



# PLANNING COMMISSION VIDEO MEETING AGENDA

**Wednesday, March 17, 2021**

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

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## PLANNING COMMISSIONERS:

**Chair:** Daniel Hubbell

**Vice Chair:** Jenniffer Mechem

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

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

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

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

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

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

**Join by Telephone at 6:00 pm:** To listen to the hearing via telephone, please call 253.215.8782 and enter Webinar ID **873 8043 1890** and Passcode **527033** 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 **873 8043 1890**; Enter Passcode **527033**

## CALL TO ORDER

### MINUTES

1. February 17, 2021 Minutes

### APPEARANCES

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

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

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

**REGULAR BUSINESS**

2. ZTR21-002 Goldbach II Code Amendment (CUP Applicability)

Final deliberation and recommendation.

3. ZTR19-004 Wireless Code Update (Work Session)

**OTHER BUSINESS**

4. Deputy Director's Report

Planning schedule

April, May & June Meetings

5. Planned Absences for Future Meetings

6. Next Scheduled Meeting - April 21, 2021

**ADJOURN**



# CITY OF MERCER ISLAND PLANNING COMMISSION SPECIAL VIDEO MEETING MINUTES

Wednesday, February 17, 2021

Item 1.

## CALL TO ORDER

The Planning Commission was called to order by Chair Hubbell at 6:01pm from a remote location.

## PRESENT

Chair Daniel Hubbell  
Vice Chair Jennifer Mechem  
Commissioner Carolyn Boatsman  
Commissioner Tiffin Goodman  
Commissioner Michael Murphy  
Commissioner Ted Weinberg  
All Commissioners participated in the meeting remotely.

## ABSENT

All commissioners were present.

## STAFF PRESENT

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

## MINUTES

Moved by Boatsman, Seconded by Weinberg to:

**Approve the January 20, 2021 minutes.**

Passed 6-0

## APPEARANCES

There were no public appearances

## PUBLIC HEARING

### **Agenda Item #2: CPA21-001 Land Use Map – Comprehensive Plan Amendment – Public Hearing**

Chair Hubbell opened the Public Hearing at 6:09pm.

Carl Mount, Mercer Island. He provided comment to the Commission regarding the proposed amendment.

Chair Hubbell closed the Public Hearing at 6:12pm

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

Chair Hubbell opened the Public Hearing at 6:13pm.

There were no public comments.

Chair Hubbell closed the Public Hearing at 6:13pm.

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

Chair Hubbell opened the Public Hearing at 6:14pm.

There were no public comments.

Chair Hubbell closed the Public Hearing at 6:14pm.

**REGULAR BUSINESS****Agenda Item #5: Code of Ethics Discussion**

Deborah Estrada, City Clerk, gave a brief presentation and lead a discussion with the Commission on the Code of Ethics.

The Commission asked questions and discussed the code of Ethics.

**Agenda Item #6: CPA 21-001 Land Use Plan Map – Comprehensive Plan Amendment**

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

The Commission discussed the amendment and asked if the color could be changed.

Moved by Mechem, seconded by Goodman to:

**Approve CPA21-001 correcting the Land Use Map within the Comprehensive Plan.**

Passed 6-0

**Agenda Item #7: ZTR21-001 Goldbach I Code Amendment (Comprehensive Plan Implementation)**

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

The Commission discussed the amendment.

Moved by Boatsman, seconded by Weinberg to:

**Approve ZRT21-001 code amendment regarding Comprehensive Plan Implementation as presented.**

Passed 6-0

**Agenda Item #8: ZTR21-002 Goldbach II Code Amendment (CUP Applicability)**

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

The Commission discussed the amendment.

Moved by Weinberg, seconded by Boatsman to:

**Approve ZRT21-002 code amendment regarding CUP Applicability as presented.**

The commission discussed the amendment.

Moved by Weinberg, seconded by Murphy to:

Table the motion to the next regular Planning Commission meeting on March 17, 2021.

Passed 6-0 Motion is tabled to the March 17, 2021 meeting.

**Agenda Item #9: Update Wireless Code**

Alison Van Gorp, CPD Deputy Director, spoke to the Commission on the status of the wireless code update. The Commission will pick up the discussion on the wireless code amendment at their March 17, 2021 regular meeting.

**OTHER BUSINESS**

**Deputy Director's Report**

There was no Deputy Director's Report.

**Planned Absences**

There were no planned absences.

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

**ADJOURN**

The meeting adjourned at 7:46pm

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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

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## PLANNING COMMISSION

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

### SUMMARY

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

### BACKGROUND

On January 20 and February 17, 2021, the Planning Commission reviewed the proposed code amendment. At the February meeting a public hearing was held and then the Commission requested further revisions to the amendment to provide additional clarity around how conditional uses could be permitted on adjacent/added property. Commissioner Murphy provided a suggested revision to the amendment via email after the conclusion of the meeting. The proposal for consideration at the March 17 meeting is based on Commissioner Murphy's suggestions, with additional input from the City Attorney. Please review this draft closely and be prepared to make any final edits during the March 17 meeting. It is anticipated that the Commission will finalize their recommendation on this amendment during this meeting.

### NEXT STEPS

Continue deliberations on the proposal, providing any final input on the wording of the amendment, and finalizing the Commission's recommendation to the City Council. The recommendation will be transmitted to City Council for review in April.

### ATTACHMENTS

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

## Attachment 1

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

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

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

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

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

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

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

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

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

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

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



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

5. *Change After Conditional Use Permit Granted.*

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

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

c. *Applicability.* A conditional use permit shall be applicable only to the property for which it was granted, as defined by the legal description of the property boundaries submitted with the conditional use permit application (“Permitted Property”). The use(s) permitted under a conditional use permit shall not extend beyond the Permitted Property to adjoining property or property added to the Permitted Property unless the conditionally approved use(s) are already allowed on the adjoining or added property or a new conditional use permit is granted for the adjoining or added property.

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## PLANNING COMMISSION

**To:** Planning Commission  
**From:** Alison Van Gorp, CPD Deputy Director  
**Date:** March 17, 2021  
**RE:** ZTR19-004 Wireless Code Update

### SUMMARY

The proposed code amendment amends MICC 19.06, updating the code sections related to wireless communications and small cell regulations and adopting permanent regulations that are consistent with recent updates to federal regulations.

### BACKGROUND

City staff recommended through the annual docketing process and the City Council place on the final docket a proposed code amendment to MICC 19.06, to update the code sections related to wireless communications and small cell regulations. The City has had temporary regulations in place since early 2019, and this update is intended to adopt permanent regulations that are consistent with recent changes to federal regulations and that are responsive to modern cellular technology and facilities.

The Planning Commission initially began consideration of this code amendment in late 2019 and early 2020, however this work was suspended last year due to the pandemic. The City is now ready to resume consideration of this code amendment. City staff have reviewed notes and documents related to the Commission's previous work, and at this time the staff propose revisions to the following code sections:

- Edits to MICC 19.06.040 to comply with the latest regulatory developments
- Moving the Eligible Facilities Requests (6409 Request) Provisions from MICC 19.06.075 to MICC 19.06.040(I).
- Adding a provision to MICC 19.06.040 to address amateur radio facilities (ham radio antennas)
- Edits to MICC 19.06.070 to clarify intent to require as much undergrounding as technically possible
- Edits to MICC 19.06.070 to address federal permit processing timelines
- Edits to MICC 19.06.075 to address noise issues
- Edits to MICC 19.06.075 to comply with the latest regulatory developments
- Edits to MICC 19.06.075 to make the design and concealment standards more objective and easier for Staff to administer
- Cleanup of associated definitions in MICC 19.16.010

At the March 17 meeting, staff will review each of these items in further detail and either provide recommended code language, or options for consideration and direction from the Commission. Wireless and small cell facilities are heavily regulated by the Federal Communications Commission (FCC), preempting local control in many areas. The City is extremely limited in how it can regulate these facilities and this will be reflected in the recommendations presented during the meeting. In areas where there is limited local authority, Eileen Kieffer has worked to develop recommended code language that aligns with federal regulations. In areas where there is more room for local control, we will present options for Commission's consideration and feedback.

Staff would like to review and get feedback from the Commission on all of these items during the March 17 meeting. This will be the main opportunity for the Commission to give feedback and direction on the code amendment. Staff will prepare the draft code based on this feedback and make it available for review in advance of the public hearing scheduled on April 20, 2021.

#### **NEXT STEPS**

At the March 17 meeting, City staff and contract attorney Eileen Keiffer will provide an overview of the proposed code amendments, suggesting revisions and new code language and outlining options for the Commission's feedback. The Commission will have the opportunity to discuss the proposal and provide direction to staff on the drafting of the code amendment. A Public Hearing is scheduled during the Planning Commission's April 20 meeting. After hearing public comments on the proposal, the Commission will make a recommendation to the City Council.

#### **ATTACHMENTS**

None