



PLANNING COMMISSION REGULAR VIDEO MEETING AGENDA

Wednesday, March 23, 2022

Zoom Virtual Platform
9611 SE 36th Street | Mercer Island, WA 98040
Phone: 206.275.7706 | www.mercergov.org

PLANNING COMMISSIONERS:

Chair: Daniel Hubbell

Vice Chair: Michael Murphy

Commissioners: Carolyn Boatsman, Jordan Friedman, Tiffin Goodman, Victor Raisys, Kate Akyuz

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.

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 must register their request with the City Clerk by 4pm on the day of the Planning Commission meeting. Register at 206.275.7791 or email andrea.larson@mercerisland.gov. Please reference "Appearances". Each speaker will be allowed three (3) minutes to speak.

Public Comment by Video: Notify the City Clerk 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 **824 9629 5004** and Passcode **792886** when prompted.

Join by Internet at 6:00 pm: To watch the meeting 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 **824 9629 5004**; Enter Passcode **792886**

CALL TO ORDER & ROLL CALL, 6 PM

PUBLIC 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.

REGULAR BUSINESS

1. Review and approval of the February 16, 2022 Regular Video Meeting Minutes
2. ZTR21-007 and ZTR21-008 Transportation and Park Impact Fee Updates
3. ZTR21-003 State Mandated Code Amendments

OTHER BUSINESS

4. Deputy Director's Report
5. Planned Absences for Future Meetings
6. Announcements & Communications
7. Next Scheduled Meeting is April 27th at 6pm.

ADJOURNMENT



CITY OF MERCER ISLAND PLANNING COMMISSION REGULAR VIDEO MEETING MINUTES

Wednesday, February 16th, 2022

CALL TO ORDER

The Planning Commission was called to order by Chair Hubbell at 6:02 pm from a remote location.

PRESENT

Chair Daniel Hubbell, Vice Chair Michael Murphy, Commissioners Carolyn Boatsman, Jordan Friedman, Victor Raisys, and Tiffin Goodman were present.

All Commissioners participated in the meeting remotely using Zoom.

ABSENT

There were no absences.

STAFF PRESENT

Jeff Thomas, Interim CPD Director, Alison Van Gorp, Deputy CPD Director, Sarah Bluvas, Economic Development Coordinator, Adam Zack, Senior Planner, and Laurie Carlson, Senior Administrative Assistant, participated in the meeting remotely.

PUBLIC APPEARANCES

There were no public appearances

PUBLIC HEARING

Agenda Item #1: ZTR21-006 - Permit Types and Noticing

There were no speakers on this item

The public hearing was opened at 6:06pm and closed at 6:07pm

Agenda Item #2: ZTR21-004 - Town Center Commercial Requirements

The public hearing was opened at 6:07.

Tenley Tobin, Trustee of the Alsin Family Trust, real estate and business owners on Mercer Island, voiced concerns regarding the proposed amendments to the Town Center Commercial Requirements.

Kenneth Katzaroff, attorney for the Alsin Family Limited Partnership, voiced concerns regarding the proposed amendments to the Town Center Commercial Requirements.

Traci Granbois, Mercer Island resident and representative of Dollar Development, voiced concerns regarding the proposed amendments to the Town Center Commercial Requirements.

Matt Goldblach, Mercer Island, voiced concerns regarding the proposed amendments to the Town Center Commercial Requirements.

The public hearing was closed at 6:28pm.

REGULAR BUSINESS

Agenda Item #1: Review and Approval of the January 26, 2022 Planning Commission Regular Video Meeting Minutes

It was moved by Raisys; seconded by Murphy to:

Approve the minutes from the January 26th, 2022 meeting

⇒ Passed: 6-0

Agenda Item #2: ZTR21-006 - Permit Types and Noticing

Adam Zack, Senior Planner, gave a brief presentation on ZTR21-006 Permit Types and Noticing

The Commission reviewed the proposed amendment and asked questions of Staff.

The Commission deliberated on the proposed amendments.

It was moved by Vice Chair Murphy and seconded by Raisys to:

Approve Option A & make a recommendation to City Council to provide the resources to implement Option B as presented by Staff.

⇒ Passed: 5-1

Agenda Item #3: ZTR21-004 - Town Center Commercial Requirements

Sarah Bluvas, Economic Development Coordinator, gave a brief presentation on ZTR21-004 Town Center Commercial Requirements

The Commission reviewed the proposed amendment and asked questions of Staff.

The Commission deliberated on the proposed amendments.

It was moved by Raisys and seconded by Boatsman to:

Remand ZTR21-004 Town Center Commercial Requirements back to City Council for additional work to address the legitimate concerns raised this evening including (but not limited to):

- **Articulation of a clear problem statement or goal**
- **Public Participation - Requirements of RCW 36.70A.035 including outreach and full engagement of MI Town Center stakeholders including Town Center business owners**
- **Potential SEPA compliance issues**
- **Traffic impacts and parking requirements of the current proposal**
- **Potential Impacts of recently proposed statewide zoning legislation which could alter how MI chooses to absorb its GMA growth allocations.**
- **Treatment of non-conforming uses within the Town Center including impacts to existing tenants who no longer meet the definition of “services”**
- **Potential Inconsistencies with the Comprehensive Plan**
- **Commercial needs assessment with regard to street frontage, depth of commercial space and allowed uses**
- **Impacts of the FAR and no net loss approaches on both property owners and business owners**
- **Consider alternative methods to encourage the retail uses most desired/needed by the community**
- **Consider professional input to address the issues above**

⇒ Passed: 6-0

Agenda Item #4: Comprehensive Plan Periodic Review Draft Scope, Public Participation Plan, and Schedule

Adam Zack, Senior Planner, gave a brief presentation on Comprehensive Plan Periodic Review Draft Scope, Public Participation Plan, and Schedule

The Commission reviewed the information presented and asked questions of Staff. Commissioners will provide additional written feedback to staff by the March 1 deadline established during the meeting.

OTHER BUSINESS

Deputy Director's Report

Alison Van Gorp, CPD Deputy Director reported that the recommendations from the Commission on ZTR21-005 Noise & Lighting related to lighting are going to City Council.

The March meeting will include a work session on state-mandated code amendments related to housing, homeless shelters, and transitional housing.

Council will be appointing a new Commissioner to fill the vacant seat on the Commission.

Planned Absences for Future Meetings

There were no planned absences

Announcements & Communications

There were no announcements & communications

Next Scheduled Meeting

The next scheduled meeting is March 23, 2022

ADJOURNED

The meeting adjourned at 9:29pm

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | www.mercerisland.gov



PLANNING COMMISSION

To: Planning Commission
From: Alison Van Gorp, Deputy Director
Date: March 17, 2022
RE: ZTR21-007 & ZTR21-008 Transportation Impact Fee and Parks Impact Fee Code Amendments

SUMMARY

In 2015, the City Council adopted code amendments implementing transportation and parks impact fees in [MICC 19.19](#) and [MICC 19.18](#), respectively. In late 2020, the City Council budgeted for consultant work to update the rate studies for these impact fees and added to the final docket the accompanying code amendments necessary to update the fees. Code amendments are proposed to allow the City to update the impact fee rates during the annual development and construction fee schedule update.

The City contracted with Fehr and Peers to conduct an updated transportation impact fee rate study and with BERK to conduct an updated parks impact fee rate study. These consultant teams are now in the final stages of their work, and the City is ready to initiate the code amendment process.

At the March 23 meeting, Kendra Brieland, Principal at Fehr and Peers, and Jason Hennessey, Senior Associate at BERK, will provide a presentation on “Impact Fees 101” as well as an overview of the methodology for the rate study updates. At the April 27 meeting, the Planning Commission is scheduled to hold a public hearing on the proposed code amendments that are necessary to adopt the updated impact fees. At that time, the draft rate studies and recommended impact fees will also be available for review.

BACKGROUND

What are Impact Fees?

Impact fees are one-time charges assessed by a local government against a new development project to help pay for new or expanded public facilities that will directly address the increased demand for services created by that development. [RCW 82.02](#) (sections .050 - .110) and [WAC 365-196-850](#) authorize counties, cities, and towns planning under the Growth Management Act (GMA) to impose impact fees for:

- Public streets and roads
- Publicly owned parks, open space, and recreation facilities
- School facilities
- Fire protection facilities

Impact fees can only be imposed for “system improvements,” which are public facilities included in the capital facilities plan that provide service to the community at large, are reasonably related to the new development, and will benefit the new development. Impact fees cannot exceed a proportionate share of the cost of the system improvements, and municipalities must have additional funding sources and may not rely solely on impact fees to fund the improvements. Impact fees may not be used to correct existing deficiencies. Generally, impact fees must be expended within 10 years of receipt; otherwise, they must be refunded to the developer.

Impact Fees in Mercer Island

The Mercer Island City Council adopted transportation and park impact fees in 2015, and the City began collecting fees in 2016. Payment of the fees is required as a part of the permitting process for new development. The initial fees were set based on rate studies conducted on 2015; the fees are indexed to the construction cost index and have been adjusted accordingly on an annual basis. The current transportation impact fees are \$4,914.53 per single-family dwelling, \$2,801.61 per multi-family dwelling unit and \$19.56 per square foot of commercial floor area. The current park impact fees are \$2,600.31 per single-family dwelling and \$1,671.59 per multi-family dwelling unit. There is not currently a commercial impact fee for parks. Since their inception, the City has collected \$662,217 in transportation impact fees and \$189,001 in park impact fees.

The impact fees were established based on the capital facilities planned at the time of the rate studies in 2015. In the seven years since the impact fees were adopted, many of those projects have been completed, and new projects are now planned. In addition, costs for projects that remain in capital facilities plans have likely increased. So even though the impact fees have been increased relative to the index, it is a best practice to periodically update the rate studies to reflect changes in planned facilities and cost estimates to ensure the fees accurately represent the improvements needed to accommodate new development.

Rate Study Methodology

Impact fee rate studies look at the planned capital improvements that are needed to add capacity to accommodate projected new development. The total cost of development-related improvements is then pro-rated for each new residential and/or commercial development that is projected over the planning period. Development-related improvements are capital projects that add capacity that is intended to serve the needs generated by new development. For example, in areas where new development capacity is planned, improvements such as new sidewalks, bike lanes, turn lanes, traffic signals, trails or expanded park playgrounds might be needed to serve the new residents, employees and customers generated by the future development. The impact fees charged for each unit of new development would then pay for a proportional share of the cost of the needed improvements.

The rate study updates are being developed in close partnership with the City’s Parks and Public Works staff. Capital project lists included in the Transportation Improvement Plan, Parks Recreation and Open Space Plan as well as the Comprehensive Plan have been reviewed for inclusion in the parks or transportation rate studies. Staff used their professional judgement and knowledge of the planned projects to identify the projects (or portions of projects) that are development-related improvements. In addition, the consultant teams have worked closely with CPD staff to understand the City’s housing and employment growth targets and the areas in the city where development capacity exists, and future development is likely to occur. Work is still underway to refine project cost estimates, determinations of the percentage of projects that are development-related, and to finalize the findings of the rate studies. The rate studies and recommended impact fees will be completed in advance of the public hearing

scheduled for April 27.

Proposed Code Amendments

The following code amendments are recommended to enable the parks and transportation impact fee rates to be updated periodically without the need for further code amendments in the future. Instead, once a rate study is approved by City Council, the new rates would be adopted as part of the annual development and construction fee schedule update.

19.18.100 - Fee schedule and updates.

- A. ~~The parks impact fees shall be adopted in the development and construction fee schedule based on the most recent rate study approved by the city council and updated annually thereafter as described in MICC 19.18.100 (B). The following impact fees are based on the city's 2015 rate study:~~
- ~~1. Single family dwelling unit: \$2,054.00 per dwelling unit.~~
 - ~~2. Multifamily: \$1,320.00 per dwelling unit.~~
- B. Park impact fee rates shall be updated annually using the following procedures:
1. The code official shall use the Construction Cost Index for Seattle (June-June) published by the Engineering News-Record to calculate annual inflation adjustments in the impact fee rates. The park impact fees shall not be adjusted for inflation should the index remain unchanged.
 2. The indexed impact fee rates shall be effective January 1. ~~A copy of the indexed impact fee rates shall be provided to the city council but the indexed rates shall become effective without further council review.~~
- C. The code official shall review the park impact fee rates annually to determine when a new park impact fee rate study ~~should be prepared~~ is necessary and recommend to the city council when a new study should be prepared.

19.19.100 - Fee schedule, review of schedule and updates.

- A. ~~The impact fees on exhibit A to the ordinance codified in this chapter are based on the city's 2015 rate study. The transportation impact fees shall be adopted in the development and construction fee schedule based on the most recent rate study approved by the city council and updated annually thereafter as described in MICC 19.19.100 (B).~~
- B. Transportation impact fee rates shall be updated annually using the following procedures:
1. The code official shall use the Construction Cost Index for Seattle (June-June) published by the Engineering News Record to calculate annual inflation adjustments in the impact fee rates. The transportation impact fees shall not be adjusted for inflation should the index remain unchanged.
 2. The indexed impact fee rates shall be effective January 1. ~~A copy of the indexed impact fee rates shall be provided to the city council but the indexed rates shall become effective without further council review.~~
- C. The code official shall review the transportation impact fee rates annually to determine ~~when if~~ a new transportation impact fee rate study ~~should be prepared~~ is necessary and recommend to the city council when a new study should be prepared.

NEXT STEPS

The Planning Commission will receive a briefing from Kendra Breland and Jason Hennessey at the March 23 meeting. Time will also be available for questions and discussion. At the April 27 meeting, the Commission will hold a public hearing and make a recommendation to the City Council on proposed code amendments. The City Council is scheduled to review the rate studies and proposed code amendments in May and June.

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | www.mercerisland.gov



PLANNING COMMISSION

TO: Planning Commission

FROM: Alison Van Gorp, Deputy Director
Adam Zack, Senior Planner

DATE: March 16, 2022

SUBJECT: ZTR21-003 – State Mandated Amendments

SUMMARY

During the 2020 and 2021 state legislative sessions two land use related bills passed, which require City action ([ESSB 5235](#) and [ESHB 1023](#)). Based on the timelines imposed by this legislation, the City had to act quickly to comply with the new requirements. Emergency interim regulations were adopted by Ordinances [21C-19](#) and [21C-22](#) at the September 21, 2021, City Council meeting. The interim regulations are set to expire in September, and the City must adopt permanent regulations before the expiration date to maintain compliance.

BACKGROUND

Staff has consolidated the legislative review of the code amendments related to ESSB 5235 and ESHB 1023 because they both relate to housing issues and require amendments to the development code. ESSB 5235 and ESHB 1023 require cities to comply with provisions in the legislation related to the allowed occupancy of homes, dwelling units, and adult family homes. Amendments to the Mercer Island City Code are required to comply. The City adopted two interim ordinances to comply with these requirements (Ordinance Nos. [21C-19](#) and [21C-22](#)). The interim ordinances expire on September 21, 2022. Permanent amendments to the development code must be adopted prior to the expiration of the interim ordinances to ensure the City complies with the requirements set in state law.

ESSB 5235: Housing Unit Inventory — Removing Limits on Unrelated Persons Cohabiting

[ESSB 5235](#) prohibits cities from regulating or limiting the number of unrelated people who may occupy a house or other dwelling unit. There are some exceptions: occupant limits on group housing regulated under state law or short-term rentals, any lawful limits on occupant load per square feet, and generally applicable health and safety provisions (i.e. fire code).

The bill requires a minor change to the City’s code. The definition of “family” is established in [Mercer Island City Code \(MICC\) 19.16.010 Definitions](#). Staff proposes the following amendment to the definition of family in strikeout/underline format (addition, ~~removal~~):

Family: One or more persons ~~(but not more than six unrelated persons) living together in a single housekeeping unit. For purposes of this definition, persons with familial status and persons with handicaps within the meaning of the Fair Housing Amendments Act (FHAA), 42 U.S.C. Sections 3602(h) and (k) will not be counted as unrelated persons. The limitation on the number of unrelated residents set forth in this definition shall not prohibit the city from making reasonable accommodations, as required by the FHAA, 42 U.S.C. Section 3604(f)(3)(B) and as provided in MICC 19.01.030. The term "family" shall exclude unrelated persons who are not also handicapped or have familial status within the meaning of the FHAA who live together in social service transitional housing or special needs group housing, occupying a dwelling unit, including the joint use of and responsibility for common areas, sharing household activities and responsibilities such as chores, household maintenance, and expenses. Such persons need not be related by blood or marriage. A family does not include institutional or congregant group living situations such as boarding houses, dormitories, fraternities, sororities, monasteries, or nunneries.~~

This is consistent with how other cities are amending their codes (for example, Lake Forest Park is also taking a similar approach). Use of the term "dwelling unit" instead of housekeeping unit is consistent with terms used elsewhere in the MICC, including the building code. Please also be advised that the City can still enforce other portions of its code relating to noise issues, fire code, etc. if concerns arise about the impacts of increased occupancy.

Amending the definition of family also requires a change to the definition of "dwelling". The proposed amendment will also make the definition in MICC 19.16.010 Definitions more consistent with terms used in the building code. Staff proposes the following amendment to the definition of "dwelling unit" in ~~strikeout/underline~~ format (addition, ~~removal~~):

Dwelling:

1. Dwelling unit: A ~~part of a multiple-family dwelling containing only one kitchen, that houses not more than one family, plus any live-in household employees of such family~~ building or a contiguous portion of a building providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation (see also "Accessory Dwelling Unit (ADU)").
2. Multiple-family dwelling: A building, other than a single-family dwelling with an accessory dwelling unit, containing two or more dwelling units.
3. Single-family dwelling: A building designed and/or used to house not more than one family, plus any live-in household employees of such family.
4. Single-family dwelling—Detached: A single-family dwelling that is not attached to any other structure by any means and is surrounded by open space or yards.
5. Single-family dwelling—Semi-detached: A single-family dwelling that is attached to another dwelling unit by a common vertical wall, with each dwelling unit located on a separate lot.

Finally, an amendment to the Accessory Development Unit (ADU) code is also necessary. The proposed amendment will remove the occupancy requirement and clarify the owner occupancy provisions in MICC

19.02.030(B) so that they do not include the term “family” since it will no longer refer to close familial relationships. Instead, staff proposes directly specifying the relationships that are included in the owner occupancy clause, as shown below in strikeout/underline format (addition, ~~removal~~):

B. Requirements for accessory dwelling units. One accessory dwelling unit is permitted as subordinate to an existing single-family dwelling; provided, the following requirements are met:

1. *Owner occupancy.* Either the principal dwelling unit or the accessory dwelling unit must be occupied by an owner of the property or ~~an immediate family member~~ a spouse, child, sibling, parent, grandparent or grandchild of the property owner. Owner occupancy is defined as a property owner, as reflected in title records, who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means, and actually resides at the site more than six months out of any given year.

~~2. *Number of occupants.* The total number of occupants in both the principal dwelling and accessory dwelling unit combined shall not exceed the maximum number established for a family as defined in MICC 19.16.010 plus any live in household employees of such family.~~

ESHB 1023: Increase to Capacity for Adult Family Homes

ESHB 1023 provides that the Department of Social and Health Services, in certain circumstances, can approve an adult family home to provide services to up to eight adults (previously, the limit was six adults). The definition establishes the number of people allowed in adult family homes. Accordingly, staff proposes the following amendment to the adult family home definition in MICC 19.06.010 Definitions in strikeout/underline format (addition, ~~removal~~):

Adult Family Home: As defined and regulated by Chapter 70.128 RCW, an adult family home is the regular family abode of a person or persons who are providing personal care, special care, and room and board to more than one but not more than ~~six~~ eight adults who are not related by blood or marriage to the person or persons providing the services.

NEXT STEPS

The Planning Commission will hold a public hearing on each proposed ordinance and make a recommendation to the City Council at their April 27, 2022, meeting. Once the Planning Commission has made a recommendation to the City Council, staff will bring the recommended draft code amendments to the City Council for a first reading.

STAFF RECOMMENDATION

Recommend approval of the code amendments detailed above. The changes to the State law leave the City with limited discretion in how the code must be amended. The changes proposed above have been reviewed by legal counsel for consistency with the state law. The expected effects of the changes to the definition of family and dwelling are negligible because amending these definitions will not influence the function of these uses already allowed under Title 19 MICC. Furthermore, changes to the State law mean that the City cannot limit the number of persons allowed in an adult family home to a number below eight.