



PLANNING COMMISSION SPECIAL VIDEO MEETING AGENDA

Thursday, November 12, 2020

Mercer Island City Hall - Council Chambers
9611 SE 36th Street | Mercer Island, WA 98040
Phone: 206.275.7706 | www.mercerisland.gov

PLANNING COMMISSIONERS:

Chair: Tiffin Goodman

Vice Chair: Jennifer Mechem

Commissioners: Carolyn Boatsman, Daniel Hubbell, Michael Murphy, Lucia Pirzio-Biroli, Ted Weinberg

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 will need to register their request with the Sr. Administrative Assistant at 206.275.7791 or email at 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 **918 7473 7827** and Passcode 019924 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 **918 7473 7827**; Enter Passcode 019924

For the safety and wellbeing of the public and staff, 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, 6:00 PM

SPECIAL BUSINESS

1. Election of Chair and Vice Chair
2. Review and adoption of Planning Commission Bylaws

MINUTES

3. February 5, 2020 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.

REGULAR BUSINESS

2020 Comprehensive Plan and Development Code Amendment Preliminary Docket

Review and Planning Commission Recommendation on 2021 docket.

OTHER BUSINESS

Directors Report

Planned Absences for Future Meetings

Next Scheduled Meeting

ADJOURN

Mercer Island Planning Commission Bylaws (Rules of Procedure) Adopted: _____

ARTICLE I GENERAL PROVISIONS

Section 1.1 Relationship to Other Regulations. These bylaws are supplementary to chapter 3.46 Mercer Island City Code ("MICC") and chapter 35A.63 Revised Code of Washington ("RCW").

Section 1.2 Purpose and Responsibilities of Commission. The Planning Commission's role is to advise the City Council on growth management issues, land use policies, and development regulations. The Planning Commission (hereinafter "Commission") is also responsible for making recommendations to the City Council on proposed street vacations and rezones. The members of the Commission accept the responsibility of the office and declare their intention to execute the duties defined under state law and city code to the best of their ability and to respect and observe the requirements established by the City Council.

ARTICLE II POWERS OF COMMISSION, MEMBERS, AND OFFICERS

Section 2.1 Powers of Commission. The Commission shall undertake the duties and responsibilities defined in chapters 3.46 and 19.15 MICC, including acting as a research agency, and serving in an advisory capacity to the City Council.

Section 2.2 Members. The Commission shall consist of 7 members appointed by the Mayor and Deputy Mayor and confirmed by the City Council. Membership on the Commission shall be limited to residents of Mercer Island. The term of each member is 4 years, unless removed earlier by the process set forth in Section 2.5 of these bylaws. No member may serve longer than two consecutive terms. Vacancies occurring other than through the expiration of terms shall be filled by the Mayor and Deputy Mayor confirmed by the City Council for the unexpired term.

Section 2.3 Officers and Duties. The officers of the Commission shall consist of a Chair and a Vice-Chair. Chair / Vice-Chair duties are to:

1. Run / Facilitate Commission meetings in a fair, efficient, productive, and informative manner;
2. Act as a spokesperson to City Council and, when necessary, to the public and/or media; and

3. Work with Community Planning and Development staff on schedule / calendar and meeting agendas.

Section 2.4 Officer Election and Vacancies. Officers shall be elected for a term of 1 calendar year at the first regular meeting on or after June 1 and annually thereafter. To elect a new Chair, Commissioners shall nominate members of the Commission for a given office. Nominations do not require a second. When it appears that no one else wishes to make any further nomination, the current Chair will ask again for further nominations and if there are none, the Chair will declare the nominations closed. A motion to close the nominations is not necessary.

After nominations have been closed, voting for the Chair takes place in the order nominations were made. A tie vote results in a failed nomination, and the Chair will call for a vote on the next nominee. As soon as one of the nominees receives a majority vote of the Commissioners present, the Chair will declare him/her elected. No votes may be taken on any remaining nominees. Upon election, the newly-appointed Chair conducts the election for Vice Chair following the same process.

In the event of an officer vacancy, a replacement Chair and/or Vice-Chair shall be elected following the same process as above to serve the unexpired term of the vacant office(s). In the absence of the Chair and Vice-Chair, members shall elect a Chair *pro tem* following the same process as above to serve only for the meeting at which he/she is elected.

Section 2.5 Removal. Members may be removed by the Mayor, after public hearing and with the approval of City Council, for inefficiency, neglect of duty, or malfeasance in office.

ARTICLE III MEETINGS

Section 3.1 Regular Meetings. Regular meetings of the Commission shall be held on the first and third Wednesday of each month at 6:00 P.M., or such other day and time as determined by the Commission, in the Mercer Island City Hall or such other place as the Commission may determine. Any regular meeting may be canceled or re-scheduled by the Chair, or in his/her absence, by the Vice Chair. If a regular meeting falls on a legal holiday, the Commission shall have the discretion to hold the meeting on the next business day which is not a holiday.

Section 3.2 Special Meetings. Special meetings of the Commission may be called by any of the following: the Chair, or in his/her absence, by the Vice Chair, the City Manager, Community Planning and Development Director, or the Mayor.

- Section 3.3 Quorum. A majority of the Commission membership shall constitute a quorum. For the conduct of business, a majority vote of the members in attendance at a meeting, provided a quorum is present, shall be sufficient to act.
- Section 3.4 Open to the Public. All regular and special meetings of the Commission are open to the public. The scheduling and holding of all Commission meetings is to be done in accordance with these bylaws and Washington state law.
- Section 3.5 Legislative Public Hearings. The Commission is responsible for conducting public hearings. The Commission recognizes that public hearings are intended to obtain public input on legislative recommendations on matters of policy. Public hearings are required when the city addresses such matters as comprehensive land use plans, street vacations, or development regulations.

ARTICLE IV CONDUCT OF MEETINGS

- Section 4.1 Conduct. All meetings of the Commission shall be conducted in accordance with these bylaws and Washington state law. Where these bylaws fail to provide otherwise, the meetings shall be conducted in accordance with parliamentary rules and procedures in the most current edition of the Robert's Rules of Order.
- Section 4.2 Chair. The Chair shall preside at all Commission meetings and has the powers generally assigned such office in conducting the meetings. It shall be the Chair's duty to see that the transaction of Commission business is in accord with these bylaws and Washington state law. The Chair of the meeting shall be a full voting member but shall not initiate or second a motion.
- Section 4.3 Agenda Setting. An agenda for every regular meeting shall be prepared and distributed by the Community Planning and Development department to each member not less than 5 calendar days prior to the date of the meeting at which such agenda is to be considered. The agenda shall be accompanied with a complete copy of the unapproved minutes of the previous meeting, staff reports, and other materials as may pertain to the agenda.
- Section 4.4 Agenda Modification. All meetings shall be conducted in accordance with the agenda. To the extent it does not violate public notice requirements, the printed agenda of a regular meeting may be modified, supplemented, or revised at the beginning of the meeting by the affirmative vote of the majority of Commission members present.
- Section 4.5 Minutes. A staff liaison shall be provided by the Community Planning and Development department to prepare minutes of meetings and keep such record, attend to correspondence of the Commission, and perform such other duties as

may be deemed necessary. Minutes of all regular meetings shall be kept and made part of a permanent public record. All actions of the Commission shall be considered conclusive as to general import as of the date of such action. Details of phraseology, conditions, etc., shall be subject to correction at the time of consideration and approval of the meeting minutes.

ARTICLE V PUBLIC INVOLVEMENT

Section 5.1. Purpose. High quality public input is desired by the Commission and is needed to help inform the Commission's analysis, recommendations, and decisions. The Commission goals for public involvement are to:

1. Undertake a fair, meaningful, and effective outreach to affected parties for each work item, with opportunities for all interested parties to participate in a comfortable setting.
2. Use a consistent and adaptable process that allocates limited time efficiently and encourages input that is relevant, clear, and specific.

Section 5.2 Time Limits. Time limits on public input should be established to allow for the efficient use of the Commission's time. Generally, the Commission will establish time limits as follows:

1. For public comment related to legislative matters such as the adoption of amendments to development regulations or the Mercer Island Comprehensive Plan, each speaker is limited to 3 minutes speaking time.
2. The Commission shall have the discretion to increase speaking times if necessary.

Section 5.3 Conduct. The public may address the Commission only after being recognized by the Chair of the meeting. All speakers must give their names and address. If audience dialogue becomes disruptive, the Chair may recess the meeting or request that the meeting be adjourned.

Section 5.4 Alternative Communication. To communicate with the Commission on a matter not scheduled for public hearing, the public may communicate with the Commission in writing and/or speak during an optional portion of each meeting entitled "Appearances" near the beginning of the agenda. The Commission shall have the discretion to omit "Appearances" from the agenda. The Chair of the meeting shall endeavor to minimize the amount of cumulative redundant testimony by the public.

ARTICLE VI CONFLICT OF INTEREST, EX-PARTE CONTACT, AND APPEARANCE OF FAIRNESS DOCTRINE

Section 6.1 Conflict of Interest. Chapter 42.23 RCW prohibits commissioners from using their positions to secure special privileges or special exemptions for themselves or others. If an actual or perceived conflict of interest exists that affects the work of the Commission, it is each commissioner's responsibility to refrain from any prior discussion of such matter with other members of the Commission, to openly describe the issue, and then recuse him/herself from the meeting during the period of discussion and action thereon.

ARTICLE VII DECISION-MAKING AND RECOMMENDATIONS

Section 7.1 Recommendations on Legislative Matters. The Commission's goal is to provide a consensus recommendation to the City Council on legislative matters; in all cases, however, a majority vote is taken. To document the recommendations of the Commission, the Community Planning and Development department staff shall prepare a written statement or memorandum, including the facts and rationale for the final recommendations. This statement is then approved by the Chair whose responsibility it is to present the recommendations to the City Council on behalf of the Commission when requested by either the City Council or City staff.

ARTICLE VIII ATTENDANCE

Section 8.1 Regular and Special Meetings. Attendance at regular and special meetings is expected of all Commission members.

Section 8.2 Absence. Any member anticipating absence from a meeting should notify the Chair and staff liaison from the Community Planning and Development department.

Section 8.3 Chronic Absences. Chronic absences of any member may be referred by the Commission to the Mayor for a public hearing pursuant to Section 2.5 of these bylaws. "Chronic," for the purposes of this section, means 6 or more absences in a 12-month period.

ARTICLE IX AMENDMENTS TO BYLAWS

These bylaws may be amended by a majority vote (4 votes) of the entire membership of the Commission.

Date Approved: _____

Planning Commission Chair: _____

Mercer Island Planning Commission Bylaws (adopted: _____)



CITY OF MERCER ISLAND PLANNING COMMISSION REGULAR MEETING MINUTES

Wednesday, February 05, 2020

Item 3.

CALL TO ORDER

PRESENT

Chair Tiffin Goodman
Vice Chair Jennifer Mechem
Commissioner Carolyn Boatsman
Commissioner Daniel Hubbell
Commissioner Lucia Pirzio-Biroli

ABSENT

Commissioner Ted Weinberg

MINUTES

Motion made by Commissioner Pirzio-Biroli, Seconded by Commissioner Hubbell to:

Approve the January 29, 2020 minutes.

Voting Yea: Chair Goodman, Vice Chair Mechem, Commissioner Boatsman, Commissioner Hubbell, Commissioner Pirzio-Biroli

Passed 5-0

APPEARANCES

There were no appearances.

REGULAR BUSINESS

2. ZTR19-004 – Small Cell / Wireless Code update. Second meeting, discussing community engagement and policy direction for code amendment.

Robin Proebsting, Senior Planner. Gave a presentation on the Small Cell/ Wireless code update.

The Commission asked questions and discussed the code amendment and approach.

The Commission asks to see different scenarios for noise and design options.

The Commission requested to find a way to make the outreach fun.

3. ZTR19-003 - Sign Code Update. Introduction and scope of work to the sign code amendment.

Robin Proebsting, Senior Planner, gave a presentation on the introduction of the Sign Code update.

The Commission discussed the scope of work.

OTHER BUSINESS

4. Director's Report

Evan Maxim, CPD Director, gave a brief update on the February 4, 2020 City Council meeting regarding HB and on the appointment process for new commissioners.

Item 3.

5. Planned Absences

There were no planned absences

6. Next Scheduled Meeting: February 19, 2020

ADJOURN

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

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PLANNING COMMISSION

To: Planning Commission

From: Alison Van Gorp, Deputy CPD Director

Date: November 12, 2020

RE: 2020 Comprehensive Plan and Development Code Amendment Preliminary Docket

SUMMARY

The City has an annual opportunity for the public to propose amendments to the Comprehensive Plan and development regulations. The proposed amendments are compiled, along with the City's proposed amendments, on a docket. The docket is preliminarily reviewed by the Planning Commission and City Council for a determination on which, if any, proposed amendments will be advanced for full review in the coming year. Amendments selected by the City Council for the "final docket" are then put on the Community Planning and Development (CPD) work program for the next calendar year.

COMPREHENSIVE PLAN DOCKET PROCESS AND CRITERIA

Docketing - Procedure:

The Mercer Island City Code (MICC) describes the formal process in section 19.15.230 MICC:

"D. Docketing of Proposed Amendments. For purpose of this section, docketing refers to compiling and maintaining a list of suggested changes to the comprehensive plan in a manner that will ensure such suggested changes will be considered by the city and will be available for review 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 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 amendment process but will be held for the next eligible comprehensive plan amendment process.

a. The code official shall compile and maintain 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 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."

Public notice was provided on August 19, 2020 in the newspaper as well as the permit bulletin. However, it was later discovered that a staff error omitted the words "code amendment" from the public notice. The City Council later took action to extend the deadline for amendment proposals to November 2, 2020 and additional public notice was given for the new deadline. Eleven Comprehensive Plan and code amendment proposals were received from the public prior to the deadline. CPD staff have also identified five comprehensive plan and code amendments for consideration. All sixteen proposals are discussed below.

Docketing – Criteria:

Proposed comprehensive plan and code amendments should only be placed on the docket if the amendment will meet the following criteria:

"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.”

PROPOSED AMENDMENTS

The proposed amendments are summarized in Attachment 1, including the amendments proposed by CPD staff. The full amendment proposals submitted by community members are included in Attachment 2.

Proposed Amendment 1

Proposed By: City staff

Comprehensive Plan or Code Section: Comprehensive Plan/Land Use Element/Land Use Plan Map

Proposal Summary: This amendment would correct an error in the City's Land Use Plan Map. One of the land use designations listed in Sect. VII of the Land Use Element is "Neighborhood Business", for which the implementing zone is "PBZ". The area currently zoned PBZ, and previously designated as Neighborhood Business, is erroneously identified as "Commercial Office" on the current Land Use Plan Map.

Context and Staff Comments: A scrivener's error resulted in the south-end shopping center being mis-designated in the Land Use Plan Map. This is a simple correction to update the map and re-instate the Neighborhood Business designation. This is a necessary correction that will require a limited amount of staff, Planning Commission and City Council resources.

Proposed Amendment 2

Proposed By: City staff

Comprehensive Plan or Code Section:

- Comprehensive Plan/Land Use Element, Section V. Land Use Policies, Town Center
- Town Center Development and Design Standards (MICC 19.11)

Proposal Summary: This item is a placeholder for any code or comprehensive plan amendments that may be proposed related to the Town Center development moratorium.

Context and Staff Comments: In June, the City Council adopted an interim ordinance instituting a development moratorium in the south portion of the Town Center. The Council would like to analyze the city's requirement for retail frontage in the town center and determine whether amendments to the Town Center development regulations or the Comprehensive plan are needed to preserve and promote retail and small businesses in the Town Center. This analysis and potential amendments are required to resolve the existing interim ordinance, and will require substantial staff and consultant resources. A budget proposal is under consideration to support the consultant work. Any Comprehensive Plan or code amendments that are undertaken will also require Planning Commission and City Council resources.

Proposed Amendment 3

Proposed By: City staff

Comprehensive Plan or Code Section:

- Comprehensive Plan/Land Use, Transportation and Capital Facilities Elements

- Transportation, Park and Fire Impact Fees (MICC 19.17, MICC 19.18, New chapter Title 19)

Proposal Summary: The city intends to prepare new rate studies and update the Transportation and Park Impact Fees, and establish a Fire Impact Fee. This is a placeholder for the related code amendments.

Context and Staff Comments: Transportation and park impact fees were first adopted in 2015. The city would like to update the rate studies for these fees and then amend the code to update the fees based on the findings of the rate studies. In addition, the city is also planning to adopt a fire impact fee to help offset the costs of additional capacity to provide fire services for new development. This analysis and code amendments will require substantial staff and consultant resources. A budget proposal is under consideration to support the consultant work. The code amendments will also require Planning Commission and City Council resources.

Proposed Amendment 4

Proposed By: City staff

Comprehensive Plan or Code Section: Sign Regulations (MICC 19.06.020, MICC 19.11.140, and MICC 19.12.080)

Proposal Summary: Due to changes in case law, the City is now required to update the Sign Code.

Context and Staff Comments: This is an important code amendment that is needed to align city regulations with recent changes in case law. In 2015, the Supreme court ruling in *Reed v. Town of Gilbert* restricted the ability to regulate signs related to First Amendment concerns. The City needs to amend the sign regulations so they are not based on content of the sign. Consideration of this code amendment was initiated with the Planning Commission in early 2020 but was postponed due to the COVID-19 pandemic. Re-starting the review process in 2021 will require moderate staff, Planning Commission and City Council resources.

Proposed Amendment 5

Proposed By: City staff

Comprehensive Plan or Code Section: Wireless and Small Cell Regulations (MICC 19.06.040)

Proposal Summary: Due to recently promulgated FCC regulations, staff are required to update the City Code related to wireless and small cell facilities.

Context and Staff Comments: Federal regulations now pre-empt many local regulations related to wireless and small cell facilities. Local governments are now limited to regulating mostly aesthetics and the regulations may not “effectively prohibit” wireless facilities. The city has had an interim ordinance in place governing these issues and permanent regulations now need to be developed and implemented. The proposed code amendment will resolve the existing interim ordinance, align city regulations with FCC rules, add definitions of new terms and make additional clarifying updates to the code. Consideration of this code amendment was by the Planning Commission was underway in early 2020 but was postponed due to the COVID-19 pandemic. Re-starting the review process in 2021 will require moderate staff, Planning Commission and City Council resources.

Proposed Amendment 6

Proposed By: Matthew Goldbach

Comprehensive Plan or Code Section: Implementation of Comprehensive Plan Amendments (MICC 19.15.230(I))

Proposal Summary: The amendment would repeal 19.15.230(I) to ensure the code does not condone a future failure of the City to ensure that Comprehensive Plan policies are implemented by consistent development regulations.

Context and Staff Comments: Mr. Goldbach's application refers to Growth Management Hearings Board (GMHB) No. 18-3-0010, *Coen v. City of Mercer Island*. The Petitioner in this case made a similar argument to Mr. Goldbach's suggestion; however, the GMHB did not find that *Coen* had met his burden of proof that MICC 19.15.230(I) purportedly violates the goals and requirements of the GMA. To the contrary, MICC 19.15.230(I) does not permit the City to violate the GMA nor does it automatically result in GMA violations. As briefed in the *Coen* proceeding, neither the Growth Management Act nor Chapter 365-196 WAC **require** that comprehensive plan amendments and development plans be adopted concurrently. Indeed, concurrent adoption of development regulations may be unnecessary if existing regulations are consistent and continue to implement the comprehensive plan. Finally, the wording "within such time as reasonably practicable" allows the City the flexibility to enact development regulations with sufficient citizen participation and meaningful input in implementing development regulations, which is a GMA goal pursuant to RCW 36.70A.020. Therefore, staff believes the suggested code change is unnecessary. However, if this amendment were to be placed on the final docket, staff, Planning Commission and City Council resources would be required to amend the code.

Proposed Amendment 7

Proposed By: Matthew Goldbach

Comprehensive Plan or Code Section: Condition Use Permit Regulations (MICC 19.06.110(A)(5))

Proposal Summary: This amendment would add a new subsection to the code clarifying that conditional use permits (CUPs) are only applicable to the property for which it was granted (regardless of whether additional property is added to that property in the future).

Context and Staff Comments: Under MICC 19.15.060, the City's Code official has authority to require "all information deemed necessary by the code official..." as a part of applications for development approval. The City's application form requires the applicant to provide a Tax Parcel Number. Further, MICC 19.15.060 (A)(2) requires a site plan at application submittal and MICC 19.15.060(A)(7) requires a legal description of the site. This information will create an administrative record establishing the boundaries of the property to which the CUP, if granted, will apply. Thus, staff believes this suggestion is unnecessary, as the City's application and approval procedures already make it clear that a Conditional Use Permit is only applicable to the property for which it was originally granted. However, if this amendment were to be placed on the final docket, staff, Planning Commission and City Council resources would be required to amend the code.

Proposed Amendment 8

Proposed By: Matthew Goldbach

Comprehensive Plan or Code Section: Comprehensive Plan/Land Use Element/Land Use Plan Map

Proposal Summary: Replace the incorrect City Land Use Map to correctly identify the south-end shopping center as “PBZ” or Neighborhood Business.

Context and Staff Comments: The City supports the content of this suggestion but is recommending not advancing it because a duplicate item has been suggested by the city (Proposed Amendment 1, above).

Proposed Amendment 9

Proposed By: Carolyn Boatsman

Comprehensive Plan or Code Section: Nuisance Control Code (MICC 8.24)

Proposal Summary: Make amendments to the nuisance code to : 1) limit commercial landscaping operations using power tools to the same hours as construction noise from work under city permit, and 2) require that residential use of spot lighting be directed toward the owner’s property.

Context and Staff Comments: The City receives a modest number of code compliance requests each year related to landscaping related noise (leaf blowers, etc.) and lighting concerns in residential neighborhoods. These issues are not currently regulated in the city code, and city staff are largely unable to assist residents with these concerns. Even if these issues were regulated, however, the Code Compliance Officer position has been reduced from full-time to half-time and taken in the big picture, these are lower priority issues compared issues like building without permits, damage to critical areas, and unauthorized tree removal, which are prioritized for enforcement action. Finally, amendments of this type may be better considered in a more comprehensive update to the nuisance and animal codes in the future. However, if this amendment were to be placed on the final docket, staff, Planning Commission and City Council resources would be required to amend the code.

Proposed Amendment 10

Proposed By: Carolyn Boatsman

Comprehensive Plan or Code Section: Comprehensive Plan

Proposal Summary: Adopt goals and policies related to the prioritization of the use of the public right of way, based on the public good.

Context and Staff Comments: Ms. Boatsman did not specify her rationale for requesting this amendment. She states that “uses that should, at the least, be allowed and included in the priority are roads and appurtenances, utility installation, residential parking, and environmental benefit”. In later correspondence, Ms. Boatsman asked that “residential parking” be changed to “temporary parking”. The public right of way is a critical, though limited resource. Multiple demands are often placed on a given stretch of right of way – for the uses specified by Ms. Boatsman, and more. The prioritization and balancing of needs related to these multiple uses is currently determined in a site-specific manner during development review. City staff including planners, engineers, the arborist and fire marshal coordinate their input and code requirements to optimize the use of the right of way any time it is impacted by a development proposal. It is unclear how additional Comprehensive Plan goals or policies could improve this process, and in fact having a comprehensive prioritization that is not adaptable to the context and intricacies of each proposed improvement in the right of way may actually hinder this optimization process. Staff are not in favor of creating an environment of competing priorities. However, if this amendment were to be placed on the final docket, staff, Planning Commission and City Council resources would be required to amend the code.

Proposed Amendment 11

Proposed By: Daniel Thompson

Comprehensive Plan or Code Section: Residential Development Standards (MICC 19.02.020(D)(2)(a) Gross Floor Area)

Proposal Summary: This amendment would reduce ceiling height from 12 feet to 10 feet before it is counted as clerestory space at 150% of gross floor area (GFA).

Context and Staff Comments: A full review and report on the effect and impact of the Residential Development Standards and administrative code amendments that were adopted three years ago is planned in 2022. Once this review is complete, the city may undertake additional code amendments to improve upon the prior code amendment. Staff does not recommend advancing this amendment at this time; it could be reconsidered in a future year when the review of the RDS and administrative code amendments is complete.

Proposed Amendment 12

Proposed By: Daniel Thompson

Comprehensive Plan or Code Section: Residential Development Standards (MICC 19.02.020(D)(2)(a) Gross Floor Area)

Proposal Summary: This amendment would include exterior covered decks in the definition of GFA and include covered porches on the first level in the calculation of GFA.

Context and Staff Comments: A full review and report on the effect and impact of the Residential Development Standards and administrative code amendments that were adopted three years ago is planned in 2022. Once this review is complete, the city may undertake additional code amendments to improve upon the prior code amendment. Staff does not recommend advancing this amendment at this time; it could be reconsidered in a future year when the review of the RDS and administrative code amendments is complete.

Proposed Amendment 13

Proposed By: Daniel Thompson

Comprehensive Plan or Code Section: Residential Development Standards (MICC 19.02.040(D)(1) Garages and Carports)

Proposal Summary: This amendment would either eliminate the ability to build garages and carports within 10 feet of the property line of the front yard, or, alternatively, would eliminate this option for waterfront lots that have flipped their front and back yards per MICC 19.02.020(c)(2)(a)(iii).

Context and Staff Comments: A full review and report on the effect and impact of the Residential Development Standards and administrative code amendments that were adopted three years ago is planned in 2022. Once this review is complete, the city may undertake additional code amendments to improve upon the prior code amendment. Staff does not recommend advancing this amendment at this time; it could be reconsidered in a future year when the review of the RDS and administrative code amendments is complete.

Proposed Amendment 14

Proposed By: Daniel Thompson

Comprehensive Plan or Code Section: Residential Development Standards (MICC 19.02.020(D)(3)(b) Gross Floor Area Incentives for ADUs)

Proposal Summary: This amendment would limit the GFA incentives for ADUs to lots 8,400 square feet or smaller.

Context and Staff Comments: A full review and report on the effect and impact of the Residential Development Standards and administrative code amendments that were adopted three years ago is planned in 2022. Once this review is complete, the city may undertake additional code amendments to improve upon the prior code amendment. Staff does not recommend advancing this amendment at this time; it could be reconsidered in a future year when the review of the RDS and administrative code amendments is complete.

Proposed Amendment 15

Proposed By: Daniel Thompson

Comprehensive Plan or Code Section: Administrative Code (MICC 19.15.030 Land Use Review Type Classification)

Proposal Summary: This amendment would change the type classifications of several permit actions, with the effect of adding public notification or public notice requirements to these actions.

Context and Staff Comments: A full review and report on the effect and impact of the Residential Development Standards and administrative code amendments that were adopted three years ago is planned in 2022. Once this review is complete, the city may undertake additional code amendments to improve upon the prior code amendment. Staff does not recommend advancing this amendment at this time; it could be reconsidered in a future year when the review of the RDS and administrative code amendments is complete.

Proposed Amendment 16

Proposed By: Daniel Thompson

Comprehensive Plan or Code Section: Residential Development Standards (MICC 19.02.020(G)(2)(a) and (b) Parking Requirements)

Proposal Summary: This amendment would reduce the threshold for requiring only 2 parking spaces (1 covered and 1 uncovered) from 3,000 square feet to 2,000 square feet.

Context and Staff Comments: A full review and report on the effect and impact of the Residential Development Standards and administrative code amendments that were adopted three years ago is planned in 2022. Once this review is complete, the city may undertake additional code amendments to improve upon the prior code amendment. Staff does not recommend advancing this amendment at this

time; it could be reconsidered in a future year when the review of the RDS and administrative code amendments is complete.

RECOMMENDATION

The preliminary 2021 work plan for CPD and the Planning Commission is significantly full, with the following tentatively scheduled items:

- Town Center Retail Analysis and potential code and Comprehensive Plan amendments
- Ongoing regional growth strategy and growth target review
- Sign code amendment
- Wireless/Small cell code amendment
- Transportation, Park and Fire Impact Fee rate studies and code amendments

While not all of the items on this work plan require Planning Commission review, this work plan nevertheless represents a significant amount of CPD staff time, in support of Planning Commission, City Council and other processes. CPD staff recommends that no additional comprehensive plan or code amendments beyond those proposed by city staff be docketed in 2021 as the City does not have adequate staff and budgetary resources to support additional work items.

NEXT STEPS

The Planning Commission will need to prepare a recommendation to the City Council on a preliminary docket of Comprehensive Plan and development code amendments.

1. Review the preliminary docket of proposed Comprehensive Plan and development code amendments.
2. Make a determination on whether each proposed amendment should be included in the recommended preliminary docket using the criteria from MICC 19.15.230 (F), provided above. Please consider carefully the workload for CPD staff and the planning commission related to the recommended items, given the preliminary CPD and Planning Commission work plan.

Please be prepared to consider and make a recommendation to the City Council on the Planning Commission's preliminary docket of 2021 Comprehensive Plan amendments at the November 12, 2020 meeting.

ATTACHMENTS

1. Preliminary Docket
2. Proposed amendments Nos. 6-16, submitted by community members

2021 Preliminary Comprehensive Plan and Code Amendment Docket

Item No.	Proposed By	Potentially Affected Section, Goal or Policy	Summary of Proposal
1	City Staff	Comprehensive Plan/Land Use Element/Land Use Plan Map	This amendment would correct an error in the City's Land Use Plan Map. One of the land use designations listed in Sect. VII of the Land Use Element is "Neighborhood Business", for which the implementing zone is "PBZ". The area currently zoned PBZ, and previously designated as Neighborhood Business, is erroneously identified as "Commercial Office" on the current Land Use Plan Map.
2	City Staff	<ul style="list-style-type: none"> Comprehensive Plan/Land Use Element, Section V. Land Use Policies, Town Center (e.g. Figure TC-1 Retail Use Adjacent to Street Frontages) Town Center Development and Design Standards (e.g. MICC 19.11.020 (B) <i>Required Ground Floor Uses</i>) 	This item is a placeholder for any code or comprehensive plan amendments that may be proposed related to the Town Center development moratorium.
3	City staff	Transportation, Park and Fire Impact Fees (MICC 19.18 and MICC 19.19)	The city intends to prepare new rate studies and update the Transportation and Park Impact Fees, and establish a Fire Impact Fee. This is a placeholder for the related code amendments.
4	City Staff	Temporary Sign Regulations (MICC 19.06.020)	Due to changes in case law, the City is required to update the Sign Code.
5	City Staff	Wireless and Small Cell Regulations (MICC 19.06.040)	Due to recent FCC rules, staff are required to update the City Code related to wireless and small cell facilities.
6	Matthew Goldbach	Implementation of Comprehensive Plan Amendments (MICC 19.15.230(I))	The amendment would repeal 19.15.230(I) to ensure the code does not condone a future failure of the City to ensure that Comprehensive Plan policies are implemented by consistent development regulations.
7	Matthew Goldbach	Condition Use Permit Regulations (MICC 19.06.110(A)(5))	This amendment would add a new subsection to the code clarifying that conditional use permits (CUPs) are only applicable to the property for which it was granted (regardless of whether additional property is added to that property in the future).

8	Matthew Goldbach	Comprehensive Plan/Land Use Element/Land Use Plan Map	Replace the incorrect City Land Use Map to correctly identify the south-end shopping center as “PBZ” or Neighborhood Business.
9	Carolyn Boatsman	Nuisance Control Code (MICC 8.24)	Make amendments to the nuisance code to : 1) limit commercial landscaping operations using power tools to the same hours as construction noise from work under city permit, and 2) require that residential use of spot lighting be directed toward the owner’s property.
10	Carolyn Boatsman	Comprehensive Plan	Adopt goals and policies related to the prioritization of the use of the public right of way, based on the public good.
11	Daniel Thompson	Residential Development Standards (MICC 19.02.020(D)(2)(a) Gross Floor Area)	This amendment would reduce ceiling height from 12 feet to 10 feet before it is counted as clerestory space at 150% of gross floor area (GFA).
12	Daniel Thompson	Residential Development Standards (MICC 19.02.020(D)(2)(a) Gross Floor Area)	This amendment would include exterior covered decks in the definition of GFA and include covered porches on the first level in the calculation of GFA.
13	Daniel Thompson	Residential Development Standards (MICC 19.02.040(D)(1) Garages and Carports)	This amendment would either eliminate the ability to build garages and carports within 10 feet of the property line of the front yard, or, alternatively, would eliminate this option for waterfront lots that have flipped their front and back yards per MICC 19.02.020(c)(2)(a)(iii).
14	Daniel Thompson	Residential Development Standards (MICC 19.02.020(D)(3)(b) Gross Floor Area Incentives for ADUs)	This amendment would limit the GFA incentives for ADUs to lots 8,400 square feet or smaller.
15	Daniel Thompson	Administrative Code (MICC 19.15.030 Land Use Review Type Classification)	This amendment would change the type classifications of several permit actions, with the effect of adding public notification or public notice requirements to these actions.
16	Daniel Thompson	Residential Development Standards (MICC 19.02.020(G)(2)(a) and (b) Parking Requirements)	This amendment would reduce the threshold for requiring only 2 parking spaces (1 covered and 1 uncovered) from 3,000 square feet to 2,000 square feet.

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

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CITY USE ONLY

PROJECT#

RECEIPT #

FEE

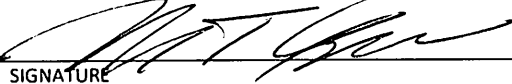
Date Received:

Received By:

DEVELOPMENT APPLICATION

STREET ADDRESS/LOCATION		ZONE
COUNTY ASSESSOR PARCEL #'S		PARCEL SIZE (SQ. FT.)
PROPERTY OWNER (required)	ADDRESS (required)	CELL/OFFICE (required) E-MAIL (required)
PROJECT CONTACT NAME Matthew Goldbach	ADDRESS 9980 SE 40th Street, Mercer Island	CELL/OFFICE 954-806-2489 E-MAIL matt@bitmax.net
TENANT NAME	ADDRESS	CELL PHONE E-MAIL

DECLARATION: I HEREBY STATE THAT I AM THE OWNER OF THE SUBJECT PROPERTY OR I HAVE BEEN AUTHORIZED BY THE OWNER(S) OF THE SUBJECT PROPERTY TO REPRESENT THIS APPLICATION, AND THAT THE INFORMATION FURNISHED BY ME IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.


SIGNATURE

Oct. 19, 2020
DATE

PROPOSED APPLICATION(S) AND CLEAR DESCRIPTION OF PROPOSAL (PLEASE USE ADDITIONAL PAPER IF NEEDED):

Two text code amendments and one Comprehensive Plan Amendment. See attached three pages.

ATTACH RESPONSE TO DECISION CRITERIA IF APPLICABLE

CHECK TYPE OF LAND USE APPROVAL REQUESTED:

APPEALS

- ☐ Building
- ☐ Code Interpretation
- ☐ Land use
- ☐ Right-of-Way Use

CRITICAL AREAS

- ☐ Critical Area Review 1 (Hourly Rate 2hr Min)
- ☐ Critical Area Review 2 (Determination)
- ☐ Reasonable Use Exception

DESIGN REVIEW

- ☐ Pre Design Meeting
- ☐ Design Review (Code Official)
- ☐ Design Commission Study Session
- ☐ Design Review- Design Commission- Exterior Alteration
- ☐ Design Review- Design Commission- New Building

WIRELESS COMMUNICATION FACILITIES

- ☐ Wireless Communications Facilities- 6409 Exemption
- ☐ New Wireless Communication Facility

DEVIATIONS

- ☐ Changes to Antenna requirements
- ☐ Changes to Open Space
- ☐ Seasonal Development Limitation Waiver

ENVIRONMENTAL REVIEW (SEPA)

- ☐ SEPA Review (checklist)- Minor
- ☐ SEPA review (checklist)- Major
- ☐ Environmental Impact Statement

SHORELINE MANAGEMENT

- ☐ Exemption
- ☐ Permit Revision
- ☐ Shoreline Variance
- ☐ Shoreline Conditional Use Permit
- ☐ Substantial Development Permit

SUBDIVISION LONG PLAT

- ☐ Long Plat- Preliminary
- ☐ Long Plat- Alteration
- ☐ Long Plat- Final Plat

VARIANCES (Plus Hearing Examiner Fee)

- ☐ Variance

SUBDIVISION SHORT PLAT

- ☐ Short Plat- Two Lots
- ☐ Short Plat- Three Lots
- ☐ Short Plat- Four Lots
- ☐ Short Plat- Deviation of Acreage Limitation
- ☐ Short Plat- Amendment
- ☐ Short Plat- Final Plat

OTHER LAND USE

- ☐ Accessory Dwelling Unit
- ☐ Code Interpretation Request
- ☒ Comprehensive Plan Amendment (CPA)
- ☒ ~~Special Use Permit (SUP)~~
- ☐ Lot Line Revision
- ☐ Noise Exception
- ☐ Reclassification of Property (Rezoning)
- ☐ Transportation Concurrency (see supplemental application form)
- ☐ Planning Services (not associated with a permit or review)
- ☒ Zoning Code Text Amendment
- ☐ Request for letter
- ☐ Temporary Commerce on Public Property

REQUEST FOR CODE AMENDMENT

I request that Title 19 of MICC be amended to repeal MICC 19.15.230(I).

The City's application of MICC 19.15.230(I) might fail to comply with the GMA and might condone a future failure of the City to ensure that Comprehensive Plan policies are implemented by consistent development regulations.

In *Coen v. City of Mercer Island*, GMHB No. 18-3-0010, the GMHB advised that the City's application of MICC 19.15.230(I) "might result in a failure to comply [with the GMA]" and the GMHB further advised that the "Board shares Petitioner's concerns that the City's new code provision may appear to condone a future failure to ensure that plan policies are implemented by consistent development regulations." *Coen v. City of Mercer Island*, GMHB No. 18-3-0010 (FDO, May 10, 2019), at 1 and 10.

REQUEST FOR CODE AMENDMENT

I request that Title 19 of MICC be amended to assure and clarify that a conditional use permit is only applicable to the property for which it was granted and that other properties require their own conditional use permit. This amendment can be implemented by adding subsection MICC 19.06.110(A.)(5.)(c.). Exemplary language follows:

“(5.)(c.) Applicability. A conditional use permit shall be applicable only to the property for which it was granted. Property whether contiguous or noncontiguous to the property for which the conditional use permit was granted shall require new conditional use permit applications and shall be subject to this Chapter 19.13 MICC and to Chapter 19.15 MICC.”

REQUEST FOR COMPREHENSIVE PLAN AMENDMENT

I request that the Comprehensive Plan be amended to replace the current incorrect City Land Use Map with the correct City Land Use Map. This error was discovered at the GMHB meeting regarding the "CFZ". The City removed the "CFZ" but failed to correct the map regarding the "PBZ".

Evan Maxim assured me that this was a known "scriveners' error, as improbable as that may sound, and would be docketed this year as it is a legislative issue.

My request is merely to ensure that the Map is corrected without further delay.

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

PBZ

0 0.25 0.5 1 Miles



May 2008 7/20/2008
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City Website: www.mercer.gov/mrq
City Telephone: (206) 225-4600

Code Publishing Company

VII.

Land Use Designation	Implementing Zoning Designations	Description
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, 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.

NOT ON MAP
LEGEND →

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PHONE: 206.275.7605 | www.mercerisland.gov



CITY USE ONLY

PROJECT#

RECEIPT #

FEE

Date Received:

DEVELOPMENT APPLICATION

Received By:

STREET ADDRESS/LOCATION		ZONE
COUNTY ASSESSOR PARCEL #'S		PARCEL SIZE (SQ. FT.)
PROPERTY OWNER (required)	ADDRESS (required)	CELL/OFFICE (required) E-MAIL (required)
PROJECT CONTACT NAME Daniel Thompson	ADDRESS 7265 N. Mercer Way Mercer Island, WA 98040	CELL/OFFICE 206-919-3266 E-MAIL danielphompson@hotmail.com
TENANT NAME	ADDRESS	CELL PHONE E-MAIL

DECLARATION: I HEREBY STATE THAT I AM THE OWNER OF THE SUBJECT PROPERTY OR I HAVE BEEN AUTHORIZED BY THE OWNER(S) OF THE SUBJECT PROPERTY TO REPRESENT THIS APPLICATION, AND THAT THE INFORMATION FURNISHED BY ME IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SIGNATURE

DATE

Nov. 2 2020

PROPOSED APPLICATION(S) AND CLEAR DESCRIPTION OF PROPOSAL (PLEASE USE ADDITIONAL PAPER IF NEEDED):

See attached suggested Residential Development Code Amendments I through VI.

ATTACH RESPONSE TO DECISION CRITERIA IF APPLICABLE

CHECK TYPE OF LAND USE APPROVAL REQUESTED:

APPEALS	DEVIATIONS	SUBDIVISION SHORT PLAT
<input type="checkbox"/> Building	<input type="checkbox"/> Changes to Antenna requirements	<input type="checkbox"/> Short Plat- Two Lots
<input type="checkbox"/> Code Interpretation	<input type="checkbox"/> Changes to Open Space	<input type="checkbox"/> Short Plat- Three Lots
<input type="checkbox"/> Land use	<input type="checkbox"/> Seasonal Development Limitation Waiver	<input type="checkbox"/> Short Plat- Four Lots
<input type="checkbox"/> Right-of-Way Use		<input type="checkbox"/> Short Plat- Deviation of Acreage Limitation
CRITICAL AREAS	ENVIRONMENTAL REVIEW (SEPA)	<input type="checkbox"/> Short Plat- Amendment
<input type="checkbox"/> Critical Area Review 1 (Hourly Rate 2hr Min)	<input type="checkbox"/> SEPA Review (checklist)- Minor	<input type="checkbox"/> Short Plat- Final Plat
<input type="checkbox"/> Critical Area Review 2 (Determination)	<input type="checkbox"/> SEPA review (checklist)- Major	OTHER LAND USE
<input type="checkbox"/> Reasonable Use Exception	<input type="checkbox"/> Environmental Impact Statement	<input type="checkbox"/> Accessory Dwelling Unit
DESIGN REVIEW	SHORELINE MANAGEMENT	<input type="checkbox"/> Code Interpretation Request
<input type="checkbox"/> Pre Design Meeting	<input type="checkbox"/> Exemption	<input type="checkbox"/> Comprehensive Plan Amendment (CPA)
<input type="checkbox"/> Design Review (Code Official)	<input type="checkbox"/> Permit Revision	<input type="checkbox"/> Conditional Use (CUP)
<input type="checkbox"/> Design Commission Study Session	<input type="checkbox"/> Shoreline Variance	<input type="checkbox"/> Lot Line Revision
<input type="checkbox"/> Design Review- Design Commission- Exterior Alteration	<input type="checkbox"/> Shoreline Conditional Use Permit	<input type="checkbox"/> Noise Exception
<input type="checkbox"/> Design Review- Design Commission- New Building	<input type="checkbox"/> Substantial Development Permit	<input type="checkbox"/> Reclassification of Property (Rezoning)
WIRELESS COMMUNICATION FACILITIES	SUBDIVISION LONG PLAT	<input type="checkbox"/> Transportation Concurrence (see supplemental application form)
<input type="checkbox"/> Wireless Communications Facilities- 6409 Exemption	<input type="checkbox"/> Long Plat- Preliminary	<input type="checkbox"/> Planning Services (not associated with a permit or review)
<input type="checkbox"/> New Wireless Communication Facility	<input type="checkbox"/> Long Plat- Alteration	<input checked="" type="checkbox"/> Zoning Code Text Amendment
	<input type="checkbox"/> Long Plat- Final Plat	<input type="checkbox"/> Request for letter
	VARIANCES (Plus Hearing Examiner Fee)	<input type="checkbox"/> Temporary Commerce on Public Property
	<input type="checkbox"/> Variance	

I

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

MICC 19.02.020(D)(2)(a) Gross Floor Area

Suggested Code Amendment:

I suggest MICC 19.02.020(D)(2)(a) be amended to reduce ceiling height from 12 feet to 10 feet before it is counted as clerestory space at 150% of GFA.

Analysis:

The Citizens and Council spent approximately three years rewriting the Residential Development Code. A primary motivation in the rewrite was to deal with citizen concern over “massing”, or what citizens considered out-of-scale residential development, which the Planning Commission addressed as Gross Floor Area to Lot Area Ratio (GFAR).

One of the factors that increased GFAR and led to the code rewrite was Administrative Interpretation 13-01 that allowed all clerestory space to be counted as 100% GFA.

Massing is a three-dimensional concept based on the exterior volume of the house. Whether interior space is counted as GFA or not, it is a reality in the exterior volume, or massing, of the house. GFA, meanwhile, is a two-dimensional term subject to exemption.

Ten-foot ceiling height is the industry standard for a maximum non-cathedral ceiling. The Planning Commission never recommended a 12-foot ceiling height in its recommendation to the Council, but recommended 10 feet. 12 feet was the sudden recommendation of former council member Dan Grausz at the Council’s final adoption hearing for the new Residential Development Code.

A ceiling height of 12 feet, before counting as clerestory space, allows each floor of a two-story house to increase its interior and exterior volume by 20%, directly contrary to the goals of the RDS. Furthermore, it creates a much greater need for heating and cooling, and is contrary to the purposes of green building standards.

II

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

MICC 19.02.020(D)(2) Gross Floor Area

MICC 19.16.010(G)(2)(b) Gross Floor Area Exemption for Covered Decks on the First Level

Suggested Code Amendment:

I suggest MICC 19.02.020(D)(2) be amended to include exterior covered decks in the definition of Gross Floor Area, which presently only references exterior walls even though covered decks on levels above the first level are counted towards the GFA limit.

I further suggest that MICC 19.02.020(D)(2) and 19.16.010(G)(2)(b) be amended to include covered porches on the first level in the calculation of Gross Floor Area.

Analysis:

The Citizens and Council spent approximately three years rewriting the Residential Development Code. A primary motivation in the rewrite was to deal with citizen concern over “massing”, or what citizens considered out of scale residential development, which the Planning Commission addressed as Gross Floor Area to Lot Area Ratio (GFAR).

One of the main actions in the new Residential Development Code was to remove discretion from the City Planning Department (Development Services Group at that time, now Community Planning Department), especially when it came to deviations and variances. Unfortunately, that led the prior director to simply amend the entire code when attempting to address a request from a citizen for relief from the Code.

One of these Amendments was to exempt covered decks on the first level from the GFA limits because the applicant wished to have a covered barbecue area. Instead, the code amendment exempts all covered decks on the first level from the GFA limit.

There is very little difference in massing between a deck with a railing and roof from a room. The only difference is a window. Exempting first level decks from GFA limits greatly expands the massing of the house.

To be fair to Evan Maxim, amending this definition to limit its scope was on his agenda before his departure.

A homeowner already has the benefit of an 18-inch eave that is exempt from the GFA limit. At most, any barbecue area that needed to be sheltered from the elements would be 5'x 5', or 25 square feet. I suggest that covered decks on the first level be counted in their entirety towards the GFA limit, or in the alternative a 25-foot exemption be allowed for a barbecue area.

III

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

MICC 19.02.020(c)(2)(a)(iii) Yards for Waterfront Lots

MICC 19.02.040(D)(1) Garages and Carports/Yard Intrusion

Suggested Code Amendment:

I suggest MICC 19.02.040(D)(1) be eliminated. In the alternative, I suggest that MICC 19.02.040(D)(1) not be applicable to a waterfront lot if the waterfront lot has switched its front and rear yards subject to MICC 19.02.020(c)(2)(a)(iii).

Analysis:

MICC 19.02.020(c)(2)(a)(iii) allows a waterfront lot to switch its front and rear yard because the Department of Ecology requires a 25-foot buffer between the structure and the ordinary high water mark.

However, MICC 19.02.040(D)(1) allows garages and carports to be built within 10 feet of the property line of the *front* yard if there is more than 4 vertical feet difference as measured between the bottom wall of the building and ground elevation of the front yard property line where such property is closest to the building.

Ideally, 19.02.040(D)(1) should be eliminated. It is a building or structure above the ground level that extends into the yard setback. However, in the alternative, 19.02.040(D)(1) should not be available to waterfront lots that have flipped their front and rear yards pursuant to 19.02.020(c)(2)(a)(iii) because essentially it reduces the yard between the upper house to 10 feet. The effect of this provision can easily be seen as one takes a boat around Lake Washington. The waterfront house and the house directly behind look as though they are one contiguous property.

IV

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

MICC 19.02.020(D)(3)(b) Gross Floor Area Incentives for ADU's

Suggested Code Amendment:

I suggest limiting the Gross Floor Area Incentives for ADU's in MICC 19.02.020(D)(3)(b) to lots 8,400 square feet or smaller.

Analysis:

One of the primary purposes of the rewrite of the Residential Development Code was to address the massing and out of scale development in the smaller lot neighborhoods, with lots 8,400 square feet and less. MICC 19.02.020(D)(3)(b) allows a lot 10,000 square feet or less to have up to 5% additional Gross Floor Area for an ADU. (19.02.020(D)(3)(a) already allows a lot 7,500 sf lot or below an additional 5% GFA or 3,000 sf for either an ADU or the main house.)

A 10,000-square foot lot that can have a 4,000-square foot house does not need an additional 5% Gross Floor Area for an ADU. The primary tool used by the Planning Commission to reduce massing and out-of-scale residential development was to reduce GFAR from 45% to 40%, except this provision is directly contrary to that goal.

MICC 19.02.020(D)(3)(b) should be amended to limit the 5% additional GFA to lots 8,400 square feet and less.

V

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

MICC 19.15.030 (Table A) Land Use Review Type Classification

Suggested Code Amendment:

I suggest amending MICC 19.15.030 (Table A) to change the land use type of the following permit actions:

- Seasonal Development Limitation Waiver from Type I to Type II
- Tree Removal Permit from Type I to Type II
- Final Short Plat from Type I to Type II (or in the alternative, Notice to Parties of Record)
- Lot Line Revision from Type II to Type III
- Setback Deviations from Type II to Type III

Analysis:

One of the major goals of the Residential Code rewrite was to provide greater notice and citizen participation in the permitting process. Two significant actions were requiring public notice of development permits, and 30 days notice for all permits, rather than the minimum 14 days.

However, shortly after the new code was adopted, the director of the Development Services Group at that time drafted an entirely new permit *typing* system that created four different types. This system created a new land use term that has no legal meaning called “public notification” that simply requires posting the application on the City’s online permit bulletin, which very few citizens read or follow.

The new permit typing system created four categories: I, II, III, and IV. Unfortunately, Type I permits require notice, public notice, or public notification at all, and Type II permits only receive public notification of the application on the City’s Online Permit Bulletin.

- A waiver from the Seasonal Development Limitation on Development has recently been an issue of inquiry. This is a significant waiver, and there should at least be public notification, which costs the City nothing.

- Tree removal permits should at least receive public notification. The citizens and neighbors are the eyes and ears of the Planning Department. The Island Arborist and Code Enforcement Officer are underfunded, or rarely have time to review tree removal, and just as importantly required tree replacement. Moving tree removal permits from Type I to Type II would give the citizens a way to at least have a resource to determine whether the removal of a tree in their neighborhood has been permitted. There would be no cost to the city.
- Final short plats often have some modification from the preliminary approval. As a result, they should have public notification as a Type II permit, or in the alternative written notice to parties of record. There would be no cost to the city.
- A Lot Line Revision is a significant action and should receive public notice as a Type III permit.
- Setback deviations are very significant impacts to the neighbors and should receive Type III public notice as opposed to Type II notification.

VI

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

MICC 19.02.020(G)(2)(a) and (b) Parking Requirements

Suggested Code Amendment:

I suggest that MICC 19.02.020(G)(2)(a) and (b) be amended to reduce house GFA from 3,000 sf to 2,000 sf in order to reduce covered parking spaces to one covered and one uncovered space.

Analysis:

During the Residential Development Code rewrite, parking requirements for residential houses were reduced based upon the square footage of the house pursuant to MICC 19.02.020(G)(2)(a) and (b). This was a very contentious amendment. Ironically, many builders are hesitant to not build a 3-car garage on Mercer Island since many of their first-time home buyers come from off-island to the east, where a 3-car garage is common.

A 3,000 sf home is quite large. For example, I have raised two children in a 2,700 sf house with a 3-car garage on Mercer Island. A 3,000 sf house can accommodate a two-covered garage space.

Ancillary issues from reducing parking requirements for houses 3,000 feet and below that were not well-discussed during the Residential Code rewrite include:

1. Mercer Island effectively has no intra-island transit. The 201 that circled the Mercers was eliminated because of low ridership, in part because it is very difficult for citizens to even get up their steep drives to one of the Mercers, and the 201 was very slow.
2. One covered garage space is usually required for the three different bins – garbage, recycle, and yard waste – plus storage of bikes, skis, tools, and other personal equipment. For the first 16 years I lived in a small house on First Hill with a one-car garage, which effectively was a zero-car garage since there was too much stuff in the garage to park a car in it. This effectively moves either cars, or items such as garbage bins, out into the yard and street.

3. Since Mercer Island residential neighborhoods have few sidewalks, cars parked along the street push kids walking to the school bus out into the middle of the road. This is especially problematic when it is dark.
4. Overflow street parking in the residential neighborhoods makes dedicated bike paths almost impossible, including on the Mercers. Not unlike the Town Center that only requires one parking stall per unit, reducing parking requirements simply subsidizes builders by shifting parking from onsite to the street.

The original intent was to ameliorate the reduction in GFAR limits in the new code. A resident would convert one parking space to living area. However, a 3,000 sf house simply does not need this incentive, and the GFA necessary to qualify for reduced parking should be reduced from 3,000 sf to 2,000 sf.

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | www.mercerisland.gov



CITY USE ONLY

PROJECT#

RECEIPT #

FEE

Date Received:

Received By:

DEVELOPMENT APPLICATION

STREET ADDRESS/LOCATION		ZONE	
3210 74 AV SE		R8.4	
COUNTY ASSESSOR PARCEL #'S		PARCEL SIZE (SQ. FT.)	
Parcel 1300300705		10,800	
PROPERTY OWNER (required)	ADDRESS (required)	CELL/OFFICE (required)	
Carolyn and Mark Boatsman	3210 74 AVE SE	206-595-8579 E-MAIL (required) c.boatsman@comcast.net	
PROJECT CONTACT NAME	ADDRESS	CELL/OFFICE	
Request for code amendment	City wide	E-MAIL	
TENANT NAME	ADDRESS	CELL PHONE	
		E-MAIL	

DECLARATION: I HEREBY STATE THAT I AM THE OWNER OF THE SUBJECT PROPERTY OR I HAVE BEEN AUTHORIZED BY THE OWNER(S) OF THE SUBJECT PROPERTY TO REPRESENT THIS APPLICATION, AND THAT THE INFORMATION FURNISHED BY ME IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SIGNATURE

November 2, 2020

DATE

PROPOSED APPLICATION(S) AND CLEAR DESCRIPTION OF PROPOSAL (PLEASE USE ADDITIONAL PAPER IF NEEDED):

Two requests to amend City nuisance code:

- 1) Limit commercial landscaping operations using power tools to the same hours as construction noise from work under City permit.
- 2) Require that residential use of spot lighting be directed toward the owner's property.

ATTACH RESPONSE TO DECISION CRITERIA IF APPLICABLE

CHECK TYPE OF LAND USE APPROVAL REQUESTED:

APPEALS

- ☐ Building
- ☐ Code Interpretation
- ☐ Land use
- ☐ Right-of-Way Use

CRITICAL AREAS

- ☐ Critical Area Review 1 (Hourly Rate 2hr Min)
- ☐ Critical Area Review 2 (Determination)
- ☐ Reasonable Use Exception

DESIGN REVIEW

- ☐ Pre Design Meeting
- ☐ Design Review (Code Official)
- ☐ Design Commission Study Session
- ☐ Design Review- Design Commission- Exterior Alteration
- ☐ Design Review- Design Commission- New Building

WIRELESS COMMUNICATION FACILITIES

- ☐ Wireless Communications Facilities- 6409 Exemption
- ☐ New Wireless Communication Facility

DEVIATIONS

- ☐ Changes to Antenna requirements
- ☐ Changes to Open Space
- ☐ Seasonal Development Limitation Waiver

ENVIRONMENTAL REVIEW (SEPA)

- ☐ SEPA Review (checklist)- Minor
- ☐ SEPA review (checklist)- Major
- ☐ Environmental Impact Statement

SHORELINE MANAGEMENT

- ☐ Exemption
- ☐ Permit Revision
- ☐ Shoreline Variance
- ☐ Shoreline Conditional Use Permit
- ☐ Substantial Development Permit

SUBDIVISION LONG PLAT

- ☐ Long Plat- Preliminary
- ☐ Long Plat- Alteration
- ☐ Long Plat- Final Plat

VARIANCES (Plus Hearing Examiner Fee)

- ☐ Variance

SUBDIVISION SHORT PLAT

- ☐ Short Plat- Two Lots
- ☐ Short Plat- Three Lots
- ☐ Short Plat- Four Lots
- ☐ Short Plat- Deviation of Acreage Limitation
- ☐ Short Plat- Amendment
- ☐ Short Plat- Final Plat

OTHER LAND USE

- ☐ Accessory Dwelling Unit
- ☐ Code Interpretation Request
- ☐ Comprehensive Plan Amendment (CPA)
- ☐ Conditional Use (CUP)
- ☐ Lot Line Revision
- ☐ Noise Exception
- ☐ Reclassification of Property (Rezoning)
- ☐ Transportation Concurrence (see supplemental application form)
- ☐ Planning Services (not associated with a permit or review)
- ☒ Zoning Code Text Amendment
- ☐ Request for letter
- ☐ Temporary Commerce on Public Property

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Carolyn and Mark Boatsman	3210 74 AVE SE	206-595-8579	
		E-MAIL (required)	
		c.boatsmn@comcast.et	
PROJECT CONTACT NAME	ADDRESS	CELL/OFFICE	
Comp plan update docket request	City wide		
		E-MAIL	
TENANT NAME	ADDRESS	CELL PHONE	
		E-MAIL	

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Carolyn M Boatsman
SIGNATURE

November 2, 2020

DATE

PROPOSED APPLICATION(S) AND CLEAR DESCRIPTION OF PROPOSAL (PLEASE USE ADDITIONAL PAPER IF NEEDED):

I am requesting a Comprehensive Land Use Plan Update as follows:

Adopt a goal and policies for use of City rights of way establishing a priority of use, based upon the public good. Uses that should, at the least,

be allowed and included in the priority are roads and appurtenances, utility installation, residential parking, and environmental benefit.

ATTACH RESPONSE TO DECISION CRITERIA IF APPLICABLE

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