



# PLANNING COMMISSION VIDEO MEETING AGENDA

Wednesday, February 17, 2021

Zoom Virtual Platform  
9611 SE 36th Street | Mercer Island, WA 98040  
Phone: 206.275.7706 | [www.mercergov.org](http://www.mercergov.org)

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## PLANNING COMMISSIONERS:

**Chair:** Daniel Hubbell

**Vice Chair:** Jenniffer Mechem

**Commissioners:** Carolyn Boatsman, Tiffin Goodman, Michael Murphy and, Ted Weinberg, Vacant

In compliance with the Americans with Disabilities Act, those requiring accommodation for meetings should notify the Staff Liaison at least 24 hours prior to the meeting.

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The Planning Commission meeting will be held virtually using video conferencing technology provided by Zoom, and the public will have the opportunity to provide comment during Appearances by either calling in or logging onto the meeting as a Zoom attendee.

**Registering to Speak:** Individuals wishing to speak during live Appearances will need to register their request with the Sr. Administrative Assistant at 206.275.7791 or email at [andrea.larson@mercerisland.gov](mailto:andrea.larson@mercerisland.gov) and leave a message before 4pm on the day of the Planning Commission meeting. Please reference "Appearances". Each speaker will be allowed three (3) minutes to speak.

**Public Comment by Video:** Notify the Sr. Administrative Assistant in advance that you wish to speak on camera and staff will be prepared to permit temporary video access when you enter the live Planning Commission meeting. Please remember to activate the video option on your phone or computer, ensure your room is well lit, and kindly ensure that your background is appropriate for all audience ages. Screen sharing will not be permitted, but documents may be emailed to the [Planning Commission](#).

To attend the meeting, please use the following Zoom information:

**Join by Telephone at 6:00 pm:** To listen to the hearing via telephone, please call 253.215.8782 and enter Webinar ID **836 8045 9115** and Passcode **177735** when prompted.

**Join by Internet at 6:00 pm:** To watch the hearing over the internet via your computer microphone/ speakers follow these steps:

1. Click this [Link](#)
2. If the Zoom app is not installed on your computer, you will be prompted to download it.
3. If prompted for Meeting ID, enter **836 8045 9115**; Enter Passcode **177735**

The City strongly recommends that people attend the meeting by viewing it live on Zoom. Should restrictions on "in-person" meetings be lifted, opportunity to provide comment during either Appearances or the Public Hearing will be available at City Hall, located at 9611 SE 36th Street, Mercer Island, WA 98040. Strict social distancing requirements will be required of all in person attendees.

## CALL TO ORDER

## MINUTES

1. January 20, 2021 Minutes

## APPEARANCES

This is the time set aside for members of the public to speak to the Commission about issues of concern. If you wish to speak, please consider the following points:

- Speak audibly into the podium microphone.
- State your name and address for the record.
- Limit your comments to 3 minutes.

*The Commission may limit the number of speakers and modify the time allotted. Total time for appearances: 15 minutes.*

## PUBLIC HEARING

### **2. CPA21-001 Land Use Plan Map – Comprehensive Plan Amendment**

Public Hearing for for the proposed Comprehensive Plan Amendment.

### **3. ZTR21-001 Goldbach I Code Amendment (Comprehensive Plan Implementation)**

Public Hearing for for the proposed Code Amendment.

### **4. ZTR21-002 Goldbach II Code Amendment (CUP Applicability)**

Public Hearing for for the proposed Code Amendment.

## REGULAR BUSINESS

### **5. Code of Ethics Discussion**

Code of ethics presentation (no packet materials)

### **6. CPA21-001 Land Use Plan Map - Comprehensive Plan Amendment**

Deliberation on the proposed Comprehensive Plan Amendment.

### **7. ZTR21-001 Goldbach I Code Amendment (Comprehensive Plan Implementation)**

Deliberation on the proposed Code Amendment.

### **8. ZTR21-001 Goldbach II Code Amendment (CUP Applicability)**

Deliberation on the proposed Code Amendment.

### **9. Update on Wireless Code**

Update on Wireless Code amendment work plan and timeline (Work session has been delayed).

## OTHER BUSINESS

Deputy Director's Report

Planned Absences for Future Meetings

Next Scheduled Meeting

## ADJOURN



# CITY OF MERCER ISLAND PLANNING COMMISSION SPECIAL VIDEO MEETING MINUTES

Wednesday, January 20, 2021

Item 1.

## CALL TO ORDER

### PRESENT

Chair Daniel Hubbell  
Vice Chair Jennifer Mechem  
Commissioner Carolyn Boatsman  
Commissioner Tiffin Goodman

Commissioner Lucia Pirzio-Biroli  
Commissioner Ted Weinberg  
All Commissioners participated in the meeting remotely.

### ABSENT

Commissioner Michael Murphy

### STAFF PRESENT

Alison Van Gorp, Deputy CPD Director and Andrea Larson, Sr. Administrative Assistant participated in the meeting remotely.

## MINUTES

Moved by Weinberg, Seconded by Mechem to:

**Approve the November 12, 2020 minutes.**

Passed 6-0

## APPEARANCES

Callie Ridolfi addressed the commission regarding the topic of climate.

## REGULAR BUSINESS

### Agenda Item #1: 2021 Work Plan & Schedule

Alison Van Gorp, CPD Deputy Director, gave a brief presentation to the Commission outlining the 2021 Work Plan and Schedule.

The Commission discussed the work plan and asked questions about the flow of work for 2021.

### Agenda Item #2: CPA 21-001 Land Use Plan Map – Comprehensive Plan Amendment

Alison Van Gorp, CPD Deputy Director, gave a brief presentation to the Commission on CPA21-001 Comprehensive Plan amendment.

The Commission briefly discussed the amendment and had no suggested changes to the amendment.

**Agenda Item #3: ZTR21-001 Goldbach I Code Amendment (Comprehensive Plan Implementation)**

Alison Van Gorp, CPD Deputy Director, gave presentation to the Commission on ZTR21-001 regarding Comprehensive Plan implementation.

The Commission discussed the amendment and provided feedback to staff.

**Agenda Item #4: ZTR21-002 Goldbach II Code Amendment (CUP Applicability)**

Alison Van Gorp, CPD Deputy Director, gave a presentation to the Commission on ZTR21-002 regarding CUP Applicability.

The Commission discussed the amendment and provided feedback to staff.

**OTHER BUSINESS**

**Deputy Director's Report**

Alison Van Gorp, CPD Deputy Director, gave the Commission a brief update on the tentative work items for the next Planning Commission meeting.

**Planned Absences**

There were no planned absences.

**Next Scheduled Meeting:** February 17, 2021

**ADJOURN**

The meeting adjourned at 8:03pm

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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

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## PLANNING COMMISSION

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**To:** Planning Commission

**From:** Alison Van Gorp, CPD Deputy Director

**Date:** February 11, 2021

**RE:** CPA21-001 Land Use Plan Map – Comprehensive Plan Amendment

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### SUMMARY

The proposed Comprehensive Plan amendment updates the Land Use Plan Map in the Land Use Element to correct an error that misidentified the south-end shopping center as “Commercial Office” rather than “Neighborhood Business”.

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### BACKGROUND

On January 20, 2021, the Planning Commission reviewed the proposed Comprehensive Plan amendment. The Commission did not request further revisions to the amendment, and the proposal for consideration at the February 17, 2021 meeting is unchanged. This meeting will include a public hearing on the proposal, and then the Commission will have time for discussion and a recommendation.

Staff have received a couple of inquiries from residents that live near the south-end shopping center who received the mailed notice about the proposed amendment. There has been a bit of confusion about whether the proposal is truly just correcting an error, or if it is actually a change in zoning or development regulations for the area. Staff have provided clarification that this is only a correction to the Land Use Map, and it does not affect the zoning, allowed uses, building heights, etc. for the shopping center. Staff anticipate there may be some public comment related to these questions/concerns at the February 17 meeting.

The Mercer Island City Code specifies the following decision criteria for Comprehensive Plan amendments (MICC 19.15.230 (F)), which should be used to evaluate the proposed amendment:

*F. Decision Criteria.* Decisions to amend the comprehensive plan shall be based on the criteria specified below. An [applicant](#) for a comprehensive plan amendment proposal shall have the burden of demonstrating that the proposed amendment complies with the applicable regulations and decision criteria.

1. The amendment is consistent with the Growth Management Act, the countywide planning policies, and the other provisions of the comprehensive plan and [city](#) policies; and:

- a. There exists obvious technical error in the information contained in the comprehensive plan; or
  - b. The amendment addresses changing circumstances of the [city](#) as a whole.
2. If the amendment is directed at a specific property, the following additional findings shall be determined:
- a. The amendment is compatible with the adjacent land use and [development](#) pattern;
  - b. The property is suitable for [development](#) in conformance with the standards under the potential zoning; and
  - c. The amendment will benefit the community as a whole and will not adversely affect community facilities or the public health, safety, and general welfare.

Based on criterion F (1)(a), city staff recommend adopting the proposed amendment to correct the error in the Comprehensive Plan's Land Use Plan map. As this amendment corrects an error in the land use designation for these properties, staff believe the criteria under F(2) are also met.

#### **NEXT STEPS**

Hold the public hearing and receive public comment. After hearing public comments on the proposal, the Commission should make a recommendation to the City Council. The recommendation will be transmitted to City Council for review. The Council will hold the first reading in the near term (likely in April), and the second reading will wait until later in the year, so that it can be reviewed together with any additional proposed Comprehensive Plan amendments that may be recommended over the course of the year.

#### **ATTACHMENTS**

1. Proposed Comprehensive Plan amendment

**Attachment 1**

**Proposed Comprehensive Plan Amendment – Land Use Element**

**VII.**

**LAND USE DESIGNATIONS**

<b>Land Use Designation</b>	<b>Implementing Zoning Designations</b>	<b>Description</b>
Park	PI R-8.4 R-9.6 R-12 R-15	The park land use designation represents land within the City that is intended for public use consistent with the adopted Parks and Recreation Plan.
Linear Park (I-90)	PI	The linear park (I-90) land use designation primarily contains the Interstate 90 right-of-way. The land use designation is also improved with parks and recreational facilities (e.g. Aubrey Davis park, I-90 Outdoor Sculpture Gallery, etc) adjacent to and on the lid above the Interstate 90 freeway.
Open Space	PI R-8.4 R-9.6 R-12 R-15	The open space use designation represents land within the City that should remain as predominantly unimproved open space consistent with the adopted Parks and Recreation Plan.
Commercial Office	CO B	The commercial office land use designation represents commercial areas within Mercer Island, located outside of the Town Center, where the land use will be predominantly commercial office. Complementary land uses (e.g. healthcare uses, schools, places of worship, etc.) are also generally supported within this land use designation.
Neighborhood Business	PBZ	The neighborhood business land use designation represents commercial areas within Mercer Island,

Land Use Designation	Implementing Zoning Designations	Description
		located outside of the Town Center, where the land uses will be predominantly a mix of small scale, neighborhood oriented business, office, service, public and residential uses.
Single Family Residential (R)	R-8.4 R-9.6 R-12 R-15	The single family residential land use designation (R) represents areas within Mercer Island where development will be predominantly single family residential neighborhoods. Complementary land uses (e.g. private recreation areas, schools, home businesses, public parks, etc) are generally supported within this land use designation.
Multifamily Residential (MF)	MF-2 MF-2L MF-3	The multifamily residential land use (MF) represents areas within Mercer Island where the land use will be predominantly multifamily residential development. Complementary land uses (e.g. private recreation areas, schools, home businesses, public parks, etc) are generally supported within this land use designation.
Town Center (TC)	TC	The Town Center land use designation represents the area where land uses consistent with the small town character and the heart of Mercer Island will be located. This land use designation supports a mix of uses including outdoor pedestrian spaces, residential, retail, commercial, mixed-use and office-oriented businesses.
Public Facility	C-O PI R-8.4 R-9.6 R-15 TC	The public facility land use designation represents land within the City that is intended for public uses, including but not limited to schools, community centers, City Hall, and municipal services.

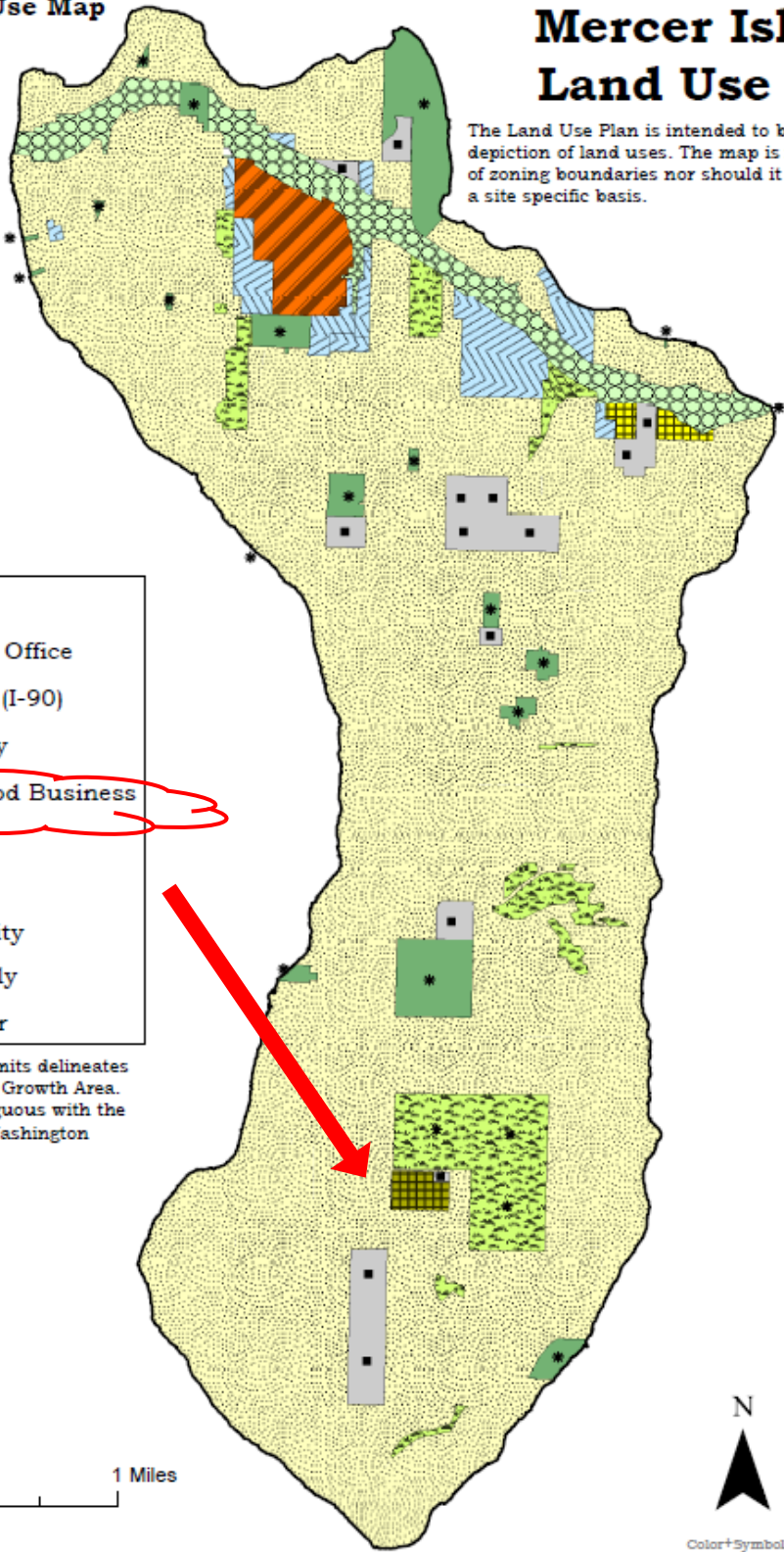


**PROPOSED MAP**

**Figure 1- Land Use Map**

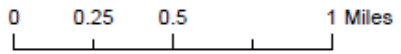
# Mercer Island Land Use Plan

The Land Use Plan is intended to be a generalized depiction of land uses. The map is not a description of zoning boundaries nor should it be interpreted on a site specific basis.



- Legend**
- Commercial Office
  - Linear Park (I-90)
  - Multi-Family
  - Neighborhood Business
  - Open Space
  - Park
  - Public Facility
  - Single Family
  - Town Center

The Mercer Island City limits delineates the communities' Urban Growth Area. The City limits are contiguous with the Mercer Island Lake Washington Shoreline.



Map Date: 11/2/2020  
Color+SymbolLandUseMap2020.mxd

**EXISTING MAP**

**Figure 1- Land Use Map**

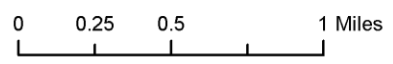
# Mercer Island Land Use Plan

The Land Use Plan is intended to be a generalized depiction of land uses. The map is not a description of zoning boundaries nor should it be interpreted on a site specific basis.

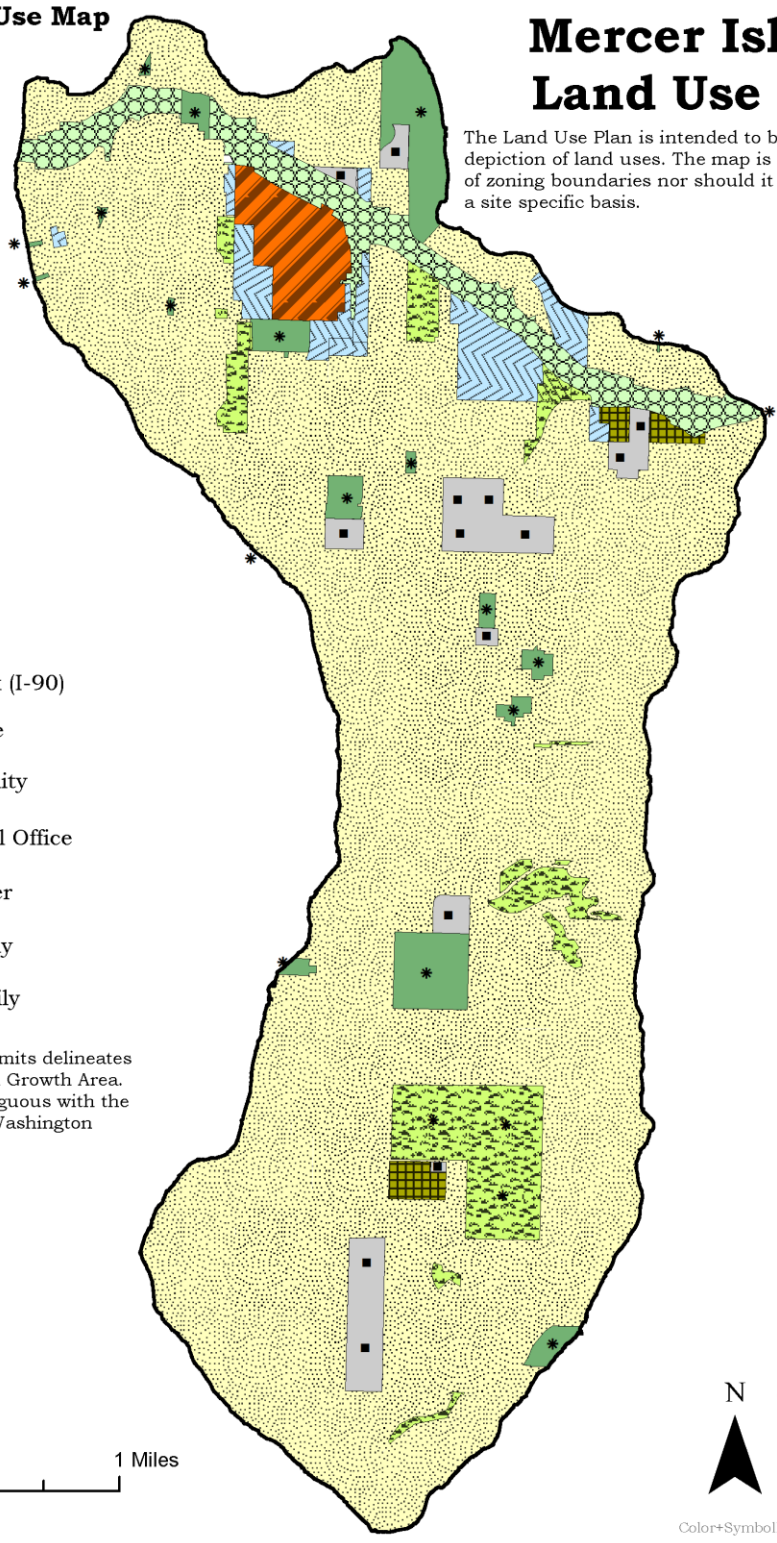
**Legend**

-  Park
-  Linear Park (I-90)
-  Open Space
-  Public Facility
-  Commercial Office
-  Town Center
-  Multi-Family
-  Single Family

The Mercer Island City limits delineates the communities' Urban Growth Area. The City limits are contiguous with the Mercer Island Lake Washington Shoreline.



Map Date: 5/22/2020  
Color+SymbolLandUseMap2020.mxd



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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

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## PLANNING COMMISSION

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**To:** Planning Commission

**From:** Alison Van Gorp, CPD Deputy Director

**Date:** February 11, 2021

**RE:** ZTR21-001 Goldbach I Code Amendment (Comprehensive Plan Implementation)

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### SUMMARY

The proposed code amendment repeals MICC 19.15.230(I), removing from the city code direction on how the Comprehensive Plan is to be implemented. Instead, this will be governed by state statute.

### BACKGROUND

On January 20, 2021, the Planning Commission reviewed the proposed code amendment. The Commission did not request further revisions to the amendment, and the proposal for consideration at the February 17, 2021 meeting is unchanged. This meeting will include a public hearing on the proposal, and then the Commission will have time for discussion and a recommendation.

The Mercer Island City Code specifies the following decision criteria for code amendments (MICC 19.15.250 (D)), which should be used to evaluate the proposed amendment:

*Criteria.* The [city](#) may approve or approve with modifications a proposal to amend this code only if:

1. The amendment is consistent with the comprehensive plan; and
2. The amendment bears a substantial relation to the public health, safety, or welfare; and
3. The amendment is in the best interest of the community as a whole.

City staff believe this proposal meets all three criteria and recommend adopting the proposed amendment.

### NEXT STEPS

Hold the public hearing and receive public comment. After hearing public comments on the proposal, the Commission should make a recommendation to the City Council.

### ATTACHMENTS

1. Proposed amendment to MICC 19.15.230

## Attachment 1

### ZRT21-001 – Proposed Code Amendment

#### 19.15.230 Comprehensive plan amendments and docketing procedures.

A. *Purpose.* The Growth Management Act (GMA), Chapter [36.70A](#) RCW, requires that the [city](#) include within its [development](#) regulations a procedure for any interested [person](#) to suggest plan amendments. The suggested amendments will be docketed for consideration. The purpose of this section is to establish a procedure for amending the [city](#)'s comprehensive plan text and maps. Amendments to the comprehensive plan are the means by which the [city](#) may modify its 20-year plan for land use, [development](#) or growth policies in response to changing [city](#) needs or circumstances. All plan amendments will be reviewed in accordance with the GMA and other applicable state laws, the countywide planning policies, the adopted [city](#) of Mercer Island comprehensive plan, and applicable capital facilities plans.

B. *Application Requirements.* Proposed amendment requests may be submitted by the public, [city](#) manager, [city department](#) directors or by majority vote of the [city](#) council, planning commission or other [city](#) board or commission. Proposed amendments submitted by the public shall be accompanied by application forms required by this title and by the [code official](#) and the filing fees established by resolution. All application forms for amendments to the comprehensive plan shall include a detailed description of the proposed amendment in nontechnical terms.

C. *Frequency of Amendments.*

1. *Periodic Review.* The comprehensive plan shall be subject to continuing review and evaluation by the [city](#) ("periodic review"). The [city](#) shall take legislative action to review and, if needed, revise its comprehensive plan to ensure the plan complies with the requirements of the GMA according to the deadlines established in RCW [36.70A.130](#).

2. *Annual Amendment Cycle.* Updates, proposed amendments, or revisions to the comprehensive plan may be considered by the [city](#) council no more frequently than once every calendar year as established in this section (the "annual amendment cycle"). During a year when periodic review of the comprehensive plan is required under RCW [36.70A.130](#), the annual amendment cycle and the periodic review shall be combined.

3. More frequent amendments may be allowed under the circumstances set forth within RCW [36.70A.130\(2\)](#). Amendments processed outside of the annual amendment cycle under RCW [36.70A.130\(2\)](#) may be initiated by action of the [city](#) council. The [city](#) council shall specify the scope of the amendment, identify the projected completion date, and identify and, if necessary, fund resources necessary to accomplish the work. Amendments allowed to be processed outside of the annual amendment cycle are not subject to the docketing process outlined within subsection [D](#) of this section.

D. *Docketing of Proposed Amendments.* For purposes of this section, docketing refers to compiling and maintaining a list of suggested changes to the comprehensive plan or code in a manner that will ensure such suggested changes will be considered by the [city](#) and will be available for review on the [city](#)'s website by the public. The following process will be used to create the docket:



1. *Preliminary Docket Review.* By September 1, the [city](#) will issue notice of the annual comprehensive plan and code amendment cycle for the following calendar year. The amendment request deadline is October 1. Proposed amendment requests received after October 1 will not be considered for the following year's comprehensive plan and code amendment process but will be held for the next eligible comprehensive plan and code amendment process.

- a. The [code official](#) shall compile and post for public review a list of suggested amendments and identified deficiencies as received throughout the year.
- b. The [code official](#) shall review all complete and timely filed applications and suggestions proposing amendments to the comprehensive plan or code and place these applications and suggestions on the preliminary docket along with other [city](#)-initiated amendments to the comprehensive plan or code.
- c. The planning commission shall review the preliminary docket at a [public meeting](#) and make a recommendation on the preliminary docket to the [city](#) council each year.
- d. The [city](#) council shall review the preliminary docket at a [public meeting](#). By December 31, the [city](#) council shall establish the final docket based on the criteria in subsection [E](#) of this section. Once approved, the final docket defines the work plan and resource needs for the following year's comprehensive plan and code amendments.

2. *Final Docket Review.*

- a. Placement on the final docket does not mean a proposed amendment will be approved. The purpose of the final docket is to allow for further analysis and consideration by the [city](#).
- b. All items on the final docket shall be considered concurrently so that the cumulative effect of the various proposals can be ascertained. Proposed amendments may be considered at separate meetings or hearings, so long as the final action taken considers the cumulative effect of all proposed amendments to the comprehensive plan.
- c. The [code official](#) shall review and assess the items placed on the final docket and prepare recommendations for each proposed amendment. The [code official](#) shall be responsible for developing an environmental review of the combined impacts of all proposed amendments on the final docket, except that [applicants](#) seeking a site-specific amendment shall be responsible for submittal of a SEPA environmental checklist and supporting information. The [applicant](#) will need to submit SEPA and any other accompanying legislative actions such as a rezone or a code amendment at this time. The [code official](#) may require an [applicant](#) to pay for peer review and/or additional resources needed to review the proposal. The [code official](#) shall set a date for consideration of the final docket by the planning commission and timely transmit the staff recommendation prior to the scheduled date.
- d. The planning commission shall review the proposed amendments contained in the final docket based on the criteria set forth in subsection [\(F\)\(1\)](#) of this section. The planning commission shall hold at least one public hearing on the proposed amendments. The planning commission shall make a recommendation on the proposed amendments and transmit the recommendation to the [city](#) council.

e. After issuance of the planning commission's recommendation, the code official shall set a date for consideration of the final docket by the city council. The city council shall review the proposed amendments taking into consideration the recommendations of the planning commission and code official. The city council may deny, approve, or modify the planning commission's recommendations consistent with the criteria set forth in subsection (E)(1) of this section. The city council's establishment of a final docket of proposed amendments is not appealable.

f. The planning commission and the city council may hold additional public hearings, meetings, or workshops as warranted by the proposed amendments.

E. *Docketing Criteria.* The following criteria shall be used to determine whether a proposed amendment is added to the final docket in subsection D of this section:

1. The request has been filed in a timely manner, and either:
  - a. State law requires, or a decision of a court or administrative agency has directed, such a change; or
  - b. All of the following criteria are met:
    - i. The proposed amendment presents a matter appropriately addressed through the comprehensive plan or the code;
    - ii. The city can provide the resources, including staff and budget, necessary to review the proposal, or resources can be provided by an applicant for an amendment;
    - iii. The proposal does not raise policy or land use issues that are more appropriately addressed by an ongoing work program item approved by the city council;
    - iv. The proposal will serve the public interest by implementing specifically identified goals of the comprehensive plan or a new approach supporting the city's vision; and
    - v. The essential elements of the proposal and proposed outcome have not been considered by the city council in the last three years. This time limit may be waived by the city council if the proponent establishes that there exists a change in circumstances that justifies the need for the amendment.

F. *Decision Criteria.* Decisions to amend the comprehensive plan shall be based on the criteria specified below. An applicant for a comprehensive plan amendment proposal shall have the burden of demonstrating that the proposed amendment complies with the applicable regulations and decision criteria.

1. The amendment is consistent with the Growth Management Act, the countywide planning policies, and the other provisions of the comprehensive plan and city policies; and:

- a. There exists obvious technical error in the information contained in the comprehensive plan; or
  - b. The amendment addresses changing circumstances of the [city](#) as a whole.
2. If the amendment is directed at a specific property, the following additional findings shall be determined:
- a. The amendment is compatible with the adjacent land use and [development](#) pattern;
  - b. The property is suitable for [development](#) in conformance with the standards under the potential zoning; and
  - c. The amendment will benefit the community as a whole and will not adversely affect community facilities or the public health, safety, and general welfare.

G. *Combined Comprehensive Plan Amendment and Rezone.* In cases where both a comprehensive plan amendment and a rezone are required, both shall be considered together, and all public notice must reflect the dual nature of the request.

H. *Expansion of Land Use Map Amendment.* The [city](#) may propose to expand the geographic scope of an amendment to the comprehensive plan land use map to allow for consideration of adjacent property, similarly situated property, or area-wide impacts. The following criteria shall be used in determining whether to expand the geographic scope of a proposed land use map amendment:

1. The effect of the proposed amendment on the surrounding area or [city](#);
2. The effect of the proposed amendment on the land use and circulation pattern of the surrounding area or [city](#); and
3. The effect of the proposed amendment on the future [development](#) of the surrounding area or [city](#).

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## PLANNING COMMISSION

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**To:** Planning Commission  
**From:** Alison Van Gorp, CPD Deputy Director  
**Date:** February 17, 2021  
**RE:** ZTR21-002 Goldbach II Code Amendment (CUP Applicability)

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### SUMMARY

The proposed code amendment amends MICC 19.06.110(A)(5), creating a new subsection (c) and adding clarity on the applicability of Conditional Use Permits (CUPs).

### BACKGROUND

On January 20, 2021, the Planning Commission reviewed the proposed code amendment. Based on the staff recommendation, the Commission requested further revisions to the amendment to provide additional clarity and to remove ambiguity in the implementation of the amendment. The proposal for consideration at the February 17, 2021 meeting is has been revised to reflect this direction. This meeting will include a public hearing on the proposal, and then the Commission will have time for discussion and a recommendation.

The Mercer Island City Code specifies the following decision criteria for code amendments (MICC 19.15.250 (D)), which should be used to evaluate the proposed amendment:

*Criteria.* The [city](#) may approve or approve with modifications a proposal to amend this code only if:

1. The amendment is consistent with the comprehensive plan; and
2. The amendment bears a substantial relation to the public health, safety, or welfare; and
3. The amendment is in the best interest of the community as a whole.

City staff believe this proposal meets all three criteria and recommend adopted the revised code amendment.

### NEXT STEPS

Hold the public hearing and receive public comment. After hearing public comments on the proposal, the Commission should make a recommendation to the City Council. The recommendation will be transmitted to City Council for review (likely in April).



## ATTACHMENTS

1. Proposed amendment to MICC 19.06.110(A)(5)

## Attachment 1

### ZRT21-002 – Proposed Code Amendment on CUP Applicability

#### 19.06.110 Criteria for approval – Conditional use permits, variances, and setback deviations.

##### A. *Conditional Use Permits.*

1. *Purpose.* A use may be authorized by a [conditional use](#) permit for those uses listed in Chapters [19.02](#) and [19.11](#) MICC. The intent of the [conditional use](#) permit review process is to evaluate the particular characteristics and location of certain uses relative to the [development](#) and design standards established in this title. The review shall determine if the [development proposal](#) should be permitted after weighing the public benefit and the need for the use with the potential impacts that the use may cause.

2. *Criteria for Conditional Use Permits That Are Not Located in Town Center.* An [applicant](#) must demonstrate how the [development proposal](#) meets the following criteria:

- a. The permit is consistent with the regulations applicable to the zone in which the [lot](#) is located;
- b. The proposed use is determined to be acceptable in terms of size and location of site, nature of the proposed uses, character of surrounding [development](#), traffic capacities of adjacent [streets](#), environmental factors, size of proposed [buildings](#), and density;
- c. The use is consistent with policies and provisions of the comprehensive plan; and
- d. Conditions shall be attached to the permit assuring that the use is compatible with other existing and potential uses within the same general area and that the use shall not constitute a nuisance.

3. *Criteria for Conditional Use Permits That Also Require Design Review and Are Located in Town Center.* An [applicant](#) must demonstrate how the [development proposal](#) meets the following criteria:

- a. *General Criteria.*
  - i. The proposed use complies with all the applicable [development](#) and design provisions of this chapter.
  - ii. The proposed use is consistent with the comprehensive plan.

- iii. The proposed use is harmonious and appropriate in design, character, and appearance with the existing or intended uses within the surrounding area.
- iv. The proposed use will not generate excessive fumes, odor, dust, light, radiation, or refuse that would be injurious to surrounding uses.
- v. The proposed use will not generate levels of noise that adversely impact the health, safety, or general welfare of surrounding uses.
- vi. The proposed use will be served by adequate public services, including [streets](#), fire and public safety protection, water, sewer, and storm water control, and will not adversely impact the level of service standards for such facilities.
- vii. The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interest, health, safety, convenience, or welfare of the [city](#).

b. *Additional Criteria for Approval of a Conditional Use for Adult Entertainment in Town Center.*

- i. The point of entry into the [structure](#) housing the [adult entertainment](#) use shall be located at least 100 feet, measured in a straight line, from the property line of: (a) any R-zoned property; (b) any public institution zoned property; (c) any property containing one or more of the following uses: [residential uses](#) including single- or [multiple-family dwellings](#) or [residential care facilities](#); schools including public, private, primary or secondary, preschool, nursery school, or [day care](#); recreational uses including publicly owned park or [open space](#); commercial or noncommercial or private [recreation](#) facility; religious institutions; public institutions; or uses which cater primarily to minors.
- ii. No [adult entertainment](#) use shall be located closer than 400 feet to another [adult entertainment](#) use. Such distance shall be measured by following a straight line from the nearest point of entry into the proposed [adult entertainment](#) use to the nearest point of entry into another [adult entertainment](#) use.
- iii. The point of entry into an [adult entertainment](#) use shall not be located along 78th Avenue SE.
- iv. Signing shall be limited to words and letters only. [Window](#) or exterior displays of goods or services that depict, simulate, or are intended for use in connection with [specified sexual activities](#) as defined by Chapter [5.30](#) MICC are prohibited.

4. No [building](#) permit, business license, or other permits related to the use of the land shall be issued until final approval of the [conditional use](#) permit.

5. *Change After Conditional Use Permit Granted.*

a. *Change of Ownership.* [Conditional use](#) permits granted shall continue to be valid upon change of ownership of the site.

b. *Change of Use.* Modifications to the use shall require an amendment to the [conditional use](#) permit and shall be subject to the review process in Chapter [19.15](#) MICC.

c. *Applicability.* A conditional use permit shall be applicable only to the property for which it was granted, as defined by the legal description of the property boundaries submitted with the conditional use permit application. The use(s) permitted under a conditional use permit shall be permissible only within the boundaries of the legal description submitted with the permit application, even if the boundaries of the property are subsequently enlarged.

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