



STAFF REPORT AND DECISION

SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT (SHL25-027)

SHORELINE CONDITIONAL USE PERMIT (SHL25-028)

SETBACK DEVIATION (DEV25-007)

Project Number:	SHL25-027, SHL25-028, and DEV25-007	
Project Name:	The Clubhouse at Covenant Living of the Shores	
Review Type:	Type II, III and IV	
Description:	A request for a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, and Setback Deviation for the removal and replacement of the existing Clubhouse on a property located within shoreline jurisdiction of Lake Washington, a shoreline of statewide significance.	
Applicant/Owner:	Joe Taflin (Navix Engineering, LLC) / Randy Gross (Covenant Living Communities)	
Address:	9150 Fortuna Drive, Mercer Island, WA 98040 King County Assessor tax parcel number: 0724059016	
Zoning Designation:	Multiple-Family (MF-3)	
Shoreline Environment Designation:	Urban Residential	
Staff Contact(s):	Grace Manahan, Code Compliance Planner	
Key Project Dates:	Date of Application:	August 26, 2025
	Determined to be Complete:	September 16, 2025
	Notice of Application Bulletin Published:	September 29, 2025
	Notice of Application Mailed:	September 29, 2025
	Notice of Application Posted on Site:	September 29, 2025
	Comment Period Ended:	October 29, 2025
Exhibits:	1. Staff Report, dated September 10, 2026 2. Development Application, received by the City of Mercer Island on August 22, 2025 3. Shoreline Substantial Development Permit Application, received by the City of Mercer Island on August 22, 2025 4. Shoreline Conditional Use Permit Application, received by the City of Mercer Island on August 22, 2025 5. Setback Deviation Permit Application, received by the City of Mercer Island on August 22, 2025 6. Affidavit of Ownership, dated July 21, 2025 7. Affidavit of Agent Authority, dated July 21, 2025	

8. Title Report, generated by Chicago Title Company of Washington on July 23, 2025
9. Development Plan Set, dated June 10, 2026
10. Project Narrative, received by the City of Mercer Island on August 22, 2025
11. Geotechnical Report, prepared by Terra Associates, Inc., dated February 6, 2026
12. Critical Area Study and No Net Loss Plan, prepared by Wetland Resources, Inc., dated June 5, 2026
13. Archaeological and Historical Study, prepared by ESA, dated January 23, 2026
14. Concurrent Review Request Form, received by the City of Mercer Island on August 22, 2025
15. Hazard Report, generated by the City of Mercer Island on July 14, 2026
16. Watercourse Map, generated by the City of Mercer Island on July 14, 2026
17. Determination of Complete Application, issued by the City of Mercer Island on September 16, 2025
18. Notice of Application, issued by the City of Mercer Island on September 29, 2025
19. Public Comments
 - 19.1. Beck Sessa (Washington Department of Fish and Wildlife), received on 10/23/2025.
 - 19.2. Additional comment provided by Beck Sessa (Washington Department of Fish and Wildlife), received on 10/23/2025
 - 19.3. Matthew Evinger (WA State Department of Ecology), received 10/29/2025
 - 19.4. Aaron Webster (Snoqualmie Indian Tribe), received 10/29/2025
 - 19.5. Petition provided by the residents of Covenant Living at the Shores on Mercer Island, received on 10/26/2025
 - 19.6. Petition provided by the residents of Covenant Living at the Shores on Mercer Island, received on 10/29/2025
 - 19.7. Bart Dawson, received on 10/29/2025
 - 19.8. Lola Dean, received on 10/27/2025
 - 19.9. Michael Finn, received on 10/28/2025
 - 19.10. Jinny McCarty, received on 10/28/2025
 - 19.11. Geraldine M Williams, received 10/29/2025
 - 19.12. Elisabeth Bahn, received 10/29/2025
 - 19.13. Bart Dawson, received 8/10/2026
 - 19.14. Victory Michalak, received 8/14/2026
 - 19.15. Thomas Thompson, received 8/24/2026
20. Applicant Response to Public Comments
 - 20.1 Responses, received February 13, 2026
 - 20.2 Responses, received August 27, 2026
21. Environmental Peer Review prepared by FACET
 - 21.1 Review Letter 1, dated October 29, 2025
 - 21.2 Review Letter 2, dated March 20, 2026
 - 21.3 Review Letter 3, dated June 1, 2026
 - 21.4 Review Letter 4, dated July 8, 2026
22. SEPA Checklist, dated August 20, 2025

23. SEPA Determination of Nonsignificance, issued by the City of Mercer Island on July 20, 2026
24. Notice of Public Hearing, issued by the City of Mercer Island on August 10, 2026

I. APPLICATION OVERVIEW

1. Project Overview: An application for a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, and Setback Deviation for the removal and replacement of the existing Clubhouse on a property located within shoreline jurisdiction of Lake Washington, a shoreline of statewide significance. **(Exhibit 2)**.
2. Location: The subject property is located at 9150 Fortuna Drive. The property is located within the Urban Residential Shoreline Environment Designation in the shoreline jurisdiction of Lake Washington, a shoreline of statewide significance.
3. Access: Access to the subject property is from the south off North Mercer Way.
4. Existing Conditions: The subject property is currently development with Covenant Living at the Shores and contains multiple residential buildings, a health center, the existing clubhouse as well as landscaping and pathways throughout the waterfront site. The subject property contains geologically hazardous areas, a piped watercourse, and a Category IV wetland **(Exhibit 15 and 16)**. Based off aerial imagery the existing clubhouse was originally built prior to 1963. The last major renovation occurred in 1979 through building permit 79-120. The proposed development is to demolish the existing structure and construct a new clubhouse, new parking and a new fire access lane that will follow the eastern property line and loop around the northern portion of the proposed building.

5. Contact Information:

Project Contact:	Applicant:
Navix Engineering, LLC c/o Joe Taflin 11235 SE 6 th St Bellevue, WA 98004 (425) 455-7900 jotaflin@langan.com	Covenant Living Communities c/o Randy Gross 5700 Old Orchard Rd Skokie, IL 60077 (847) 302-3976 regross@covliniving.com

6. Terms Used:

Term:	Refers to, unless otherwise specified:
Applicant	Covenant Living Communities
Proposed development	The Clubhouse at Covenant Living of the Shores
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
SSDP	Shoreline Substantial Development Permit
SEPA	State Environmental Policy Act
OHWM	Ordinary High Water Mark
SMP	Shoreline Master Program

SMA	Shoreline Management Act
WAC	Washington Administrative Code
SCUP	Shoreline Conditional Use Permit
Code Official	City of Mercer Island Community Planning and Development Director or a duly authorized designee
RCW	Revised Code of Washington

II. PROCEDURE AND NOTICE REQUIREMENTS

7. Review Type: Under MICC 19.15.030, Table C, applications for a Shoreline Substantial Development Permit must undergo Type III review.
8. Application: The application for a Setback Deviation, SSDP and SCUP was received by the City of Mercer Island on August 22, 2026 (**Exhibit 2**). The application was determined to be complete on September 16, 2025 (**Exhibit 17**).
9. Notice of Application: The City of Mercer Island provided public notice of application for this Setback deviation, SSDP and SCUP, as set forth in MICC 19.15.090 (**Exhibit 18**). The following methods were used for the public notice of application:
 - A. A mailing sent to the neighboring property owners within 300 feet of the subject property.
 - B. A sign posted on the subject property, visible from the public right-of-way.
 - C. A posting in the City of Mercer Island's Weekly Permit Bulletin.
10. Preliminary Plan Set: The applicant provided a preliminary plan set, dated June 10, 2026 (**Exhibit 9**).
11. Opportunities for Public Comment: The comment period of the public notice of application lasted for 30 days, from September 29, 2025 to October 29, 2025. During this period, 12 public comments were received (**Exhibit 19**).
12. Response to Public Comment: Public comments were provided to the applicant during the first round of review. While the City accepts public comments at any time prior to the time a decision is made, 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 20**.
13. State Environmental Policy Act (SEPA) Review: A SEPA Determination of Nonsignificance (DNS) was issued on July 20, 2026 following the Optional DNS process in WAC 197-11-355 (**Exhibit 23**). The DNS appeal period ended on August 3, 2026, and no appeals were filed.

III. ZONING AND COMPREHENSIVE PLAN DESIGNATIONS

14. Site Zoning and Land Use: The subject property is designated Multiple Family (MF-3). Care services are an allowed use within the MF-3 zoning designation.
15. Adjacent Zoning and Comprehensive Plan Designations: Adjacent properties are within the Single-Family Residential (R-8.4, R-9.6, and R-15) zone and contain residential uses.

FINDINGS OF FACT

IV. SHL25-027 – SSDP FINDINGS, CONCLUSIONS, AND RECOMMENDED CONDITIONS OF APPROVAL

16. MICC 19.13.040 contains tables to specify the shoreline uses and development which may take place or be conducted within the designated environments.

KEY:	
CE	Permitted via shoreline categorically exempt
P	Permitted use
P-1	Uses permitted when authorized by a conditional use permit for the applicable zone shall also require a shoreline substantial development permit and a shoreline plan in compliance with MICC 19.13.020(C)
SCUP	Shoreline conditional use permit
NP	Not a permitted use

Staff Finding: The proposed development is for an existing retirement community to replace its existing clubhouse, which is not a listed use in the tables found in MICC 19.13.040. Pursuant to WAC 173-27-160(3), uses which are not classified or set forth in the applicable master program may be authorized through a SCUP provided the applicant can demonstrate consistency with the requirements of the WAC and with the requirements for conditional uses contained in the master program.

17. MICC 19.13.050 lists development standards for all development within the shoreline jurisdiction.

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

- 1) Setbacks for all structures (including fences over 48 inches high) and parking shall be 25 feet from the OHWM and all required setbacks of the development code, except (1) light rail transit facilities and (2) shore access structures less than 30 inches above the existing or finished grade, whichever is lower. If a wetland is adjacent to the shoreline, measure the shoreline setback from the wetland's boundary.

Staff Finding: There is no proposed work within 25 feet from the OHWM; therefore, this requirement is met.

- 2) Height limits for all structures shall be the same as height limits specified in the development code but shall not exceed a height of 35 feet above average building elevation, except light rail transit facilities.

Staff Finding: The proposed height of the new clubhouse building is 35 feet (**Exhibit 9, Sheet A-200**); therefore, this requirement is met.

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

Staff Finding: No work is proposed between 0 and 25 feet from the OHWM, the existing maximum lot coverage and hardscape between 0 and 25 feet from the OHWM is 10 percent (**Exhibit 9, sheet C-1.1**). The proposed hardscape and lot coverage between 25 and 50 feet from the OHWM is 2,431 SF, which is approximately 14% of the area (**Exhibit 9, sheet C-1.1**); therefore, this requirement is met.

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

Staff Finding: The subject property size is approximately 541,964 square feet and the proposed development includes a 5 foot screening fence and landscaping along the eastern property line (**Exhibit 9, sheet L-402 and C-1.0**). There are no proposed changes to any other screening area; therefore, this standard is met.

- 5) Height limits for light rail transit facilities within the existing I-90 Corridor for the trackway and overhead wires, support poles, and similar features necessary to operate light rail transit facilities may be erected upon and exceed the height of the existing I-90 bridges.

Staff Finding: No light rail transit facilities are included in the scope of the proposed development; therefore, these requirements do not apply.

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

- 1) An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves, and the following conditions shall apply:
 - a. The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.
 - b. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the primary structure was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.
 - c. For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.
 - d. Construction and maintenance of normal protective bulkhead common to single-family dwellings requires only a shoreline exemption permit, unless a report is required by the code official to ensure compliance with the above conditions; however, if the construction of the bulkhead is undertaken wholly or in part on lands covered by water, such construction shall comply with SEPA mitigation.

Staff Finding: No alterations to the existing stabilization structure (bulkhead) are proposed; therefore, these standards do not apply.

- 2) *New structures for existing primary structures.* New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, are not allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization. New or enlarged erosion control structure shall not result in a net loss of shoreline ecological functions.

Staff Finding: The proposed development does not include any modification to any existing bulkhead or shoreline stabilization structure; therefore, these standards do not apply.

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

Staff Finding: The proposed development does not include any modification to any existing bulkhead or shoreline stabilization structure; therefore, these standards do not apply.

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

Staff Finding: No new structural stabilization measures in support of water dependent development are proposed; therefore, these conditions to not apply.

- 5) New structural stabilization measures to protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to RCW Chapter 70.105D shall only be allowed when all of the conditions below apply:
- a. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
 - b. The erosion control structure will not result in a net loss of shoreline ecological functions.

Staff Finding: No new structural stabilization measures are proposed; therefore, these conditions to not apply.

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

Staff Finding: There is no proposed work to the existing bulkhead; therefore this requirement does not apply.

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

Staff Finding: There is no proposed work to the existing bulkhead or shoreline stabilization;

therefore, this requirement does not apply. The applicant has provided a Geotechnical report prepared by Terra Associates, Inc (**Exhibit 11**).

- 8) When any structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions, the following shall apply:
 - a. Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.
 - b. Ensure that publicly financed or subsidized shoreline erosion control measures do not permanently restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access provisions: WAC 173-26-221(4). Where feasible, incorporate ecological restoration and public access improvements into the project.
 - c. Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt master program provisions for a beach management district or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.

Staff Finding: No structural shoreline stabilization measures are proposed; therefore, these standards do not apply.

C. MICC 19.13.050(C) lists standards for transportation and parking.

- 1) Shoreline circulation system planning shall include safe, reasonable, and adequate systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with all regulations.

Staff Finding: Shoreline circulation for transportation is not proposed as part of this project; therefore; this standard does not apply.

- 2) Transportation and parking facilities shall be planned, located, and designed where routes will have the least possible adverse effect on unique or fragile shoreline features, and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

Staff Finding: The proposed transportation and parking facilities associated with this project have been planned to have the least possible adverse effect on the shoreline by designing the parking facilities and fire lane to be located outside the existing wetland buffer and outside the 25-foot setback from the OHWM. The applicant also provided a Critical Area Study and No Net Loss Plan prepared by Wetland resources, Inc., (**Exhibit 12**) which found that the proposed development will not create a net loss in ecological function in the shorelands. This report was peer reviewed by FACET (**Exhibit 21**).

- 3) Where other options are available and feasible, new roads or road expansions should not be built within shorelands.

Staff Finding: The proposed access road is needed to provide adequate fire access to the proposed clubhouse. Approximately 921 square feet of the access road will be located within 50 feet of the OHWM.

- 4) Parking facilities in shorelands shall be allowed only as necessary to support an authorized use.

Staff Finding: No expansion of the existing parking facilities is proposed; therefore, this standard does not apply.

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

- 1) Moorage facilities may be developed and used as an accessory to dwellings on shoreline lots. Only one noncommercial, residential moorage facility per upland residential waterfront lot authorized.

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

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

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

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

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

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

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

- 5) The width of moorage facilities within 30 feet waterward from the OHWM shall be a maximum of 4 feet. This maximum width may increase to 5 feet if one of the following is met:

- a. Water depth is 4.85 feet or more, as measured from the OHWM.
- b. A moorage facility is required to comply with Americans with Disabilities Act (ADA) requirements.
- c. A resident of the property has a documented permanent state disability as defined in WAC 308-96B-010(5).
- d. The proposed project includes mitigation option A, B or C listed in Table E; and for replacement actions, there is either a net reduction in overwater coverage within 30 feet waterward from the OHWM, or a site-specific report is prepared by a qualified professional demonstrating no net loss of ecological function of the shorelands. Moorage facility width shall not include pilings, boat ramps and lift stations.

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

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

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

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

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

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

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

- 9) The minimum water frontage for a dock used by one single-family lot on the shoreline is 40 feet.

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

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

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

E. The covered portion of a moorage shall be restricted to the area lying within a triangle as illustrated in Figure A, except as otherwise provided in subsection (E)(1) of this section. The base of the triangle shall be a line drawn between the points of intersection of the property lateral lines with the ordinary high water mark. The location of the covered moorage shall not extend more than 100 feet from the center of the base line of such triangle. In cases where water depth is less than 11.85 feet from OHWM, the location of the covered moorage may extend up to 150 feet from the center of the base line or to the point where water depth is 11.85 feet at OHWM, whichever is less. The required ten-foot setbacks from the side property lines shall be deducted from the triangle area.

- 1) A covered moorage is allowed outside the triangle, or a canopy up to 21 feet in height, if the covered moorage meets all other regulations and:
 - a. Will not constitute a hazard to the public health, welfare, and safety, or be injurious to affected shoreline properties in the vicinity;
 - b. Will constitute a lower impact for abutting property owners; and
 - c. Is not in conflict with the general intent and purpose of the SMA, the shoreline master program and the development code.
- 2) Where a covered moorage or moorage facility is built pursuant to the agreement of owners of adjoining single-family lots located on the shoreline, the covered moorage area shall be deemed to include, subject to limitations of such joint agreement, all of the combined areas lying within the triangles extended upon each adjoining property and the inverted triangle situated between the aforesaid triangles, as illustrated in MICC 19.13.050(E)(2) Figure B.
- 3) Covered moorage is not allowed within the first 30 feet from the OHWM unless the applicant:
 - a. Demonstrates to the code official's satisfaction that proposed project will not create a net loss in ecological function of the shorelands; and
 - b. Provides the city with documentation of approval of the moorage facilities by both the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife.

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

F. MICC 19.13.050(F) states that all permits for new and expanded moorage facility, other than public access piers or boardwalks, shall meet the following standards unless otherwise exempted. Moorage facilities have the option of meeting either the development standards prescribed in subsection (F)(1) or (F)(2) of this section, or the “alternative development standards” in subsection (F)(3) of this section.

- 1) *Development standards for new and expanded moorage facilities.* A proposed moorage facility shall be presumed to not create a net loss of ecological functions pursuant to subsection (B)(2) of this section if:
 - a. The surface coverage area of the moorage facility is:
 - i. Four hundred eighty square feet or less for a single property owner;
 - ii. Seven hundred square feet or less for two residential property owners (residential); or
 - iii. One thousand square feet or less for three or more residential property owners.
 - b. Piers, docks, and platform lifts must be fully grated with materials that allow a minimum

of 40 percent light transmittance.

- c. *Vegetation.* The code official approves a vegetation plan that conforms to the following:

Vegetation must be planted as provided in Figure C and as follows: Within the 25-foot shoreline setback, a 20-foot vegetation area shall be established, measured landward from the OHWM. Twenty-five percent of the area shall contain vegetation coverage. The five feet nearest the OHWM shall contain at least 25 percent native vegetation coverage. A shoreline vegetation plan shall be submitted to the city for approval. The vegetation coverage shall consist of a variety of ground cover shrubs and trees, excluding nonnative grasses. No plants on the current King County noxious weed lists shall be planted within the shorelands.

- d. Only docks, ramps, and boatlifts may be within the first 30 feet from the OHWM. No skirting is allowed on any structure.
- e. The height above the OHWM for docks shall be a minimum of one and one-half feet and a maximum of five feet.
- f. The first in-water (nearest the OHWM) set of pilings shall be steel, ten inches in diameter or less, and at least 18 feet from the OHWM. Piling sets beyond the first shall also be spaced at least 18 feet apart and shall not be greater than 12 inches in diameter. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ammoniacal copper zinc arsenate (ACZA) pilings are proposed, the applicant shall meet all of the best management practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. All piling sizes are in nominal diameter.
- g. Any paint, stain or preservative applied to components of the dock must be leach resistant, completely dried or cured prior to installation. Materials shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds.
- h. No more than two mooring piles shall be installed per structure. Joint-use structures may have up to four mooring piles. The limits include existing mooring piles. Moorage piling shall not be installed within 30 feet of the OHWM. These piles shall be as far offshore as possible.
- i. The applicant shall abide by the work windows for listed species established by the U.S. Army Corps of Engineers and Washington Fish and Wildlife.
- j. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48 hours of the completion of construction. Woody vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success.

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

- 2) *Development standards for replacement, repair and maintenance of overwater structures, including moorage facilities.* The maintenance, repair and complete replacement of legally existing overwater structures is permitted; provided, that:

- a. All permit requirements of federal and state agencies are met.
- b. The area, width, or length of the structure is not increased, but may be decreased.

- c. The height of any structure is not increased, but may be decreased; provided, that the height above the OHWM may be increased as provided in subsection (F)(2)(ix)(b) of this section.
- d. The location of any structure is not changed unless the applicant demonstrates to the director's satisfaction that the proposed change in location results in: (A) a net gain in ecological function, and (B) a higher degree of conformity with the location standards for a new overwater structure.
- e. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ammoniacal copper zinc arsenate (ACZA) pilings are proposed, the applicant shall meet all of the best management practices, including a post-treatment procedure, as outlined in the amended best management practices of the Western Wood Preservers. All piling sizes are in nominal diameter.
- f. Any paint, stain or preservative applied to components of the overwater structure must be leach resistant, completely dried or cured prior to installation. Materials shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds.
- g. The applicant shall abide by the work windows for listed species established by the U.S. Army Corps of Engineers and Washington Fish and Wildlife.
- h. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48 hours of the completion of construction. Woody vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success.

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

- i. *Structural repair.* The structural repair, which may include replacement of framing elements, of moorage facilities that results in the repair of more than 50 percent of the structure's framing elements within a five-year period shall comply with subsections (F)(2)(ix)(a) through (F)(2)(ix)(c) of this section. For this section, framing elements include, but are not limited to, stringers, piles, pile caps, and attachment brackets, as shown in Figure D:
 - i. One hundred percent of the decking area of the pier, dock, and any platform lifts must be fully grated with materials that allow a minimum of 40 percent light transmittance.
 - ii. The height above the OHWM for moorage facilities, except floats, shall be a minimum of one and one-half feet and a maximum of five feet.
 - iii. An existing moorage facility that is five feet wide or more within 30 feet waterward from the OHWM shall be replaced or repaired with a moorage facility that complies with the width of moorage facilities standards specified in Table D of this section.

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

- j. *Exterior surface repair.* The exterior surface repair, which may include the replacement of exterior surface materials of moorage facilities that results in the repair of more than 50 percent of the surface area of the moorage facility's decking, fascia, and platform

lifts within a five-year period (see Figure D), shall be required to utilize materials that allow a minimum of 40 percent light transmittance over 100 percent of the dock.

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

- k. Any decking that is removed in the course of repair shall be replaced with decking materials that allow a minimum of 40 percent light transmittance.

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

- 3) *Alternative development standards.* The code official shall approve moorage facilities not in compliance with the development standards in subsection (F)(1) or (F)(2) of this section subject to both U.S. Army Corps of Engineers and Washington Department of Fish and Wildlife approval to an alternate project design. The following requirements and all other applicable provisions in this chapter shall be met:

- a. The dock must be no larger than authorized through state and federal approval.
- b. The maximum width must comply with the width of moorage facilities standards specified in standards specified in subsection D of this section (Table D).
- c. The minimum water depth must be no shallower than authorized through state and federal approval.
- d. The applicant must demonstrate to the code official's satisfaction that the proposed project will not create a net loss in ecological function of the shorelands.
- e. The applicant must provide the city with documentation of approval of the moorage facilities by both the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife.

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

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

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

- H. *Public access piers, docks, or boardwalk.* New public access piers, docks, or boardwalks on public lands shall comply with the following:

- 1) Public access piers, docks, or boardwalks shall be designed and constructed using WDFW-approved methods and materials;
- 2) With the exception of the requirements for moorage facilities related to width and length, public access piers, docks, or boardwalks shall comply with design standards required for moorage facilities listed in Table D, Requirements for Moorage Facilities and Development Located Waterward from OHWM;
- 3) There is no dock length or area limit for public access piers, docks, or boardwalks; however, public access piers, docks, and boardwalks shall not interfere with navigation and shall be the minimum size necessary to meet the needs of the proposed water-dependent use;

- 4) Public access piers, docks, or boardwalks may have a width of up to six feet subject to Army Corps of Engineers and/or Washington Department of Fish and Wildlife approval;
- 5) Public access piers, docks, or boardwalks must be fully grated with materials that allow a minimum of 40 percent light transmittance;
- 6) Minimum of one and one-half feet above ordinary high water to bottom of pier stringer, except the floating section of a dock attached to a pier;
- 7) The first in-water (nearest the OHWM) set of pilings shall be steel, ten inches in diameter or less, and at least 18 feet from the OHWM. Piling sets beyond the first shall also be spaced at least 18 feet apart and shall not be greater than 12 inches in diameter. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ammoniacal copper zinc arsenate (ACZA) pilings are proposed, the applicant shall meet all of the best management practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. All piling sizes are in nominal diameter;
- 8) Any paint, stain or preservative applied to components of the overwater structure must be leach resistant, completely dried or cured prior to installation. Materials shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds;
- 9) Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation;
- 10) Construction of public access piers, docks, or boardwalks shall abide by the work windows for listed species established by the U.S. Army Corps of Engineers and Washington Fish and Wildlife; and
- 11) A no net loss plan shall be prepared pursuant to MICC 19.13.020 demonstrating that the proposed project will not create a net loss in ecological function of the shorelands.

Staff Finding: There is no proposed development waterward of the OHWM; therefore, these standards do not apply.

- I. *Restoration of ecological functions.* The code official may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects consistent with the criteria and procedures in WAC 173-27-215.

Staff Finding: The applicant is not requesting relief from the shoreline master program development standards or use regulations; therefore, these standards do not apply.

- J. *Dredging.*

- 1) Dredging shall be permitted only if navigational access has been unduly restricted or other extraordinary conditions in conjunction with water-dependent use; provided, that the use meets all state and federal regulations.
- 2) Dredging shall be the minimum necessary to accommodate the proposed use.
- 3) Dredging shall utilize techniques that cause the least possible environmental and aesthetic impact.
- 4) Dredging is prohibited in the following locations:
 - a. Fish spawning areas except when the applicant conclusively demonstrated that fish habitat will be significantly improved as a result of the project.

- b. In unique environments such as lake logging of the underwater forest.
- 5) Dredging and the disposal of dredged material shall comply with ecology water quality certification process and U.S. Army Corps of Engineers permit requirements. The location and manner of the disposal shall be approved by the city.

Staff Finding: There is no proposed dredging; therefore, these standards do not apply.

- K. *General requirements.* The following requirements apply to the following types of activities that may be waterward and/or landward of the OHWM:

- 1) Critical areas within the shorelands are regulated by Chapter 19.07 MICC, as adopted in the MICC on June 18, 2019, except: MICC 19.06.110(B), Variances; MICC 19.06.110(C), Setback deviations; and MICC 19.07.140, Reasonable use exception.

Staff Finding: As part of this project a Critical Area Review will be required to be approved prior to building permit issuance; therefore, this requirement is met.

- 2) *Utilities.*

- a. Utilities shall be placed underground and in common rights-of-way wherever economically and technically practical.

Staff Finding: The proposed utilities for this project will be installed underground and adhere to relevant engineering standards. Where feasible, utilities will be installed beneath the new roadway (**Exhibit 9, sheet C-3.0**).

- b. Shoreline public access shall be encouraged on publicly owned utility rights-of-way, when such access will not unduly interfere with utility operations or endanger public health and safety. Utility easements on private property will not be used for public access, unless otherwise provided for in such easement.

Staff Finding: There are no publicly owned utility rights-of-way located on the subject property.

- c. Restoration of the site is required upon completion of utility installation.

Staff Finding: This standard is included as a recommended condition of approval to ensure compliance.

- 3) *Archaeological and historic resources.*

- a. If archaeological resources are uncovered during excavation, the developer and property owner shall immediately stop work and notify the city, the office of archaeology and historic preservation, and affected Indian tribes.

Staff Finding: This standard is included as a recommended condition of approval to ensure compliance.

- b. In areas documented to contain archaeological resources by the office of archaeology and historic preservation, a site inspection or evaluation is required by a professional archaeologist in coordination with affected Indian tribes.

Staff Finding: The applicant provided an Archaeological and Historical Study (**Exhibit 12**); therefore, this standard is met.

- 4) New development totaling 500 square feet or more of any combination of additional gross floor area, lot coverage or hardscape, including the primary structures and appurtenances, shall be required to provide native vegetation coverage over 50 percent of the 20-foot vegetation area shown on Figure C. This total shall include all gross floor area, lot coverage,

and hardscape added in the five years immediately prior to the development proposal.

Staff Finding: The proposed development would result in more than 1,000 square feet of additional gross floor area, hardscape, and/or lot coverage and requires native vegetation coverage over 75 percent of the 20-foot vegetation area. A shoreline vegetation plan has been provided (**Exhibit 9, sheet L-401**) and peer reviewed by FACET for compliance; therefore, this standard is met.

- a. New development totaling 1,000 square feet or more of any combination of additional gross floor area, lot coverage or hardscape, including the primary structures and appurtenances, shall be required to provide native vegetation coverage over 75 percent of the 20-foot vegetation area shown in Figure C.

Staff Finding: The proposed development would result in more than 1,000 square feet of additional gross floor area, hardscape, and/or lot coverage and requires native vegetation coverage over 75 percent of the 20-foot vegetation area. A shoreline vegetation plan has been provided (**Exhibit 9, sheet L-401**) and peer reviewed by FACET for compliance; therefore, this standard is met.

- b. A shoreline vegetation plan shall be submitted to the city for approval.

Staff Finding: A shoreline vegetation plan has been provided (**Exhibit 9, sheet L-401**) and reviewed by the city and peer reviewed by FACET; therefore, this standard is met.

- c. The vegetation coverage shall consist of a variety of ground cover shrubs and trees indigenous to the central Puget Sound lowland ecoregion and suitable to the specific site conditions. Existing mature trees and shrubs, but excluding noxious weeds, may be included in the coverage requirement if located in the 20-foot vegetation area shown in Figure C.

Staff Finding: A vegetation plan that shows native vegetation coverage over 75 percent of the 20-foot vegetation area has been provided (**Exhibit 9, sheet L-401**). The proposed vegetation plan includes a variety of ground cover shrubs and trees indigenous to the central Puget Sound lowland ecoregion and suitable to the specific site conditions; therefore, this requirement is met.

- d. No plants on the current King County noxious weed lists shall be planted within the shorelands.

Staff Finding: No plants on the current King County noxious weed list are proposed to be planted within the shorelands (**Exhibit 9, sheet L-401**); therefore, this requirement is met.

V. SHL25-027 – RECOMMENDED CONDITIONS OF APPROVAL

1. The project proposal shall be in substantial conformance with **Exhibit 9** and all applicable development standards contained within Mercer Island City Code (MICC) Chapter 19.13.
2. The applicant is responsible for documenting any required changes in the project proposal due to conditions imposed by any applicable local, state and federal government agencies.
3. Construction or substantial progress toward construction of a development for which a permit has been granted must be undertaken within two years of the effective date of a shoreline permit. Where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a substantial development permit. The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions

on any such permit or approval. A single extension before the end of the time limit, with prior notice to parties of record, for up to one year, based on reasonable factors may be granted if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department of ecology.

4. 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.
5. Construction shall not be authorized, nor may begin within twenty-one days of the date of filing of the decision as defined in RCW 90.58.140(6).
6. 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.
7. If archaeological resources are uncovered during excavation, the developer and property owner shall immediately stop work and notify the city, the office of archaeology and historic preservation, and affected Indian tribes.
8. Construction of this project proposal shall only occur during approved fish windows by local, state, and/or federal government agencies. The applicant is responsible for obtaining permit approvals from all state and federal agencies.
9. 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.
10. The planting plan and nearshore habitat restoration discussed in **Exhibit 12** is required to be implemented prior to final inspection of the building permit.
11. All temporary critical area and buffer impacts must be restored to pre-construction conditions or greater, as outlined in the Review Letter 4 prepared by FACET (**Exhibit 20.4**).
12. Restoration of the site is required upon completion of utility installation.

VI. SHL25-028 – SCUP FINDINGS, CONCLUSIONS, AND RECOMMENDED CONDITIONS OF APPROVAL

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

Staff Finding: The applicant has demonstrated that proposed development is consistent with RCW 90.58.020 by fostering reasonable use of the shoreline while also restoring the natural character of the shoreline. The proposed development would replace an existing structure and does not propose a new use while preserving the natural character of the shoreline to the extent feasible; therefore, this requirement is met.

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

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

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

Staff Finding: Covenant Shores has been established since 1978, and the existing retirement community is an authorized use in the MF-3 zone and Urban Residential shoreline environment designation through the Shoreline Conditional Use Permit process. The proposed development has been designed to reduce impact to the surrounding residential properties, including implementing screening along the eastern property line (**Exhibit 9, sheet C-1.0**); therefore, this requirement is met.

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

Staff Finding: The applicant has demonstrated that the proposed development would not result in significant adverse effects on the shoreline environment through a Critical Areas Study and No Net Loss Plan, prepared by Wetland Consulting, Inc. (**Exhibit 12**); therefore, this requirement is met.

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

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

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

Staff Finding: A SCUP was granted in 2024 for the Luther Burbank Waterfront Improvements Project. Luther Burbank Park is located approximately .5 miles from the proposed development. A SCUP was also granted in 2025 for the Mercer Island Beach Club Marina Project. The Mercer Island Beach Club is located approximately 3.5 miles from the proposed development. It has been found that these two projects are located a sufficient distance from the proposed development not to render cumulative impact and will not create any adverse impacts to the shoreline environment; therefore, this standard is met.

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

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

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

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

VII. SHL25-028 – RECOMMENDED CONDITIONS OF APPROVAL

1. The project proposal shall be in substantial conformance with **Exhibit 9** and all applicable development standards contained within Mercer Island City Code (MICC) Chapter 19.13.
2. The applicant is responsible for documenting any required changes in the project proposal due to conditions imposed by any applicable local, state and federal government agencies.
3. Construction or substantial progress toward construction of a development for which a permit has been granted must be undertaken within two years of the effective date of a shoreline permit. Where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a substantial development permit. The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval. A single extension before the end of the time limit, with prior notice to parties of record, for up to one year, based on reasonable factors may be granted if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department of ecology.
4. Construction shall not be authorized, nor may begin within twenty-one days of the date of filing of the decision as defined in RCW 90.58.140(6).
5. 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.
6. The applicant shall obtain any permits from state and federal agencies that are applicable to the proposed development. The applicant is also responsible for documenting any required changes in the proposed development due to conditions imposed by any applicable local, state, and federal agencies.

VIII. DEV25-007 – SETBACK DEVIATION FINDINGS, CONCLUSIONS, AND RECOMMENDED CONDITIONS OF APPROVAL

1. MICC 19.06.110(C) – *Setback deviations*.
 - A. MICC 19.06.110(C)(1). *Purpose*. The purpose of a setback deviation is to increase protection of a critical area or critical area buffer. A setback deviation provides flexibility in designing a development proposal to allow for increased protection of critical areas or critical area buffer.
 - B. MICC 19.06.110(C)(2). *Criteria*. A setback deviation shall be granted by the city only if the applicant demonstrates all of the following:
 - 1) No use deviation shall be allowed;
Staff Response: The proposed development is for the replacement of the existing clubhouse, and no use deviation is proposed; therefore, this standard is met.
 - 2) The granting of the deviation will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated;
Staff Response: The existing clubhouse is located approximately 40 feet from the eastern

property line, and the proposed clubhouse will be located approximately 38 feet from the eastern property line. The requested deviation would allow the fire access land to be located 10 feet from the eastern property line.

The granting of the setback deviation would allow the proposed clubhouse to be located further away from the on site wetland and piped watercourse than if the standard 20-foot side yard setback was enforced. Staff determines that the granting of the setback deviation would not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated since the proposed clubhouse is in relatively the same location as the existing clubhouse and the new driveway would provide required fire access for the new clubhouse. The setback deviation would allow for the proposed development to be located entirely outside of the 40-foot buffer for the on-site Category IV Wetland and would decrease the footprint within the 45-foot setback from the piped watercourse.

- 3) The granting of the deviation will not alter the character of the neighborhood, nor impair the appropriate use or development of adjacent property;

Staff Response: The setback deviation is requested for the required side yard abutting a residential neighborhood. The location of the proposed clubhouse would be in a similar footprint as the existing clubhouse and the fire lane located along the eastern property line is proposed to be screened with a 5-foot fence that will follow the property line to mitigate impacts to the neighboring properties. Therefore, the grant of the deviation will not alter the character of the neighborhood, nor impair the appropriate use or development of adjacent property and this criterion is met.

- 4) The deviation is consistent with the policies and provisions of the comprehensive plan and the development code;

Staff Response: The request for the setback deviation is consistent with both the policies and provisions of the comprehensive plan and the development code and would result in development that is consistent with the following goals and policies:

Goal 7.1 – Preserve the neighborhood character in residential zones. For the purpose of implementing this element, neighborhood character only refers to the form, bulk, scale, and intensity of the built environment. Based on aerial imagery the existing clubhouse was built prior to 1963 and remodeled in 1979. The building is currently approximately 40 feet from the eastern property line, and the proposed building would be approximately 38 feet from the eastern property line. The proposed location of the new fire lane would be the minimum allowed 10 feet from the eastern property line and would replace the existing driveway/loading zone located between the existing clubhouse and eastern property line. The proposed development would continue the existing neighborhood character and maintain the existing bulk and intensity of the built environment.

Policy 7.6.2 – Encourage the retention of landscaped areas and the retention and planting of trees. The granting of the setback deviation would allow for the retention of greater landscape areas within the bounds of the critical areas and will allow approximately 700 linear feet of shoreline to be enhanced with native plantings, which will improve avian foraging opportunities and the aquatic environment along a significant length of shoreline. The proposed clubhouse would be located further away from the critical areas, while allowing for the construction of a clubhouse.

- 5) The basis for requesting the deviation is not the direct result of a past action by the current or prior property owner;

Staff Response: The basis for the setback deviation request is not a direct result of a past action by the current or prior property owner. The required 40-foot standard buffer and 1-foot setback for the Category IV wetland encumbers a large portion of the subject property. The property is also encumbered by a 45-foot setback for a piped watercourse. The setback

deviation would allow for protection of the Category IV wetland, as the proposed development would be located entirely outside of the 40-foot standard buffer. The setback deviation would also allow the proposed clubhouse to be located further from on-site critical areas and thereby increase protection; therefore, this criterion is met.

- 6) The setback deviation is associated with the approval of development of a single lot or subdivision that is constrained by critical areas or critical area buffers;

Staff Response: The setback deviation is associated with the development of a single lot that is constrained by critical area buffers for the demolition of the existing clubhouse and construction of a new clubhouse; therefore, this criterion is met.

- 7) The building pad resulting from the proposed deviation will result in less impact to critical areas or critical area buffers; and

Staff Response: The resulting building pad would lessen the impact to the piped watercourse and Category IV wetland and associated buffer by allowing the new clubhouse to be constructed entirely out of the 40-foot standard buffer and the footprint would be lessened within the 45-foot piped watercourse setback. The granting of the setback deviation would allow the proposed development to be located 10 feet further from these critical areas than without the deviation; therefore, this criterion is met.

- 8) Yard setbacks shall not be reduced below the following minimums:

- a. Front and rear setbacks may not be reduced to less than ten feet each;
- b. Side setbacks may not be reduced to less than five feet.

Staff Response: The proposed side yard setback would be 10 feet. The remaining yard setbacks would not be reduced; therefore, this criterion is met.

VII. DEV25-007 – RECOMMENDED CONDITIONS OF APPROVAL

2. The project proposal shall be in substantial conformance with **Exhibit 9** and all applicable development standards contained within Mercer Island City Code (MICC) Chapter 19.13.
3. The applicant is responsible for documenting any required changes in the project proposal due to conditions imposed by any applicable local, state and federal government agencies.
4. Construction or substantial progress toward construction of a development for which a permit has been granted must be undertaken within two years of the effective date of a shoreline permit. Where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a substantial development permit. The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all administrative and legal actions on any such permit or approval. A single extension before the end of the time limit, with prior notice to parties of record, for up to one year, based on reasonable factors may be granted if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department of ecology.
5. Construction shall not be authorized, nor may begin within twenty-one days of the date of filing of the decision as defined in RCW 90.58.140(6).
6. 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.
7. The applicant shall obtain any permits from state and federal agencies that are applicable to the proposed development. The applicant is also responsible for documenting any required changes in the proposed development due to conditions imposed by any applicable local, state, and federal agencies.

VIII. GENERAL RECOMMENDED CONDITIONS OF APPROVAL

1. The proposed development shall be in substantial conformance with **Exhibit 9** and all applicable development standards contained within Chapter 19.13 of the Mercer Island City Code (MICC).
2. The applicant shall obtain any permits from state and federal agencies that are applicable to the proposed development. The applicant is also responsible for documenting any required changes in the proposed development due to conditions imposed by any applicable local, state, and federal government agencies.
3. Construction shall not be authorized, nor may begin within twenty-one days of the date of filing of the decision as defined in RCW 90.58.140(6).
4. 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.
5. Construction of the proposed development shall only occur during approved fish windows by local, state, and/or federal government agencies. The applicant is responsible for obtaining permit approvals from all state and federal agencies.
6. Construction of the proposed development shall only occur during approved construction hours by the City of Mercer Island and/or as otherwise restricted by the Building Official.

VII. DEVELOPMENT REGULATION COMPLIANCE – DISCLOSURE

1. The applicant is responsible for obtaining any required permits or approvals from the appropriate local, state and federal agencies.
2. All required permits must be obtained prior to the commencement of construction.

VII. RECOMMENDATIONS

SHL25-027 (Shoreline Substantial Development Permit): The Hearing Examiner **RECOMMENDS APPROVAL TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY SUBJECT TO CONDITIONS** the Clubhouse at Covenant Living of the Shores Project - Shoreline Substantial Development Permit, SHL25-027 as the Applicant has demonstrated that the criteria enumerated within **Section IV** of this staff report have been met.

SHL25-028 (Shoreline Conditional Use Permit): The Hearing Examiner **RECOMMENDS APPROVAL TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY SUBJECT TO CONDITIONS** the Clubhouse at Covenant Living of the Shores Project - Shoreline Conditional Use Permit, SHL25-028 as the Applicant has demonstrated that the criteria enumerated within **Section VI** of this staff report have been met.

DEV25-007 (Setback Deviation Permit): The Hearing Examiner **APPROVE WITH CONDITIONS** the Clubhouse at Covenant Living of the Shores Project – Setback Deviation Permit, DEV25-007 as the Applicant has demonstrated that the criteria enumerated within **Section VIII** of this staff report have been met.

Recommended this 10th day of September, 2026



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