborist for determining the above fee-in-lieu request due to the requirement for the tree removal permit to be reviewed by the Design Commission in MICC 19.10.060(B)(2). The 2024 Fee Schedule adopted by the City Council under Resolution 1668 sets the fee-in-lieu of planting replacement trees to $1,081 per tree. The Hearing Examiner must determine whether there is insufficient area on-site or on adjacent public right-of-way to replant the remaining required replacement trees.

D. ***MICC 19.10.070(D) Maintenance of replacement trees.*** The applicant shall maintain all replacement trees in a healthy condition for a period of five years after planting. The applicant shall be obligated to replant any replacement tree that dies, becomes diseased, or is removed during this five-year time period.

Staff Finding: A condition of approval is recommended to ensure the applicant maintains all replacement trees in a healthy condition for a period of five years after planting, and that any replacement trees that die, become diseased, or are removed during the five-year time period are replaced. MICC 19.01.060(C) allows the city to require bonding or assignment of funds to guarantee that activities allowed through the issuance of a permit or through approval of an application will be undertaken and completed to the city's satisfaction. This includes, but is not limited to, guarantees that improvements will be constructed; that they remain free from defects of materials, workmanship, and installation for a set period of time; and that landscaping shall

survive for a set period of time. A condition of approval is recommended to require bonding or assignment of funds for the installation of the replacement trees for five years.

20. MICC 19.10.080 – Tree protection standards.

A. ***MICC 19.10.080(A).*** To ensure long-term viability of trees identified for protection, permit plans and construction activities shall comply with the then-existing best management practices (BMP) — managing trees during construction, published by the International Society of Arboriculture, adopted by reference. The tree protection plan shall be prepared by a qualified arborist and the plan shall be reviewed for adequacy by the city arborist. All minimum required tree protection measures shall be shown on the development plan set and tree replanting/restoration/protection plan.

B. ***MICC 19.10.080(B) Alternative methods.*** The city arborist may approve construction-related activity or work within the tree protection barriers if the city arborist concludes:

1. ***(B)(1).*** That such activity or work will not threaten the long-term health of the retained tree(s); and

2. ***(B)(2).*** That such activity or work complies with the protective methods and best building practices established by the International Society of Arboriculture.

Staff Finding: The applicant's arborist has provided a tree protection plan in **Exhibit 14** which complies with the then-existing best management practices. The tree protection measures are shown in **Exhibit 3, Sheets L-101 and L-102.**

VII. CONSISTENCY WITH DESIGN STANDARDS FOR ZONES OUTSIDE TOWN CENTER

21. MICC 19.12.020 – General.

A. ***MICC 19.12.020(A) Applicability.*** This chapter establishes design standards for regulated improvements in all zones established by MICC 19.01.040, except Town Center. These standards are in addition to any other standards that may be applicable to development in the zone in which the development occurs. These design standards are not intended to slow or restrict development, but to add consistency and predictability to the permit review process.

Staff Finding: The subject properties are located within the Business (B) and Single-Family Residential (R-9.6) zones and the project is for a regulated improvement. Compliance with other standards that are applicable to the development in these zones is analyzed in **Findings IV, V, and VI**.

B. ***MICC 19.12.010(D) Design review process.*** Design review shall be conducted by the city's Design Commission or code official consistent with the process provided in MICC 19.15.220(C). The Design Commission or code official shall review each regulated improvement and determine each project's conformance with the applicable objectives and standards of this chapter.

1. ***(D)(1).*** Full application of design requirements: major new construction. All design requirements of chapter 19.12 MICC shall apply, except as provided in MICC 19.01.050(D)(3)(a), when there is new construction from bare ground, or intentional exterior alteration or enlargement of a structure over any three-year period that incurs construction costs in excess of 50 percent of the existing structure's current King County assessed value as of the time the initial application for such work is submitted; provided, application of chapter 19.12 MICC shall not be construed to require an existing structure to be demolished or

relocated, or any portion of an existing structure that is otherwise not being worked on as part of the construction to be altered or modified.

2. ***(D)(2).*** Partial application of design requirements: minor exterior modification. The following design requirements shall apply when there is a minor exterior modification, as defined in MICC 19.16.010:

   a. MICC 19.12.030 pertaining to building design and visual interest;

   b. MICC 19.12.040(B)(5), (6), (7), (8), (9) and (11) pertaining to landscape design and outdoor spaces: entrance landscaping; planting types; screen types and widths by use and location; perimeter landscape screens; surface parking lot planting; and general planting, irrigation and maintenance standards;

   c. MICC 19.12.050 pertaining to vehicular and pedestrian circulation;

   d. MICC 19.12.060 pertaining to screening of service and mechanical areas;

   e. MICC 19.12.070 pertaining to lighting;

   f. MICC 19.12.080 pertaining to signs;

   The design requirements pertaining to structures shall be applied only to that portion of an existing structure that undergoes minor exterior modification and shall not require any portion of an existing structure that is otherwise not being worked on as part of the construction to be altered or modified.

3. ***(D)(3).*** Value measure when structure has no assessed value. For purposes of determining when a project will be considered major new construction or minor exterior modification, and the threshold for application of design requirements as set forth in subsections (D)(1) and (2) of this section, if there is no current King County assessed value for a structure, a current appraisal of the structure, which shall be provided by the applicant and acceptable to the code official, shall be used as the value point of reference.

Staff Finding: The proposed PreK-8 school and office building located on parcel 0824059045 is major new construction, as this property is currently undeveloped. Full application of design standards should apply to this development. The associated improvements located on parcels 1515600010, 2107000010, and 151560TRCT are minor exterior modifications to the site, and do not include alterations to the existing buildings. Partial application of design standards should apply to these portions of the development.

C. ***MICC 19.12.010(G) Changes of use and tenant improvements.*** It is the property owners' and tenants' responsibility to ensure compliance with applicable development regulations when a change of use and/or a tenant improvement occurs.

Staff Finding: This standard is included as a recommended condition of approval to ensure compliance with applicable development regulations when a change of use and/or a tenant improvement occurs.

22. MICC 19.12.020 – Site features and context.

A. ***MICC 19.12.020(B) Standards.***

1. ***(B)(1) Site features.***

   a. *Landforms.* Design and layout of the site should incorporate natural landforms such as trees, topography and water courses into proposed developments. Cut and fill should be

minimized and preservation of mature trees should be maximized, particularly adjacent to project boundaries and steep slopes. Natural contours should be respected and retained where feasible.

Staff Finding: The overall grading plan (**Exhibit 3, Sheet C3**) documents the amount of cut and fill proposed for the site. The site would be regraded around the proposed building to create a more natural transition between the new and existing buildings, accommodate accessibility requirements, and fire access requirements. The existing grade would be retained where feasible. The development plan set contains landscape plans (**Exhibit 3, Sheets L-101 through L-203**) that documents which trees would be removed, retained and protected, and the locations of the proposed replacement trees.

2. ***(B)(2) Sloped or hillside development.***

   a. Building development should generally occur on the least steep portions of the site in order to conserve the more fragile areas for landscaping or general open space.

      Staff Finding: The proposed building would be located on the flatter, southern side of the lot, and the landscaping plans in **Exhibit 3, Sheets L-101 through L-203** show landscaping on the steeper areas of the site.

   b. Structures built on substantial slopes or hillsides should be designed to minimize their visual impact on surrounding areas. Ridgelines of major slopes should not be broken by structures or loss of vegetative cover. Acceptable methods to integrate structures into the hillside include, but are not limited to, height control, stepped construction, muted earth tone colors, and tree preservation.

      Staff Finding: The proposed building would be stepped, and the design includes muted earth tone colors, except where the entrance is accented (**Exhibit 3, Sheet LU-11**). The trees outside of the proposed building foundations would be preserved and featured and existing slopes outside of the building footprint would be retained where feasible.

   c. *Building orientation*. Buildings should respond in design to a prominent feature, such as a corner location, a street or the lake. Buildings and site design should provide inviting entry orientation. Buildings should not turn their backs to the street.

      Staff Finding: The proposed building would be oriented to preserve views from the street, through the existing parking lot, to Lake Washington. The entry from the existing parking lot would be recessed with an accent color and would include a projecting canopy with sculptural signage. The northwest side of the building, opposite the main entry, is located along Frontage Road and a private tract. The design includes vegetative screening to obscure the building from the public right-of-way as shown in **Exhibit 3, Sheet L-301 and L-302**.

3. ***(B)(3) Relationship of buildings to site.***

   a. *Site design.* Site design and architectural style shall be pedestrian in scale and address interface with public rights-of-way, vehicular and pedestrian circulation.

      Staff Finding: The proposed building includes ground floor canopies and a recessed entry that provides a sense of scale and a proposed pedestrian walk connects the existing synagogue with the public way. A vehicular and pedestrian circulation plan is included in **Exhibit 3, Sheet A-010** and the Traffic Impact Analysis in **Exhibit 25**.

b. *Architectural context.* New development should reflect important design elements of existing structures in the neighborhood, including but not limited to, roof forms, materials and colors.

Staff Finding: The existing structures in the vicinity include a synagogue, caretaker's cottage, and single-family residential development. The existing synagogue has taut, vertical cladding in muted earth tone colors and accent colors at the entries and a minimal roofline. The proposed building has been designed in a similar precedent but includes materials that would require less maintenance to maintain the appearance over time. The proposed building would be separated from existing single-family residential development by the existing parking lot. Additionally, the proposed building is for a school and office building, which must have different design elements from single-family development given the scale and proposed uses.

c. *Multiple structures.* Variable siting of individual buildings, heights of buildings, and building modulation should be used in order to provide variety in site and specific building design.

Staff Finding: The proposed building would be separated from the existing synagogue with a landscaped area and vehicular circulation. The new building would continue the step down in height to the water created by the existing building.

d. *Transitions to neighborhoods.* Proposed developments should transition with and not overpower adjoining permitted land uses through modulation of building facades, use of established setbacks, and installation of landscape buffers. Building designs should step down to lower heights adjacent to surrounding buildings.

Staff Finding: The proposed building would be located on a lot which is surrounded by Boat Launch Access Road, a public right-of-way owned by the Washington State Department of Transportation (WSDOT), a parcel owned by Puget Sound Energy (PSE), the existing parking lot on parcel number 2107000010, and parcel number 1515600010, which is owned by the same owner and contains the existing synagogue building. The proposed building modulation and landscape buffers provide a transition between the scale of the I-90 freeway, located beyond the Boat Launch Access Road, and the new building. The residences to the south would be separated from the proposed building by the existing parking lot on parcel number 2107000010. The proposed design includes a 6-foot tall steel picket fence along the south side.

e. *Decorative landmarks.* Imaginative exterior features that complement and are integrated into the building design and create visual focal points that give identity to an area, such as special paving in pedestrian areas, art features, decorative clocks, or water features should be provided.

Staff Finding: The proposed development includes decorative signage and a different paint color at the entry of the building. A focal point to the west of the proposed building adjacent to the pedestrian walkway from the street is also proposed.

23. MICC 19.12.030 – Building design and visual interest.

A. ***MICC 19.12.030(B) Standards.***

1. ***(B)(1) Scale, form and mass.*** Scale, form, massing, building proportions, spacing of windows and doorways, roof silhouette, facade orientations, and style of architecture shall have a

unified character and, as to commercial, regulated residential and regulated public facilities, recognize pedestrian needs.

a. *Scale.* Building scale should be proportional to other adjacent buildings, the street edge and, as to commercial, regulated residential and regulated public facilities, to the pedestrian environment.

Staff Finding: Adjacent construction includes the I-90 Freeway, residential construction, and other institutional buildings. The proposed new building mediates between the height of the freeway construction to the north and the residential buildings to the south. A proposed rockery and grade change along the south edge of the existing parking lot would reduce the apparent height of the building. The proposed building would be located to the west of the existing synagogue building to create a pleasing rhythm of building mass and open space, and to preserve as many large trees as possible. Adjacent buildings with similar school and office uses are two and three stories, including the buildings at 9725 SE 36th St, 3975 E Mercer Way, and 3801 E Mercer Way.

b. *Form and mass.* Building forms should not present visual mass or bulk impacts that are out of proportion to adjacent structures, or that appear from the public way or surrounding properties as having unmodulated visual bulk.

Staff Finding: The proposed building would be located between trees to the east and west. A stepped massing on the north façade, and an offset second story and horizontal façade modulation on the south façade would reduce the visual bulk of the building. The proposed rockery and grade change along the south edge of the existing parking lot would reduce the apparent height of the proposed building.

2. ***(B)(2) Building facades – Visual interest.***

a. *Facade modulation*. Building facade modulation shall break up the overall bulk and mass of the exterior of buildings and structures. Such modulation should always be addressed on the horizontal plane and the vertical plane. Large or massive buildings should integrate features along their facades that are visible from the public right-of-way, pedestrian routes and nearby structures to reduce the apparent building mass and achieve an architectural scale consonant with other nearby structures.

Staff Finding: The proposed building would have stepped building massing along the vertical plane on the north façade, which would break the overall bulk as viewed from the north, east, and west. An indentation in the south façade would break the linear façade and provide modulation in the horizontal plane.

b. *Modulation guidelines*.

i. Horizontal building facade modulation should occur at no less than every 50 feet of wall length. Forms of both vertical and horizontal building modulation may include, but are not limited to: facade indentations and extrusions; actual building separation; connecting atriums, courtyards and plazas; variable roof forms and overhangs; and decks and balconies.

Staff Finding: Where “should” is used in a design standard, MICC 19.12.010(E) allows the applicant to demonstrate to the satisfaction of the Design Commission that the proposed design is an equal or better means of satisfying the standard or objective. The proposed design includes horizontal façade modulation at greater than 50 feet

of wall length on the south and east facades, with the greatest horizontal measurement without modulation being a portion of the south façade at 87.4 feet (**Exhibit 3, Sheet LU-7**). The applicant asserts that the intent of this standard is to "break up the overall bulk and mass of the exterior buildings and structures". The south façade would be broken into three sections and provide horizontal building façade modulation with the inclusion of a canopy across the middle indentation to provide a deep shadow and texture. The applicant accomplishes the intent of this section by providing an upper level set back along the entire length of the south façade in order to reduce the apparent bulk and mass. The east façade would include window shrouds and a stepping roof line to create texture and modulation. The greatest horizontal measurement at the east façade would be 56 feet in order to accentuate the large window and provide a quiet backdrop to a densely landscaped area. Horizontal façade modulation would occur at less than every 50 feet on both the north and west facades, subject to Hearing Examiner approval.

ii. Building facades visible from public ways and public spaces should be stepped back or projected forward at intervals to provide a minimum of 40 percent overall facade modulation.

Staff Finding: The north façade would be stepped back from the property line to provide modulation and variation. The west façade would have a projecting second story, and a recessed entry at the ground floor. Façade modulation is calculated in **Exhibit 3, Sheet LU-7** and shows that each façade is modulated at greater than 40 percent overall façade modulation.

c. *Ground level facades*. Blank walls at the ground level that may be visible from a public view should be avoided. Ground level facades should create visual interest by utilizing features such as windows, wall articulation, arcades, trellises or other plant features.

Staff Finding: The proposed north and west facades would have windows in a regular pattern, avoiding areas of blank wall. The ground level façade on the north would utilize a separate extruded gym volume, varied window, storefront and landscape screening to create visual interest. The south façade would not front public way, but is visible from the public way across the existing parking lot. The south façade would create visual interest with a deep indentation wrapped in colorful fiber cement panel, signage, and a projected canopy at the entry which would provide texture and shadow.

d. *Fenestration*. Fenestration should be integrated in the overall building design and should provide variety in facade treatment.

Staff Finding: Varying fixed and operable windows in combination with storefront glazing would provide variety in façade treatment, as proposed.

e. *Horizontal variation and emphasis.* Building facades should be made more visually interesting through the use of reveals, medallions, belt courses, decorative tile work, clerestory windows, or other design features. The scale of the detail should reflect the scale of the building.

Staff Finding: The proposed design includes a rich palette of varying materials, modulation and varying fenestration to make the horizontal façade visually interesting. In particular, the design includes varying the width and color of the standing seam panels on the second level, and sculptural signage forms at the entry.

f. *Signs*. Building design should allow space for a wall sign, consistent with the provisions of MICC 19.12.080, Signs, if it is anticipated that a wall sign will be used.

Staff Finding: Please refer to **Findings VII.27** for an analysis on the compliance of the proposed signage.

3. ***(B)(3) Building articulation.*** Design shall articulate building facades by use of variations of color, materials or patterns, or arrangement of facade elements that are proportional to the scale of the building. Architectural details that are used to articulate the structure may include reveals, battens, and other three dimensional details that create shadow lines and break up the flat surfaces of the facade.

Staff Finding: The second story of the proposed building would be wrapped with a different façade material and protrudes from the first and third stories, which would create a distinct tripartite articulation. The vertical ribs of the proposed standing seam metal cladding would create a distinct pattern of fine shadows and break up the flat surfaces of the façade.

a. *Tripartite articulation.* Tripartite building articulation (building top, middle, and base) should be used to create human scale and architectural interest.

Staff Finding: The second story of the proposed building would be wrapped with a different façade material from the first and third stories, which would provide a difference in color, texture, and pattern. Top, middle, and base building articulation is shown in **Exhibit 3, Sheets LU-7 and LU-8**.

b. *Fenestration*. Fenestration should be used in facades visible from public ways and public spaces visible from public ways for architectural interest and human scale. Windows should be articulated with treatments such as mullions or recesses and complementary articulation around doorways and balconies should be used.

Staff Finding: The proposed building would have a regular pattern of window fenestration. Distinct areas would be punctuated with areas of storefront and windows would be grouped together to create larger patterns of solid and void. The applicant provided renderings of the building facades visible from the public way in **Exhibit 3, Sheets A-010, LU-3, and LU-5**. The view from the north walkway would be screened as shown in **Exhibit 3, Sheet L-302**.

c. *Architectural elements*. The mass of long or large scale buildings should be made more visually interesting by incorporating architectural elements, such as arcades, balconies, bay windows, dormers, and/or columns.

Staff Finding: The mass of the proposed building would be visually interesting by façade modulation, stepped massing, separate gym volume, a varying roofline and varied façade materials, as shown in **Exhibit 3, Sheets LU-7 and LU-8**.

d. *Upper story setback*. Upper stories should be set back to reduce the apparent bulk of a building and promote human scale. When buildings are adjacent to single-family residential dwellings, upper story setbacks shall be provided from property lines.

Staff Finding: The proposed building is not adjacent to properties with single-family residential dwellings. Each consecutive story would be stepped back on the north façade, which would effectively reduce the apparent bulk of the building and promote human scale. The south and west facades would include projected canopies and the first story would be inset, which also promotes human scale. The school chapel would face east by

religious mandate, and the scale on the east façade relates to the adjacent treed landscape and sky, which is intended to be grander in scale and does not face residential uses. The upper story setback can be most clearly seen in the renderings in **Exhibit 3, Sheets LU-10 and LU-11**, but is also shown in the elevation drawings in **Exhibit 3, Sheets LU-7 and LU-8**.

4. ***(B)(4) Materials and color.***

   a. *Durable building exteriors*. Building exteriors should be constructed from high quality and durable materials that will weather well and need minimal maintenance.

      Staff Finding: The materials proposed for the building would be high quality, durable metal siding and a limited area of fiber cement panels. These materials would weather well and need minimal maintenance. The proposed materials are shown in **Exhibit 3, Sheets LU-4 and LU-6**.

   b. *Consistency and continuity of design*. Materials and colors generally should be used with consistency on all sides of a building.

      Staff Finding: The proposed metal siding would have varying textures and shift in plane but retain a unified color. The entry would be punctuated with a contrasting color. The proposed materials are shown in **Exhibit 3, Sheets LU-4 and LU-6**.

   c. *Material and color variation*. Color and materials should highlight architectural elements such as doors, windows, fascias, cornices, lintels, sills and changes in building planes. Variations in materials and colors should generally be limited to what is required for contrast or to accentuate architectural features.

      Staff Finding: The entry at the south façade would be accentuated in a blue accent color. The second story would be wrapped in a different material from the first and third stories to provide variation. The design includes standing seam metal siding to provide additional texture and variation. Material and color details are shown in **Exhibit 3, Sheets LU-4 and LU-6**.

   d. *Concrete walls.* Concrete walls should be architecturally treated. The enhancement may include textured concrete such as exposed aggregate, sand blasting, stamping or color coating.

      Staff Finding: The exposed concrete on the north façade would have a score pattern that would match adjacent glass fiber reinforced concrete (GFRC). This concrete is shown in **Exhibit 3, Sheet LU-6**. Any other concrete walls would not be exposed to comply with energy code requirements.

   e. *Bright colors*. Bright colors should be used only for trim and accents. Bright colors may be approved if the use is consistent with the building design and other design requirements. Fluorescent colors are prohibited.

      Staff Finding: A blue accent color is proposed at the recessed entry to demarcate the entry. The bright color proposed is appropriate for the school use and shown in **Exhibit 3, Sheet LU-4**.

5. ***(B)(5) Building entrances.***

   a. *Architectural features and design*. Special design attention should be given to the primary building entrance(s). A primary entrance should be consistent with overall building design, but made visually distinct from the rest of the building facade through architectural

features. Examples include recessed entrances, entrances which roof forms that protrude from the building facade, and decorative awnings, canopies, porte-cocheres, and covered walkways.

Staff Finding: The proposed primary building entrance would be recessed, and accentuated with materials, color, signage, and a projecting canopy.

b. *Entrance connections*. The primary entrance to a building should be easy to recognize and should be visible from the public way and/or physically connected to the public way with walkways. Landscaping should reinforce the importance of the entrance as a gathering place and create visual and physical connections to other portions of the site and to vehicular and pedestrian access points.

Staff Finding: The building entrance would be enhanced with an accent color. The entrance would not be clearly visible from the adjacent public way due to the driveway and existing parking lot (**Exhibit 3, Sheet LU-3**). An existing walkway connects the subject property to the public way and to the existing synagogue building and sidewalks are proposed to connect the building entrance to the parking lot. Landscaping is shown in **Exhibit 3, Sheets L-201, L-202, L-301, and L-302**. An existing mature tree east of the entrance would be preserved and featured, and plantings would flank either side of the entry, breaking at the entry recess to visually enhance the entrance.

6. ***(B)(6) Rooflines.***

a. *Roofline variation, interest, and detail*. Roofline variation, interest, and detail shall be used to reduce perceived building height and mass and increase compatibility with smaller scale and/or residential development. Roofline variation, interest and detail may be achieved through use of roofline features such as dormers, stepped roofs, and gables that reinforce a modulation or articulation interval, incorporation of a variety of vertical dimensions, such as multiplaned and intersecting rooflines, or flat-roofed designs that include architectural details such as cornices and decorative facings.

Staff Finding: The proposed building roofline would be stepped back on each consecutive story on the north façade, which would reduce the perceived height and mass. Façade modulation provides visual interest which translates to the flat roofed design, and the stepped facades create interest in the roofline on all facades.

b. *Roofline variation, numeric standard.* Roof line variation shall occur on all multifamily structures with roof lines which exceed 50 feet in length, and on all commercial, office or public structures which exceed 70 feet in length. Roof line variation shall be achieved using one or more of the following methods:

i. Vertical off-set ridge or cornice line;

ii. Horizontal off-set ridge or cornice line;

iii. Variations of roof pitch between 5:12 and 12:12; or

iv. Any other approved technique which achieves the intent of this section.

Staff Finding: The intent of this section is to use roofline variation to reduce the perceived building height and mass. The applicant has requested Hearing Examiner approval of a technique that achieves the intent of this section by providing a north façade that steps back at each level, and façade modulation over all four elevations. The design would also

include projecting canopies and varying materials to provide visual interest and depth through shadows.

7. ***(B)(9) All-weather features*.** All-weather features at the sidewalk, courtyard or public gathering space areas of commercial and regulated public facilities, such as awnings, canopies, covered walkways, trellises, or covered patios, should be provided to make spending time outdoors feasible in all seasons.

   Staff Finding: The proposed design includes a projecting canopy at the main entry, and a smaller recess and projecting canopy would protect the door on the west façade.

24. MICC 19.12.040 – Landscape design and outdoor spaces.

A. ***MICC 19.12.040(B) Standards*.** Any quantitative standards contained in MICC 19.12.040(B) that specify types of plant material, quantities, spacing, and planting area widths are not intended to dictate a rigid and formal landscape. The applicant should incorporate the quantitative standards into a quality landscape and planting design that meets the stated objectives and standards of this section.

1. ***(B)(1) Landscape area*.** Landscape design shall address all areas of a site not covered by structures or used by automobiles. Landscape areas include open space, plantings, patios, plazas, pedestrian ways, trails, and other outdoor spaces. Surface parking lot planting and screening are required as set forth in MICC 19.12.040(B)(7), (8) and (9). Design review, however, shall be primarily concerned with: (a) areas of a site that require landscaping in order to address the impact of development on adjoining properties or public ways; and (b) parts of the development that are visible from adjoining properties or public ways.

   Staff Finding: The landscaping plan detailed in **Exhibit 3, Sheets L-201, L-202, L-301, and L-302** show that all areas of the site not covered by structures or used by automobiles would be vegetated, or include walkways or other outdoor spaces. Screening requirements are addressed in **Findings VII.24.A.4** and parking lot planting requirements are addressed in **Findings VII.24.A.9**.

2. ***(B)(2) Outdoor spaces*.** Outdoor spaces should be designed at a human scale and include hardscape spaces, spaces created by plant materials and combinations of the two.

   Staff Finding: The proposed outdoor spaces would be designed at a human scale and would include hardscape and softscape. The project includes three distinct outdoor spaces; the play area to the west of the proposed building, the area to the north which contains a "science/art terrace", and the area from the entrance of the proposed building to the existing synagogue building on the adjacent property. The landscape materials and layouts plan in **Exhibit 3, Sheets L-201 and L-202** show the proposed materials.

   a. Strategically placed and useable pedestrian areas such as courtyards, plazas, outdoor seating or other gathering places should be provided for commercial, regulated residential and public facilities.

      Staff Finding: The three distinct landscaping areas include pedestrian areas, terraces, and gathering places. An accessible pedestrian walkway would connect the proposed building to the existing synagogue on the adjacent property, and a play area to the west of the proposed building provides a focal point for gathering. The science/art terrace to the north of the proposed building would be heavily screened from the adjacent right-of-way and provides an egress route.

b. On-site recreation areas appropriate to the users should be provided for residential and public projects.

Staff Finding: The proposed development includes a fully fenced play area to the west of the proposed building, which is appropriate for the preschool use.

c. The design of outdoor spaces should combine necessary site functions, such as storm water detention, with open space and visual interest areas.

Staff Finding: Compliance with Chapter 15.09 MICC, Stormwater management program is required and will be reviewed during review of the associated building permit, as conditioned.

3. ***(B)(3) Architectural features*.** The design of landscape architectural features should be in scale with and complement the architecture of site structures and the visual character of the neighborhood.

Staff Finding: The proposed design appears to complement the architecture of the proposed building and the vegetated site.

a. Use of architectural screens, arbors, trelliswork, art features, fountains and paving treatments such as wood, brick, stone, gravel and/or other similar methods and materials should be used in conjunction with native plant materials or in place of plant materials where planting opportunities are limited.

Staff Finding: The proposed landscaping plan in **Exhibit 3, Sheets L-201, L-202, L-301, and L-302** includes plant materials over all areas that are not used for pedestrian walkways, utilities, or the proposed building. The materials plan includes concrete paving with a broom finish, hydroseed access paths, synthetic turf surfacing in the play area, and engineered wood fiber safety surfacing.

b. Fences should be made of ornamental metal or wood, masonry, or some combination of the three. The use of razor wire, barbed wire, chain link, plastic or wire fencing is prohibited if it will be visible from a public way or adjacent properties, unless there are security requirements which cannot feasibly be addressed by other means.

Staff Finding: Chain link fencing is proposed along the north property line for security and most of this fence would not be visible from the public way as it is adjacent to property owned by Puget Sound Energy (PSE). This chain link fencing is subject to Hearing Examiner approval. Steel picket fencing is proposed along the west and south property lines, and around the play area to the west of the proposed building.

c. Fences should not create the effect of walled compounds that are isolated from adjacent developments and public ways.

Staff Finding: The proposed fencing does not appear to create the effect of a walled compound that is isolated from adjacent development and public ways. The fences are proposed for site security, and the fencing around the play area is required pursuant to MICC 19.04.050(B)(26)(b).

4. ***(B)(4) Minimum landscape area requirements.***

a. *Total landscaped area.* The following minimum areas shall be landscaped:

i. *Single-family residential (SF).* For nonresidential uses in single-family residential zones (SF), a minimum of 35 percent of the gross lot area of shall be landscaped.

Staff Finding: The existing improvements on the residentially zoned parcels are legally nonconforming and allowed to continue pursuant to MICC 19.01.050(A)(4), provided no new nonconformances are created, there is no expansion of any existing nonconformity, and legal nonconforming status is not lost per MICC 19.01.050. The proposed development does not create a new nonconformity, result in an increase in the existing nonconformity, and legal nonconforming status is not lost under MICC 19.01.050.

ii. *Business (B).* In business (B) zones, a minimum of 25 percent of the gross lot area shall be landscaped; provided, for fuel stations, a minimum of ten percent of the gross lot area shall be landscaped.

Staff Finding: As shown in the site plan in **Exhibit 3, Sheet A-010** and the landscape layout and planting plans in **Exhibit 3, Sheets L-201, L-202, L-301, and L-302**, 34 percent of the gross lot area is landscaped with both hardscape and softscape.

b. *Impervious surfaces.* For all zones, area landscaped by impervious surfaces should constitute no more than 25 percent of the total required landscape area; provided, for multifamily residential zones, area landscaped by impervious surfaces should constitute no more than ten percent of the total required landscape area.

Staff Finding: The site plan in **Exhibit 3, Sheet A-010** provides the following calculations for landscaping on the B zoned property:

LOT AREAS (B-ZONED PARCEL)			
Comments	AREA	% OF TOTAL LOT AREA	COMMENTS
BUILDING (LOT COVERAGE)	16,447 SF	61%	
BUILDING (LOT COVERAGE)	1,325 SF	5%	INCLUDES AREAS COVERED BY CANOPY PER DEFINITION
	17,772 SF	66%	
LANDSCAPE-IMPERVIOUS	571 SF	2%	
LANDSCAPE-IMPERVIOUS	540 SF	2%	PART OF DCYF-REQUIRED PLAY AREA
LANDSCAPE-IMPERVIOUS	117 SF	0%	
LANDSCAPE-IMPERVIOUS	762 SF	3%	REQUIRED ACCESSIBLE ROUTE PER CITY OF MERCER ISLAND BLDG PLANS EXAMINER
	1,990 SF	7%	
LANDSCAPE-PERVIOUS	3,581 SF	13%	
LANDSCAPE-PERVIOUS	304 SF	1%	
LANDSCAPE-PERVIOUS	449 SF	2%	
LANDSCAPE-PERVIOUS	1,929 SF	7%	
LANDSCAPE-PERVIOUS	622 SF	2%	PERVIOUS PLAY SURFACING (ARTIFICAL TURF); PART OF DCYF-REQUIRED PLAY AREA
	6,885 SF	26%	
NOT LANDSCAPE	152 SF	1%	REQ'D BY RECOLOGY FOR TRASH LOADING
	152 SF	1%	
	26,799 SF	100%	

Based on the gross lot area and required landscaping, the property is limited to 1,680 square feet of impervious surfaces within the minimum 6,720 square foot landscaping area. Where "should" is used in a design standard, MICC 19.12.010(E) allows the applicant to demonstrate to the satisfaction of the Design Commission that the proposed design is an equal or better means of satisfying the standard or objective. The applicant proposes a 462 square foot increase of the maximum impervious surface area and a 1,845 square foot increase in the minimum required pervious surface area. 540 square feet of the impervious surface area would be for the preschool play area which is required by the Washington State Department of Children, Youth and Families (DCYF). 762 square feet of the

impervious surface area would be for the accessible route on the east side of the proposed building, which provides an accessible connection between the existing synagogue, parking area, and proposed building. 152 square feet is identified as "Not Landscape" on the site plan in **Exhibit 3, Sheet A-010**, however, this area is impervious and should be included in the calculation. These 152 square feet are for the trash loading area which is required by Recology. The remaining 688 square feet are for other walkways and patios located at the entrance to the building and on the north side of the proposed building in the art/science terrace.

5. ***(B)(5) Entrance landscaping.*** For commercial and regulated public facilities, landscaping at entrances should frame an outdoor space near the entrance and reinforce this important building feature as a gathering place.

   Staff Finding: Exhibit 3, Sheet L-302 shows the main building entrance flanked by landscaping along the south edge of the proposed building. The secondary entrance at the north of the proposed building is fully screened and includes a science/art terrace, and the entrances at the preschool play area to the west of the proposed building is landscaped and is designated as a focal point of the site.

6. ***(B)(6) Planting material, types and design.*** The following planting types should be used:

   a. Native or northwest-adapted plants should be used for all open space and buffer locations and drought tolerant plantings should be used in a majority of plantings.

      Staff Finding: The proposed landscaping plan in **Exhibit 3, Sheet L-301** lists the proposed plant schedule. All of the proposed plantings are native and drought tolerant.

   b. New plantings should complement existing species native to the Pacific Northwest.

      Staff Finding: All of the new proposed plantings are native to the Pacific Northwest, as shown in the plant schedule in **Exhibit 3, Shet L-301**.

   c. Ground cover should be used to ensure planting areas are attractive, minimize maintenance and the potential for encroachment of invasive plant material. Ground cover should be planted and spaced to achieve total coverage within three years after installation.

      Staff Finding: The proposed plant schedule in **Exhibit 3, Sheet L-301** includes the following ground cover: kinnikinnick, salal, Oregon grape, and western sword fern, all of which are native to the Pacific Northwest. The landscape plan requires that the ground cover will be planted and spaced to achieve total coverage within three years after installation, and a condition of approval has been recommended to ensure the proposed development complies with this standard.

7. ***(B)(7) Perimeter screen types and widths by use and location.***

   a. *Required screen types and widths.* The following screen types and widths should be used:

Use	Adjacent to	Screen Type and Width		
		Full	Partial	Filtered
Institutional Use or Public Facility	Public Way		20 feet [1, 2]	

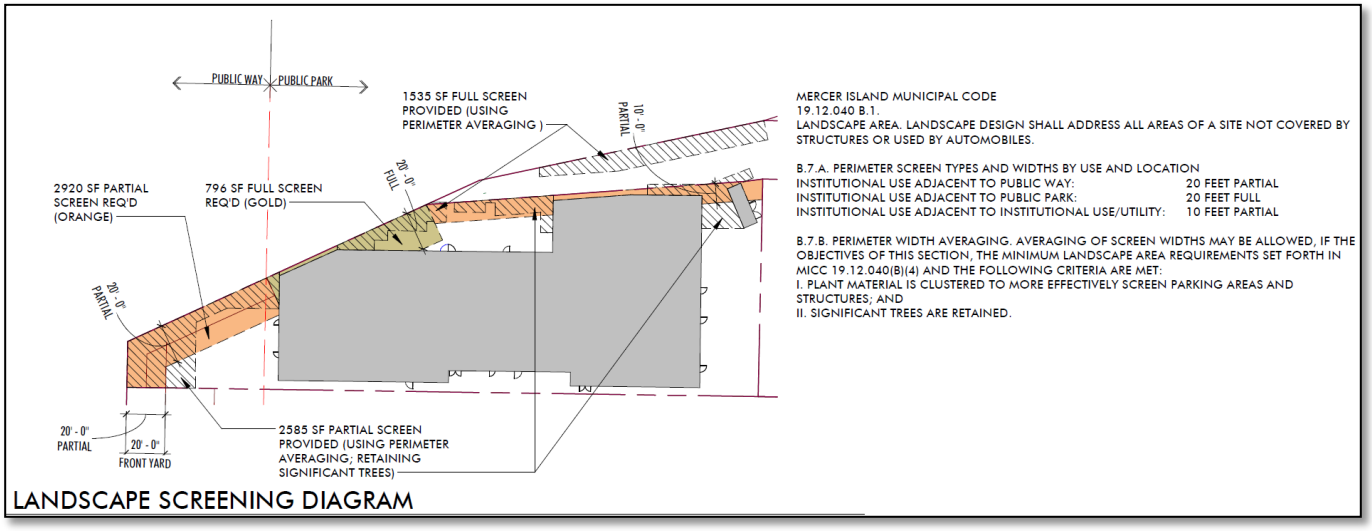
Commercial, Institutional, Utility, or Public Facility	Residential (Single or Multifamily)	20 feet [1]		
	Institutional, Commercial, Utility, Public Facility		10 feet	
	Public Park	20 feet		

Footnotes:

[1] *Breaks in full or partial screen planting may be allowed for institutional and public facilities to create focal points, preserve views, and highlight the prominence of important buildings.*

[2] *Perimeter landscape requirements may be modified if necessary to enable an existing public facility to make safety-related improvements to a legally nonconforming lot.*

Staff Finding: The proposed screening is shown in the landscape screening diagram in **Exhibit 3, Sheet A-011** and below.



LANDSCAPE SCREENING DIAGRAM

b. *Perimeter width averaging.* Averaging of screen widths may be allowed, if the objectives of this section, the minimum landscape area requirements set forth in MICC 19.12.040(B)(4) and the following criteria are met:

   i. Plant material is clustered to more effectively screen parking areas and structures; and

   ii. Significant trees are retained.

Staff Finding: The applicant proposes to include perimeter width averaging in the hatched areas shown in the landscape screening diagram in **Exhibit 3, Sheet A-011**. The proposed plant material would be clustered to more effectively screen the proposed structure while retaining some significant trees on the site.

8. ***(B)(8) Perimeter landscape screens.*** Perimeter landscape screens should be consistent with the following definitions of screen types. Where existing undergrowth will be retained, the shrub and ground cover requirements for all screen types may be adjusted, provided the objectives of this section are met.

a. *Full screen.* A full screen provides a dense vegetated separation between dissimilar uses on adjacent properties. A full screen should block views from adjacent properties as seen at the pedestrian eye level in all seasons within three years of installation. The number of trees provided shall be proportionate to one tree for every ten feet of landscape perimeter length.

Staff Finding: Full screening is provided on the north side of parcel 0824059045 and parcel 151560TRCT for the institutional use adjacent to the public park on parcel 0824059310. The existing PSE vehicle access on parcel 151560TRCT would not be obstructed by the proposed landscape screening. The proposed trees provided are proportionate to one tree for every ten feet of landscape perimeter in length as shown in the west enlarged site plan in **Exhibit 3, Sheet A-011**. A condition of approval is recommended to ensure the screen blocks views from adjacent properties at the pedestrian eye level in all seasons within three years of installation.

While MICC 19.12.040(B)(7)(a) requires full screening for institutional uses adjacent to single-family residential uses, full screening is intended to provide a dense vegetated separation between dissimilar uses on adjacent properties. The proposed institutional use on parcel 0824059045 is adjacent to two single-family residentially zoned properties containing parking and a synagogue (parcels 1515600010 and 2107000010), however, these uses are similar and the developments across these three parcels have been designed to be integrated as one use. Screening between these two parcels would not be required, since these uses are similar and screening would hinder the interconnectedness of the proposed design.

b. *Partial screen*. A partial screen provides a moderate vegetated separation between uses on adjacent properties and intermittent views to adjacent properties. A partial screen shall provide the desired screening function as seen at the pedestrian eye level in all seasons within three years of installation. The number of trees provided shall be proportionate to one tree for every 20 feet of landscape perimeter length.

Staff Finding: Partial screening would be provided on the west and north sides of parcel 0824059045 where the institutional use is adjacent to the public way and other institutional uses/utilities. The screening would provide moderated vegetated separate between the public way and utility uses, and intermittent views to adjacent properties, as shown in the west enlarged site plan in **Exhibit 3, Sheet A-011**. A condition of approval is recommended to ensure the screen provides the desired screening function as seen at the pedestrian eye level in all seasons within three years of installation.

c. *Filtered screen*. A filtered screen should provide in all seasons and within three years of installation a lightly vegetated visual separation between uses on adjacent properties and allow visual access to adjacent properties. When compared to the other screen types, a filtered screen should be characterized by more open spaces, light filtration and transparency through the plant material forming the screen.

Staff Finding: Filtered screening is not required for the institutional use.

9. ***(B)(9) Surface parking lot planting*.** Surface parking lot planting is required in addition to required perimeter landscape screens. The requirements for surface parking lot planting for new parking lots with fewer than 20 spaces and for additions or remodels may be waived or modified if the applicant can demonstrate that these standards would reduce the amount of parking below the minimum required for the site.

Staff Finding: The required parking on parcels 2107000010 and 1515600010 for the proposed and existing uses on parcels 0824059045 and 1515600010 is 139 spaces, unless a 25 percent reduction is granted by the code official following approval by the City Engineer and Design Commission, in which case the required parking would be 105 spaces. The design proposes 105 parking spaces across both parcels 2107000010 and 1515600010, which is the maximum amount of parking that can reasonably fit on these parcels given the existing development. The applicant has requested that the surface parking lot planting requirements be waived as the applicant has demonstrated that these standards would reduce the amount of parking below the minimum 105 spaces required for the site in **Exhibit 3, Sheets A-011 and A-012**.

a. *Standards by location*. Surface parking lots not located adjacent to public rights-of-way should provide one tree for every six parking stalls. Surface parking lots located in the front of buildings or adjacent to public rights-of-way should provide one tree for every four parking stalls. Trees should be at least six feet high at the time of planting. All lots should have planting areas at the end of parking aisles.

b. *Common standards for surface parking lot planting.* The following standards apply to all surface parking lot planting:

    i. *Shrubs*. Shrubs should be maintained at a maximum three feet height within surface parking lots so views between vehicles and pedestrians will not be blocked. Irregular spacing and clustering is encouraged; however, the minimum number of shrubs shall be determined by assuming shrubs are planted on three-foot centers throughout the entire planting area. Where vehicle headlights may project onto neighboring properties, shrubs shall be spaced to provide a continuous planting buffer.

    ii. *Planting islands or strips*. Planting islands or strips should have an area of at least 80 square feet and a narrow dimension of not less than five feet if wheel stops are provided to prevent vehicle overhang. A narrow dimension of not less than eight feet may be provided if the vehicle overhang area is included in the planting area.

    iii. *Tree location*. In parking lots, trees should be planted no closer than four feet from pavement edges where vehicles overhang planted areas. Curb stops may be used to proportionally decrease this distance.

    iv. *Narrow planting strips and parking spaces.* Narrow parking lot islands or peninsulas and planting strips shall not be planted in sod. Location of wider parking spaces adjacent to islands is suggested to reduce damage to plant materials.

    v. *Clustering of new plant material*. Clustering of new plant material within surface parking lots may be approved if the objectives of this section are met.

    Staff Finding: The applicant has demonstrated that these standards would reduce the amount of parking below the minimum 105 spaces required for the site in **Exhibit 3, Sheets A-011 and A-012**. The applicant requests that these standards be waived.

10. ***(B)(10) Landscape grading standards.***

    a. *Slopes in planting areas*. Graded slopes in planting areas should not exceed a 3(Horizontal): 1(Vertical) slope, in order to decrease erosion potential and to facilitate maintenance. Graded slopes planted with grass should not exceed a 4(H): 1(V) slope.

Staff Finding: The proposed grading plan in **Exhibit 3, Sheet C3.01** shows that no graded slopes in planting areas would exceed a 3(Horizontal): 1(Vertical) slope. The proposed design does not include graded slopes planted with grass.

b. *Erosion control*. On ungraded slopes equal to or greater than 2(H): 1(V), erosion control netting or alternative procedures shall be used to prevent erosion.

Staff Finding: A condition of approval is recommended to ensure that any ungraded slopes equal or greater than 2(H): 1(V) shall use erosion control netting or alternative procedures to prevent erosion.

c. *Guidelines*. The obligation to install plants, shrubs and ground cover includes the obligation to utilize soil, planting practices and irrigation equipment that maximize the likelihood of their long-term survival.

Staff Finding: A condition of approval is recommended to ensure that the obligation to install plants, shrubs and ground cover includes the obligation to utilize soil, planting practices and irrigation equipment that maximum the likelihood of their long-term survival.

11. ***(B)(11) General planting, irrigation and maintenance standards*.** The following standards apply to the planting requirements set forth above:

a. *Coverage*. Planting areas should be completely covered with trees, shrubs, flowers, mulched areas, and/or ground covers.

Staff Finding: As shown in **Exhibit 3, Sheets L-201, L-202, L-301, and L-302**, the proposed plantings areas would be completely covered with trees, shrubs, and ground covers.

b. *Berms and landforms.* Earth berms and landforms in combination with shrubs and trees may be used to achieve the initial planting height requirement.

Staff Finding: The proposed development does not include berms and landforms.

c. *Minimum width*. All planting areas should be a minimum of five feet in width. Planting areas should be wider wherever possible.

Staff Finding: The proposed plantings areas would be a minimum of five feet wide, as shown in **Exhibit 3, Sheets L-201, L-202, L-301, and L-302**.

d. *Sight clearance*. At intersections, plantings shall not create sight obstructions that may compromise pedestrian or traffic safety.

Staff Finding: The proposed plantings would not obscure the intersection of the parking area and the queuing loop, as shown in **Exhibit 3, Sheets A-011 and L-302**.

e. *Planting coverage.* All required planting areas should extend to the ditch slope, curb line, street edge, or area of sidewalk.

Staff Finding: The proposed planting areas extend to the edge of the property lines and sidewalks, as shown in **Exhibit 3, Sheets L-301 and L-302**.

f. *Curbs required*. Permanent curbs or structural barriers/dividers should enclose planting areas in vehicle use areas except when draining runoff from pavement to planting areas functioning as rain gardens or other low impact development facilities. Wheel stops should also be used to protect planting areas from damage due to cars overhanging the curb.

Staff Finding: The proposed planting areas in vehicle use areas would be enclosed with curbs, as shown in **Exhibit 3, Sheets L-301 and L-302.** The parking areas are further separated from the planting areas with tactile warning strips, fixed bollards, and a sidewalk at the north edge of the parking area.

g. *Plantings near utilities*. Trees shall not be planted within eight feet of a water or sewer pipeline. Shrubs shall be at least four feet from hydrants. A full screen will be required to screen above-ground utilities from adjacent uses and public rights-of-way. Perimeter plantings shall be clustered in areas to screen structures, utility structures, loading areas, trash enclosures, storage areas and mechanical equipment. This subsection shall not apply to utilities, structures, loading areas, enclosures or equipment unless the utility, structure, loading area, enclosure or equipment is being added as part of the regulated improvement being reviewed.

Staff Finding: Trees would not be planted within eight feet of a water or sewer pipeline, as shown in **Exhibit 3, Sheets L-301 and L-302**. Shrubs would not be planted within four feet from the two new fire hydrants on the north side of the parking area as shown in **Exhibit 3, Sheets C7.00, L-301 and L-302**. The above ground utilities proposed on the north side of the new building would be fully screened from the adjacent uses and public right-of-way, as demonstrated in **Exhibit 3, Sheet A-010** and **Finding VII.24.A.7**.

h. *Drainage*. Planting areas shall be provided with adequate drainage.

Staff Finding: A condition of approval is recommended to ensure the proposed planting areas are provided with adequate drainage.

i. *Maintenance requirements*. All required landscaping shall be maintained in good condition. Plant material should be cared for in a way that allows their natural form to be maintained, even when the plant reaches maturity. Performance guarantees to ensure maintenance or required landscaping may be required pursuant to MICC 19.01.060.

Staff Finding: A condition of approval is recommended to ensure all required landscaping shall be maintained in good condition. A performance guarantee is also recommended to ensure maintenance of required landscaping pursuant to MICC 19.01.060.

25. MICC 19.12.050 – Vehicular and pedestrian circulation.

A. ***MICC 19.12.050(B) Standards.***

1. ***(B)(1) Vehicular circulation characteristics.***

a. *Parking lot design.* Parking areas should be designed for efficient and safe ingress and egress by vehicles and should not inhibit safe pedestrian movement or circulation. Parking lot design should be subordinate to the overall site design and should be located behind new buildings when appropriate and physically feasible. Below grade parking is also encouraged. Planting strips should be incorporated between parking aisles in new and expanded parking lots where space permits. Parking lot development standards, such as stall and aisle dimensions, are contained in appendix A.

Staff Finding: The portion of the existing parking area on parcel 2107000010 would be repaved and restriped as shown in **Exhibit 3, Sheet C6.00** and is consistent with the development standards in Appendix A MICC. The parking area has been designed by Transpo Group (**Exhibit 25, Figure 12 – Site Circulation Plan**) and finds that "[t]here is significant amount of vehicle and queuing space available on site to accommodate the

school activities". Space does not permit planting strips, as demonstrated in **Finding VII.24.A.9**.

The existing parking areas on parcels 1515600010 and 151560TRCT are legally nonconforming and allowed to remain in the current configuration pursuant to MICC 19.01.050(A)(4), provided the nonconformance is not increased. No work is proposed to alter these existing, legally nonconforming parking areas.

b. *Loading docks.* Proposed development of features such as loading docks, and other features designed to support activities with a substantial likelihood of generating significant noise should be designed with noise attenuation walls and sited in a manner to limit impacts to adjacent properties and pedestrian areas.

Staff Finding: The proposed development does not include loading docks to support activities with a substantial likelihood of generating significant noise.

2. ***(B)(2) Pedestrian circulation characteristics.***

a. *Pedestrian improvements.* All developments shall provide for pedestrian access including pedestrian walkways, sidewalks, and/or paths. Areas for sitting and gathering should be provided as an integral part of regulated public facilities, regulated residential and commercial building design. Pedestrian improvements should be separated from vehicular areas by physical barriers such as curbs or landscaping. This requirement for new parking lots with fewer than 20 spaces and for additions or remodels may be waived or modified where the applicant can demonstrate that these standards would reduce the amount of parking below what would be required for the site.

Staff Finding: The proposed development includes sidewalks and walkways that connect the proposed building with the existing synagogue on the adjacent property. Areas for sitting and gathering are also included as shown in **Exhibit 3, Sheets L-201 and L-202**. The proposed pedestrian improvements would be separated from vehicular areas with fixed bollards, curbs, and landscaping.

b. *On-site circulation for regulated public facilities and commercial buildings.* Proposed development should be linked to existing and planned walkways and trails. Entrances of all buildings should be linked to each other and to public ways and parking lots. Where possible and feasible, the pedestrian system shall connect to paths or sidewalks on neighboring properties.

Staff Finding: The proposed development includes walkways that connect the site to existing public way and the existing synagogue building on the adjacent property. The entrance of the proposed building would be linked to the public way and parking lot with a walkway and sidewalks. The pedestrian system would connect to paths on neighboring properties as shown in **Exhibit 3, Sheets A-010, L-201 and L-202**.

26. MICC 19.12.060 – Screening of service and mechanical areas.

A. ***MICC 19.12.060(B) Standards*.**

1. ***(B)(1) Accessory buildings.*** Ground level outdoor storage buildings, mechanical equipment and utility vaults shall be screened from adjacent public ways.

Staff Finding: The proposed trash enclosure would be clad in materials consistent with the main building and would be screened from the adjacent public way with landscaping screening

as shown in **Exhibit 3, Sheets A-011 and L-302**. The proposed mechanical equipment at the north side of the proposed building would also be screened from the adjacent public way.

2. ***(B)(2) Rooftop mechanical equipment and appurtenances.*** All rooftop mechanical equipment shall not be visible and shall be enclosed, hidden or screened from adjacent properties, public ways and parks. Rooftop appurtenances are allowed if there is a functional need for the appurtenance and that functional need cannot be met with an appurtenance of a lesser height. This provision shall not be construed to allow building height in excess of the maximum limit. Rooftop appurtenances should be located at least ten feet from the exterior edge of any building, and shall not cover more than 20 percent of the rooftop area. Appurtenances shall not be located on the roof of a structure unless they are hidden or camouflaged by building elements that were designed for that purpose as an integral part of the building design. All appurtenances located on the roof should be grouped together and incorporated into the roof design and thoroughly screened. The screening should be sight-obscuring, located at least ten feet from the exterior edge of any building; and effective in obscuring the view of the appurtenances from public streets or sidewalks or residential areas surrounding the building.

   Staff Finding: The proposed development includes an elevator overrun, mechanical equipment, and solar panels on the rooftop (**Exhibit 3, Sheet A-104**). **Exhibit 3, Sheet A-010** includes views of the proposed building from five angles from the public way, in which no rooftop mechanical equipment or appurtenances would be visible. The rooftop plan in **Exhibit 3, Sheet A-104** demonstrates that the rooftop equipment and appurtenances would be located greater than 10 feet from the exterior edge of the building and would not cover more than 20 percent of the rooftop area. The mechanical equipment above the proposed gym on the north side of the roof would be further screened with trees.

3. ***(B)(3) Meters and mechanical units.*** Water meters, gas meters, electric meters, ground-mounted mechanical units and any other similar structures should be hidden from public view or screened.

   Staff Finding: The proposed mechanical equipment and electrical transformer on the north side of the building would be screened from public view, as shown in **Exhibit 3, Sheet A-010**.

4. ***(B)(4) On-site service areas.*** All on-site service areas, loading zones, outdoor storage areas, garbage collection and recycling areas and similar activities should be located in an area not visible from public ways. Service areas should accommodate loading, trash bins, recycling facilities, storage areas, utility cabinets, utility meters, transformers, etc. Service areas should be located and designed for easy access by service vehicles and for convenient access by all tenants. Loading activities should generally be concentrated and located where they will not create a nuisance for adjacent uses. Loading docks shall meet the standards identified in MICC 19.12.050(B)(1)(b).

   Staff Finding: The proposed garbage collection area would not be visible from public way with the screening shown in **Exhibit 3, Sheet A-010**. The garbage service area would be located adjacent to the queuing loop for easy access by service vehicles and tenants, and at the furthest possible location from the adjacent single-family residences to the south of parcel 2107000010 so as not to create a nuisance.

5. ***(B)(5) Garbage, recycling collection and utility areas.*** Garbage, recycling collection and utility areas shall be enclosed and screened around their perimeter by a wall or fence at least seven feet high, concealed on the top and must have self-closing doors. If the area is adjacent to a

public way or pedestrian alley, a landscaped planting strip, minimum three feet wide, shall be located on three sides of such facility.

Staff Finding: The proposed garbage area would be enclosed in a structure that would be greater than seven feet high and concealed on the top, as shown in **Exhibit 3, Sheet A-353**. The structure would have self-closing doors. The garbage area would not be adjacent to a public way or pedestrian alley, but landscaping would be provided on three sides of the facility, as shown in **Exhibit 3, Sheet A-011**.

6. ***(B)(6) Fence, trellis and arbor standards*.** Fences, trelliswork and arbors shall meet the standards identified in MICC 19.12.040(B)(3).

   Staff Finding: The proposed fences are consistent with the standards identified in MICC 19.12.040(B)(3), subject to Hearing Examiner approval, as described in **Findings VII.24.A.3**.

7. ***(B)(7) Noise, vapor, heat or fumes*.** With respect to all aspects of the development referred to above in this section, emissions of noise, vapor, heat or fumes should be mitigated.

   Staff Finding: A Revised SEPA Mitigated Determination of Non-Significance (MDNS) was issued by the City of Mercer Island on April 7, 2025 (**Exhibit 7**). The Hearing Examiner issued a decision following an appeal hearing related to the MDNS on July 18, 2025 (**Exhibit 8**). The proposed development would not result in adverse impacts related to emissions of noise, vapor, heat or fumes.

27. MICC 19.12.070 – Lighting.

A. ***MICC 19.12.070(B) Standards*.**

1. ***(B)(1) Architectural elements*.** Lighting should be designed as an integral architectural element of the building and site.

   Staff Finding: The proposed development includes a lighting plan in **Exhibit 3, Sheets E-200 and E-201** and a light fixture schedule in **Exhibit 3, Sheets E-700 and E-701**. The lighting appears to have been designed as an integral architectural element of the building and site by incorporating exterior wall fixtures and lighting poles.

2. ***(B)(2) Function and security*.** On-site lighting shall be sufficient for pedestrian, bicyclist, and vehicular safety. Building entrances should be well lit to provide inviting access and safety. Building-mounted lights and window lights should contribute to lighting of walkways in pedestrian areas.

   Staff Finding: An exterior light calculation is included in **Exhibit 3, Sheet E-102**. The proposed on-site lighting appears to be sufficient for pedestrian, bicyclist, and vehicular safety. The entrances of the proposed building would be well lit for access and safety, and building-mounted lights contribute to the lighting of walkways in pedestrian areas as shown in the lighting plan in **Exhibit 3, Sheets E-200 and E-201**.

3. ***(B)(3) Lighting height*.** Freestanding, parking area, and building-mounted light fixtures shall not exceed 16 feet in height, including any standard or base.

   Staff Finding: The proposed freestanding and parking area lighting poles would be mounted on 14-foot tall poles, as described in **Exhibit 3, Sheet E-700** under "Type P". The poles in the parking area would have an exposed 2-foot tall base, as shown in **Exhibit 3, Sheet E-101** in the "Light Pole Base Detail". The building-mounted light fixtures would be mounted at approximately 8.5 feet from the ground, as shown in **Exhibit 3, Sheets LU-7 and LU-8**.

4. ***(B)(4) Shielding*.** All exterior lighting fixtures shall be shielded or located to confine light spread within the site boundaries. Full cut-off fixtures should be used. The use of unshielded incandescent lighting fixtures less than 160 watts and any unshielded lighting less than 50 watts may be allowed. Parking area light fixtures shall be designed to confine emitted light to the parking area.

   Staff Finding: The exterior light calculation in **Exhibit 3, Sheet E-102** demonstrates that the light spread would be confined to the site boundaries and parking area.

5. ***(B)(5) Uplighting of structures and signs*.**

   a. *Residential zones*. Structures in residential zones shall not be illuminated by uplighting. Limited uplighting of signs and plantings in residential zones may be approved provided there is no glare or spillover lighting off the site boundaries.

      Staff Finding: No uplighting is proposed on the residentially zoned properties.

   b. *Nonresidential zones*. Structures, signs, and plantings in nonresidential zones may be illuminated by uplighting, provided there is no glare or spillover lighting off the site boundaries.

      Staff Finding: Proposed uplighting would be used to illuminate the underside of the canopies on the new building. **Exhibit 3, Sheet E-102** demonstrates that there would be no spillover lighting off the site boundaries.

6. ***(B)(6) Light type*.** Lighting should use low wattage color-corrected sodium light sources, which give more "natural" light. Metal halide, quartz, neon and mercury vapor lighting are prohibited in residential zones. High pressure sodium lights may only be used as street lights and must be fully shielded.

   Staff Finding: The applicant proposes to use LED lighting with a warm color temperature (2700K) (**Exhibit 3, Sheets E-700 and E-701**).

28. MICC 19.12.080 – Signs.

A. ***MICC 19.12.080(B) Standards*.**

1. ***(B)(1) Freestanding ground signs outside residential zones.***

   Staff Finding: The proposed development does not include freestanding ground signs.

2. ***(B)(2) Wall signs outside residential zones*.**

   a. *Number and eligibility*. An individual building or a building complex outside residential zones may display one wall sign on each street frontage. A business or other use occupying a building whose only entrance is from a driveway or parking lot shall be allowed one wall sign facing that driveway or parking lot.

      Staff Finding: The proposed building entrance is from a parking lot. Three wall signs facing the parking lot are proposed, one for the main building sign and two tenant signs (**Exhibit 3, Sheet LU-7**). The above standard would allow each business or other use occupying a building to have one wall sign.

   b. *Size*. All signs shall be:

      i. *Proportionate*. Proportionate to the street frontage of the use they identify; and

Staff Finding: The proposed wall signs appear to be proportional to the frontage of the use they identify as shown in **Exhibit 3, Sheet LU-7**.

ii. *Maximum size*. In no case shall a wall sign be larger than:

(A) *Twenty-five square feet.* Twenty-five square feet for any individual business or other use; or

(B) *Forty square feet*. Forty square feet for joint tenant directory signs identifying the occupants of a building or a building complex and located next to the entrance.

Staff Finding: The proposed wall signs would not be greater than 25 square feet, as shown in **Exhibit 3, Sheet LU-7**.

c. *Determination of size*. The sign size shall be measured as follows:

i. Boxed sign displays: Total area of a boxed sign display, including the background and borders.

ii. Individual letters and symbols: Total combined area of a rectangle drawn around the outer perimeter of each word and each symbol.

Staff Finding: The proposed wall signs have been measured to account for the total combined area of a rectangle drawn around the outer perimeter of each word and symbol, consistent with the determination of size above (**Exhibit 3, Sheet LU-7**).

d. *Placement*. Wall signs may not extend above the building parapet, soffit, the eave line or the roof of the building, or the windowsill of the second story. Wall signs shall be integrated with the overall building and site design.

Staff Finding: The proposed wall signs would not extend about the windowsill of the second story, as shown in **Exhibit 3, Sheet LU-7**. The wall signs appear to be integrated with the overall building and site design.

e. *Master signage plan*. When multiple signs for individual businesses in one building or multiple buildings in a complex are contemplated, a master signage plan stipulating the location and size of allowed signs shall be required.

Staff Finding: A master signage plan is included in **Exhibit 3, Sheet LU-7**.

3. ***(B)(5) Parking lot signs*.** Signs within parking lots should be limited to those necessary for safety and identification. Any required signs for individual stalls should be marked on the pavement. Freestanding or wall-mounted signs should not be permitted, with the exception of ADA handicapped accessible parking signs.

Staff Finding: Exhibit 3, Sheet C6.01 shows the proposed paving and striping plan, including signage necessary for safety and identification and compact and ADA parking stall markings.

4. ***(B)(6) Directional signs*.**

a. *Minimal number*. To address safety concerns and avoid a cluttered appearance, only those directional signs necessary to protect the safety of pedestrians and vehicle occupants shall be allowed.

b. *Size and height*. Directional signs shall be no larger than three square feet and no higher than 36 inches above grade.

Staff Finding: The proposed directional signs would be painted on the surface of the parking lot, as shown in **Exhibit 3, Sheet C6.11, Detail 7**.

5. ***(B)(8) Street numbers*.**

   a. *Use*. City-assigned street numbers should be installed on all buildings.

   b. *Effect on permitted sign area*. Street numbers will not be counted towards permitted sign area.

   c. *Size*. Street numbers for any building or building complex shall be no smaller than six inches in height.

   Staff Finding: The proposed street numbers comply with the above requirements as shown in **Exhibit 3, Sheet LU-7**.

6. ***(B)(9) Prohibited signs*.**

   a. *Roof*. Signs mounted on the roof are prohibited.

   b. *Projecting signs*. Projecting signs are prohibited in all zones other than the PBZ. Within the PBZ, projecting signs are permitted subject to the Town Center standards set forth in MICC 19.11.140(B)(3)(b).

   c. *Window signs*. Window signs are prohibited in all zones other than the PBZ, except as provided above in MICC 19.12.080(B)(4). Within the PBZ, window signs are permitted subject to the Town Center standards set forth in MICC 19.11.140(B)(4).

   d. *Inflated signs*. Inflated signs, balloons and figures are prohibited.

   e. *Internally lit signs*. Internally lit signs are prohibited in all zones other than the PBZ. Within the PBZ, lighted signs are permitted subject to the Town Center standards set forth in MICC 19.11.140(B)(9).

   f. *Neon*. Neon signs are prohibited.

   g. *Portable*. Portable signs, such as signs on trailers, are prohibited. This standard is not intended to prohibit A-frame signs as allowed pursuant to MICC 19.06.020, Temporary signs.

   h. *Flashing, moving or animated signs, etc*. Flashing, moving, animated, blinking, reflecting, revolving, or other similar signs or signs that incorporate these elements are prohibited.

   i. *Off-premises signs*. Off-premises signs (signs related to a building, business, tenant or establishment not located on the same premises as the sign) are prohibited.

   j. *Vehicles*. Signs attached to or painted on vehicles parked and visible from the public right-of-way are prohibited if, based on the relative amount of time the vehicle is parked rather than being used as a means for actual transportation, the vehicle's primary purpose is as a stationary sign rather than a means for actual transportation.

   k. *Vending machines*. Vending machines, such as soft drink or snack machines, shall not be placed where they are visible from the public right-of-way.

   Staff Finding: The proposed development does not include any of the above listed prohibited signs.

VIII. RECOMMENDED CONDITIONS OF APPROVAL

1. The project shall be in substantial conformance with (**Exhibit 3**) and all applicable development standards contained within Mercer Island City Code (MICC) Title 19.
2. The applicant shall obtain any permits from state and federal agencies that are applicable to this project. The applicant is also responsible for documenting any required changes in the project proposal due to conditions imposed by any applicable local, state, and federal government agencies.
3. The applicant shall apply for and obtain all required City of Mercer Island permits, including but not limited to a Building Permit for construction of this project proposal.
4. Construction of this project proposal shall only occur during approved construction hours by the City of Mercer Island and/or as otherwise restricted by the Building Official.
5. The Mitigated Determination of Non-Significance (MDNS) for SEP24-003, modified by the Hearing Examiner ruling in **Exhibit 8**, includes the following conditions, which are hereby incorporated into the conditions of approval for the DSR:
    a. [1] Provide a left turn lane from southbound East Mercer Way to the Frontage Road serving the site. The turn lane length shall be designed to accommodate left turn demand during the AM and PM peak hour, and during site peak if it does not coincide with the AM and/or PM peak hour. Where the Washington State Department of Transportation (WSDOT) has permitting authority over the right-of-way, the widths of all lanes of East Mercer Way shall comply with Washington State Department of Transportation ("WSDOT") standards and procedures (including, without limitation, standards and procedures for deviations). The applicant shall apply for and obtain all necessary approvals that WSDOT may require. To the extent any improvements are within solely City right-of-way (not subject to WSDOT authority, design or otherwise), the widths of all lanes of East Mercer Way shall comply with applicable American Association of State Highway and Transportation Officials ("AASHTO") standards. Requests for deviations from AASHTO design guidelines shall be supported with written justification that has been stamped and signed by a licensed civil engineer; the City shall have the sole discretion to approve or deny such requests.

       The addition of the southbound left turn lane may reduce the length of the adjacent northbound left turn lane at the SE 36th Street/East Mercer Way intersection. If such a reduction in the length of said northbound left turn lane is necessary, the analysis called for by Mitigation Measure 2 shall be undertaken.

    b. [2] The addition of the southbound left turn lane may reduce the length of adjacent northbound left turn lane at the SE 36th Street/East Mercer Way intersection. Verify with a traffic operations analysis that, with the addition of the southbound left turn lane to the Frontage Road, the northbound left turn lane at the SE 36th Street/East Mercer Way intersection will have sufficient storage length to accommodate vehicles during the AM and PM peak hours.

    c. [3] The left turn lane from southbound East Mercer Way to the Frontage Road serving the site may consequently require narrowing of the northbound lane on East Mercer Way, especially as approaching the Frontage Road serving the site. Confirm adequacy of curb radii for right turning vehicles exiting from the Frontage Road onto northbound East Mercer Way based on lane width designed for East Mercer Way, if said East Mercer Way lane width is narrower than existing condition. The design vehicle shall be a S-BUS-40 (school bus). Modify curb radii if reasonably warranted.

d. [4] The Transportation Impact Analysis states that the school bus unloading/loading will occur at the east end of the school. The site plan and circulation plan do not show the location of the bus loading zone or walkways along the east side of the building for students to access the bus loading zone. Revise the site plan and circulation plan to show the bus loading zone and how students will safely access the bus loading zone. Parent drop-off and pick-up traffic will also use the roadway east of the school. The Transportation Impact Analysis should describe how the school buses will safely interact with parent drop-off and pick-up queuing and traffic that is using the same roadway.

6. The applicant shall provide a Transportation Demand Management Plan (TDMP) prior to issuance of construction authorization which includes, at a minimum, measures to address the following:

    a. The parking capacity for each use and the time periods for which each parking space or section is authorized for the school, place of worship, and office uses. Each use shall have access to at least the following number of parking spaces during the time periods established for operation:

        i. Office: 33 parking spaces

        ii. School/classrooms: 24 parking spaces

        iii. Place of worship: 82 parking spaces

    b. The school and offices on parcel number 0824059045 shall not schedule overlapping events with the existing uses on parcel numbers 1515600010 and 2107000010 that exceed the number of on-site parking spaces at this facility.

    c. If parking areas are not available during construction, a temporary parking plan must be submitted to the City for each phase of construction prior to issuance of construction authorization.

    d. If an event is expected to draw visitors in excess of the number of on-site parking spaces, Herzl-Ner Tamid Conservative Congregation or office space occupant/lessee shall make arrangements to procure off-site parking and provide a shuttle or other means to transport visitors to and from the site of the event.

    e. If the City receives complaints regarding parking associated with the Herzl-Ner Tamid Conservative Congregation school, place of worship, or office uses and determines the parking results in adverse impacts to the surrounding neighborhood, including impacts to public safety, the City shall require that all vehicle parking be accommodated on-site and/or otherwise mitigated to the City's satisfaction. If this condition is implemented, overflow parking will not be allowed on public streets (weekdays, weeknights, and weekends).

    f. If student drop-off and pick-up activities create congestion on any City streets, the City reserves the right to install "No Parking During School Days" signage and prevent vehicle parking on the roadway and its shoulders.

    g. The programming for each use.

        i. Days and hours of each use.

        ii. Description of activities and associated parking demand.

        iii. Description of events that will likely exceed available parking.

iv. Description of planned methods for reducing parking demand such as carpools, shuttles, staggering high intensity uses, etc.

h. A Transportation Coordinator shall be identified to implement the TDMP including:

i. Communications with each facility manager, neighbors, and the City related to traffic and parking management on the site.

ii. Responding to concerns related to traffic and parking impacts on the neighborhood.

iii. On-site traffic management

iv. Management of student drop-off and pick-up

v. Management of the overall site parking supply, including bike parking

i. Within one month from the date of this approval, the applicant shall notify, by letter or postcard, all neighbors living within 300 feet of the school, with the name and contact information of the individual they have identified as the Transportation Coordinator who will respond to future neighborhood concerns related to traffic and parking impacts on the neighborhood.

j. Identification of strategies and implementation of programs and policies to encourage ridesharing (carpooling/vanpooling), off-site parking and shuttle program, school bus activity, and safe pedestrian walk areas for all uses on parcels 0824059045, 1515600010 and 2107000010.

k. Measures to mitigate unexpected traffic and parking impacts associated with activities and special events on parcels 0824059045, 1515600010 and 2107000010.

l. Plans to educate school students, parents, staff, visitors, and office space occupants to abide by posted speed limits on the Island and practice safe driving practices as travel to and from the Herzl-Ner Tamid Conservative Congregation properties. All traffic and parking policies and programs must be communicated to parents, faculty, staff, visitors, and office space occupants.

7. The Transportation Demand Management Plan shall be submitted to the City's Community Planning and Development Department annually on or before May 31.

8. The six-foot-tall fence proposed within the access easement on 151560TRCT is not allowed pursuant to MICC 19.02.020(H)(1), unless the applicant provides documentation that improvements are authorized within the easement.

9. The proposed development shall not result in an increase in impervious surfaces on the residentially zoned parcels. New impervious surfaces shall be offset by removed impervious surfaces to maintain existing nonconforming impervious surface areas.

10. Pursuant to MICC 19.04.040(B)(1), all off-street parking areas shall be graded and surfaced to a standard comparable to the street which serves the parking area. The parking area shall be developed and completed to the required standards before an occupancy permit for the building to be served is issued.

11. Pursuant to MICC 19.04.040(B)(2), all traffic control devices such as parking strips designating car stalls, directional arrows or signs, bull rails, curbs and other structures shall be installed and completed as shown on the approved plans. Hard surfaced parking area shall use paint or similar devices to delineate parking stalls and directional arrows.

12. Pursuant to MICC 19.04.040(B)(6), off-street parking shall meet the relevant state design standards for the physically disabled.

13. Pursuant to MICC 19.04.050(B)(26), the preschool facility shall meet all applicable safety and licensing laws and requirements prior to issuance of construction authorization.

14. Pursuant to MICC 19.10.070(B)(2), replacement trees shall primarily be those species native to the Pacific Northwest. In making a determination regarding the species of replacement trees, the city arborist shall defer to the species selected by the property owner unless the city arborist determines that the species selected is unlikely to survive for a period of at least ten years, represents a danger or nuisance, would threaten overhead or underground utilities or would fail to provide adequate protection to any critical tree area.

15. Pursuant to MICC 19.10.070(B)(3), coniferous trees shall be at least six feet tall; and deciduous trees shall be at least one and one-half inches in caliper. The city arborist may authorize the planting of smaller-sized replacement trees if the applicant can demonstrate that smaller trees are more suited to the species, the site conditions, neighborhood character, and the purposes of this section, and that such replacement trees will be planted in sufficient quantities to meet the intent of this section. The city arborist shall not authorize the planting of shrubs or bushes in lieu of required replacement trees.

16. Pursuant to MICC 19.10.070(B)(5), replacement trees shall be planted in the wet season (October 1 through April 1), following the applicable tree removal or, in the case of a development proposal, completion of the development work, provided the city arborist may authorize an extension to ensure optimal planting conditions for tree survival.

17. Pursuant to MICC 19.10.070(D), the applicant shall maintain all replacement trees in a healthy condition for a period of five years after planting. The applicant shall be obligated to replant any replacement tree that dies, becomes diseased, or is removed during this five-year time period.

18. Pursuant to MICC 19.10.080(A), to ensure long-term viability of trees identified for protection, permit plans and construction activities shall comply with the then-existing best management practices (BMP) — managing trees during construction, published by the International Society of Arboriculture, adopted by reference.

19. Pursuant to MICC 19.12.010(G), it is the property owners' and tenants' responsibility to ensure compliance with applicable development regulations when a change of use and/or a tenant improvement occurs.

20. Pursuant to MICC 19.12.040(B)(6), native or northwest-adapted plants should be used for all open space and buffer locations and drought tolerant plantings should be used in a majority of plantings. New plantings should complement existing species native to the Pacific Northwest. Ground cover should be planted and spaced to achieve total coverage within three years after installation.

21. Pursuant to MICC 19.12.040(B)(8)(a) and (b), a full screen should block views from adjacent properties as seen at the pedestrian eye level in all seasons within three years of installation. A partial screen shall provide the desired screening function as seen at the pedestrian eye level in all seasons within three years of installation. Documentation that the approved screening meets these requirements is required to be submitted to Community Planning & Development three years after installation.

22. Pursuant to MICC 19.12.040(B)(10), graded slopes in planting areas should not exceed a 3(Horizontal): 1(Vertical) slope, in order to decrease erosion potential and to facilitate

maintenance. Graded slopes planted with grass should not exceed a 4(H): 1(V) slope. On ungraded slopes equal to or greater than 2(H): 1(V), erosion control netting or alternative procedures shall be used to prevent erosion. The obligation to install plants, shrubs and ground cover includes the obligation to utilize soil, planting practices and irrigation equipment that maximize the likelihood of their long-term survival.

23. Pursuant to MICC 19.12.040(B)(11)(h), planting areas shall be provided with adequate drainage.

24. All required landscaping shall be maintained in good condition. Plant material should be cared for in a way that allows their natural form to be maintained, even when the plant reaches maturity. A performance guarantee shall be required for the installation maintenance of landscaping and replacement trees. The performance guarantee shall be executed consistent with MICC 19.01.060(C).

As summarized in **Section I. Application Overview, Requests for Relief**, the development code applicable to the proposal contains several requirements that may be reduced, waived, or modified by the Design Commission, now Hearing Examiner. Should any of these requests for relief not be granted or modified, conditions of approval should be included to ensure the applicant addresses these changes during building permit review prior to construction authorization. These recommended conditions of approval are included in **Conditions 25 through 34**, below:

25. *[Condition to address denial of Request for Relief Item 1]* Pursuant to MICC 19.04.040(B)(7), up to 50 percent of the required off-street parking spaces may be designed for accommodating compact vehicles. Such parking spaces must be clearly designated as compact stalls.

26. *[Condition to address denial of Request for Relief Item 2]* Pursuant to MICC 19.04.040(B)(8), an off-street loading space, having access to a public street, shall be provided adjacent to the proposed building on parcel 0824059045.

    OR

    [Condition to address approval of Request for Relief Item 2] Pursuant to MICC 19.04.040(B)(8), Pursuant to MICC 19.04.040(B)(9), the City Engineer must determine whether an off-street loading space having access to a public street shall be required adjacent to the proposed building, prior to code official approval. Approval must be obtained prior to building permit issuance, or an off-street loading space consistent with MICC 19.04.040(B)(8) shall be provided.

27. *[Condition to address denial of Request for Relief Item 3]* Pursuant to MICC 19.04.040(E), a minimum of 105 parking spaces shall be available on-site. The applicant shall provide an additional 34 parking spaces for a total of 139 parking spaces. The parking spaces shall be located on parcel numbers 1515600010, 2107000010, 151560TRCT, and 0824059045, unless the applicant demonstrates that space does not allow for additional parking. If off-site parking is necessary, the applicant shall provide the City with a parking agreement prior to the issuance of the Certificate of Occupancy for the building permit. A parking agreement shall be submitted to the City on an annual basis, or at the time an existing parking agreement is renewed if the term is longer than one year, whichever is longer. If an existing parking agreement is not renewed, the additional parking shall be secured elsewhere and a parking agreement executed.

28. *[Condition to address denial of Request for Relief Item 4]* Pursuant to MICC 19.10.070(A), the proposed development includes the removal of 82 regulated trees. 441 replacement trees, meeting the size and species standards in MICC 19.10.070(B)(2) and (3) are required to be planted in the location specified in MICC 19.10.070(B)(1).

OR

[Condition to address partial approval of Request for Relief Item 4] Pursuant to MICC 19.10.070(B)(4), the proposed development includes the removal of 82 regulated trees which require 441 replacement trees. The city arborist may reduce the number of replacement trees where other measures designed to mitigate the tree loss by restoring the tree canopy coverage and its associated benefits are considered to be effective and consistent with the purposes of Chapter 19.10 MICC. The Hearing Examiner, acting as the city arborist, requires [#] replacement trees meeting the size and species standards in MICC 19.10.070(B)(2) and (3) are required to be planted in the location specified in MICC 19.10.070(B)(1).

29. *[Condition to address denial of Request for Relief Item 5]* Pursuant to MICC 19.10.070(C), the Hearing Examiner, acting as the city arborist, may authorize a fee-in-lieu if there is insufficient area to replant on-site or within adjacent public right-of-way. The Hearing Examiner finds that there is sufficient area to replant [#] trees on-site or within adjacent public right-of-way. A fee-in-lieu may be authorized for the remaining [#] required replacement trees.

30. *[Condition to address denial of Request for Relief Item 6]* Pursuant to MICC 19.12.030(B)(2), the proposed design shall be modified to provide horizontal façade modulation at no less than every 50 feet of wall length on the south and east facades of the proposed building. Forms of building modulation may include, but are not limited to: façade indentations and extrusions; actual building separation; connecting atriums, courtyards and plazas; variable roof forms and overhangs; and decks and balconies.

31. *[Condition to address denial of Request for Relief Item 7]* Pursuant to MICC 19.12.030(B)(6)(b), roofline variation shall occur on all commercial, office or public structures which exceed 70 feet in length. Roofline variation shall be achieved using one or more of the following methods: i) Vertical off-set ridge or cornice line; ii) Horizontal off-set ridge or cornice line; iii) Variations of roof pitch between 5:12 and 12:12; or iv) [approved technique].

32. *[Condition to address denial of Request for Relief Item 8]* Pursuant to MICC 19.12.040(B)(3)(b), the use of razor wire, barbed wire, chain link, plastic or wire fencing is prohibited if it will be visible from a public way or adjacent properties.

33. *[Condition to address denial of Request for Relief Item 9]* Pursuant to MICC 19.12.040(B)(4)(b), the design shall be revised to include no more than 1,680 square feet of impervious surface area on parcel 0824059045.

34. *[Condition to address denial of Request for Relief Item 10]* Surface parking lot planting shall be provided consistent with the standards in MICC 19.12.040(B)(9).

IX. DEVELOPMENT REGULATION COMPLIANCE – DISCLOSURE

1. Compliance with all local, state, and federal regulations is required.

2. Per MICC 19.15.200, revisions that result in substantial changes, as determined by the code official, shall be treated as a new application for purposes of vesting. "Substantial change" includes the creation of additional lots, the elimination of open space, substantial changes in access, or changes to conditions of approval. Additionally, the need for the modification was not known and could not have been reasonably known before the approval was granted.

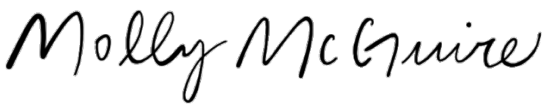
3. Per MICC 19.15.150, land use review approvals shall expire three years from the date of notice of decision if the development proposal authorized by the land use review is not commenced. For the

purposes of this section, the development proposal shall be considered established if construction or substantial progress toward construction of a development proposal for which a land use review approval has been granted must be undertaken within two years of the date of notice of decision of the land use review. Where no construction activities are involved, the use or activity shall be commenced within three years of the date of notice of decision of the land use review.

X. RECOMMENDATION

Staff reviewed the proposed development application in accordance with standards for criteria for design standard reviews. The staff report and recommendations to the Hearing Examiner are based on the application and all supplemental information. The Hearing Examiner may approve, approve with conditions, or deny the proposal. Staff recommends that the Hearing Examiner **Approve with Conditions**, City File Number DSR25-009.

Recommended this 31st day of October, 2025.



Molly McGuire
Senior Planner
City of Mercer Island
Community Planning & Development Department