



PARKS & RECREATION COMMISSION REGULAR HYBRID MEETING AGENDA

Thursday, February 6, 2025 at 5:00 PM

COMMISSIONERS

Chair Peter Struck
Vice Chair Paul Burstein
Commissioners: Jodi McCarthy, Don Cohen
Sara Marxen, Rory Westberg, and Ashley Hay

LOCATION

MICEC – Slater Room Council Chambers
and via Zoom
8236 SE 24th Street | Mercer Island, WA 98040
Phone: 206.275.7609 | www.mercerisland.gov

We strive to create an inclusive and accessible experience. Those requiring accommodation for meetings should notify the Staff Liaison's Office 3 days prior to the meeting at 206.275.7870 or by emailing ryan.daly@mercerisland.gov.

The virtual meeting will be broadcast live on Zoom and recorded and saved on the City Council's [YouTube Channel](#)

Registering to Speak: Individuals wishing to speak live during Appearances will need to register their request with staff at **206.275.7861** and leave a message or [email](#) before 4 PM on the day of the Commission meeting. Each speaker will be allowed three (3) minutes to speak.

Join by Telephone at 5:00 PM: Call **253.215.8782** and enter Webinar ID **825 9108 6996** and Password **896196**.

Join by Internet at 5:00 PM:

- 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 Webinar ID, enter **825 9108 6996** and Password **896196**.

Join in person at 5:00 PM: Mercer Island Community & Event Center - 8236 SE 24th Street, Mercer Island

CALL TO ORDER & ROLL CALL – 5:00 PM

APPEARANCES

This is the opportunity for anyone to speak to the Commission about issues of concern.

STAFF LIAISON REPORT

1. Staff Liaison Report and Planning Schedule

REGULAR BUSINESS

2. Approve the minutes of the January 9, 2025 Special Hybrid Meeting

Recommended Action: Approve minutes.

3. PRC25-02: Parks Zone Development Discussion

Recommended Action: Review and provide feedback on the draft Parks Zone development regulations

OTHER BUSINESS

4. Absences and Commissioner Reports

ADJOURNMENT



**Department Report
[Placeholder]
Coming soon**



PARKS & RECREATION COMMISSION

2025 PLANNING SCHEDULE

Items are not listed in any particular order.
Agenda items & meeting dates are subject to change.

REMINDER: NO MEETINGS IN AUGUST

FEB 6, 5:00 PM Absences:		STAFF WORK	AGENDA GO LIVE 1/31
TIME/TOPIC		STAFF	
	PRC 25-02: Park Zone (cont.)	Jessi Bon	

MARCH 6, 5:00 PM Absences:		STAFF WORK	AGENDA GO LIVE 2/27
TIME/TOPIC		STAFF	
	PRC 25-XX: Park Zone (cont.)	Jessi Bon	

APR 3, 5:00 PM Absences:		STAFF WORK	AGENDA GO LIVE 3/27
TIME/TOPIC		STAFF	

MAY 1, 5:00 PM Absences:		STAFF WORK	AGENDA GO LIVE 4/24
TIME/TOPIC		STAFF	
	PRC 25-XX: KCLS- Mercer Island Branch Update		
	PRC 25-XX: 2024 Recreation Division Annual Report	Ryan Daly	
	PRC 25-XX: MICEC Fee Waiver Policy	Alex Lee	

JUNE 5, 5:00 PM Absences:		STAFF WORK	AGENDA GO LIVE 5/29
TIME/TOPIC		STAFF	
	PRC 25-XX: PRC Chair/Vice-Chair Elections	Ryan Daly	
	PRC 25-XX: Annual Bylaws Review	Ryan Daly	
	PRC 25-XX: MICEC Fee Waiver Policy	Alex Lee	

JULY 3, 5:00 PM Absences:		STAFF WORK	AGENDA GO LIVE 6/26
TIME/TOPIC		STAFF	
	PRC 25-XX:		

AUGUST CANCELED

SEPTEMBER 4, 5:00 PM Absences:		STAFF WORK	AGENDA GO LIVE 8/28
TIME/TOPIC		STAFF	
	PRC 25-XX: Athletic Field Use and Allocation Policy	Alex/Jeremy	

OCTOBER 2, 5:00 PM Absences:		STAFF WORK	AGENDA GO LIVE 9/25
TIME/TOPIC		STAFF	
	PRC 25-XX: Athletic Court Allocation/Usage Policy	Alex/Jeremy	

NOVEMBER 6, 5:00 PM Absences:		STAFF WORK	AGENDA GO LIVE 10/30
TIME/TOPIC		STAFF	
	PRC 25-XX: Intro to the Parks Code Update	TBD	
	PRC 25-XX: Athletic Court Allocation/Usage Policy	Alex/Jeremy	

DECEMBER 4, 5:00 PM Absences:		STAFF WORK	AGENDA GO LIVE 11/27
TIME/TOPIC		STAFF	
	PRC 25-XX:		

Pending:

Project Proposal for Year-round programming at Luther Burbank (2026)

ANNUAL AGENDA ITEMS

KCLS - Mercer Island Branch Operations Update (May)

Annual PRC Chair/Vice-Chair Elections (June)

Annual Bylaws Review (June)

Recreation Division Annual Report



PARKS & RECREATION COMMISSION SPECIAL HYBRID MEETING MINUTES January 9, 2025

CALL TO ORDER

The Parks & Recreation Commission was called to order by Chair Struck at 5:00 pm.

ROLL CALL

Chair Peter Struck and Commissioners Rory Westberg, Don Cohen, Ashley Hay, and Sara Marxen were present for the Parks & Recreation Commission. City Council Liaison Craig Reynolds was present.

Vice Chair Paul Burstein and Commissioner Jodi McCarthy were absent.

City Manager Jessi Bon, Management Analyst II Carson Hornsby, Recreation Manager Ryan Daly, Parks Operations Manager Sam Harb, Chief of Operations Jason Kintner, Deputy Public Works Director Alaine Sommargren, Deputy Public Works Director Kelly Hilde, Community Planning & Development Deputy Director Alison Van Gorp, Recreation Supervisor Katie Herzog, and Recreation Specialist Raven Gillis were present.

Kelly Pratt, outside counsel with Madrona Law, was present.

APPEARANCES

Don Thompson, Mercer Island, addressed the Parks & Recreation Commission regarding the Parks Zone

STAFF LIAISON REPORT

1. Staff Liaison Report & Planning Schedule Update

Recreation Manager Ryan Daly reported on the following:

- Project Updates
 - Clarke & Groveland Beach Joint Planning Process
 - Playground Replacements
 - Public Art Reinstallation at First Hill Park
- Good News
 - Athletic Field Bookings Pilot Program
 - MICEC Annual Maintenance
 - Festive Fun and Memories Made! 2024 December Special Events Wrap-up!
- Parks and Recreation Commission Planning Schedule

SPECIAL BUSINESS

1. Approval of Minutes

Minutes from the November 7, 2024 Regular Meeting were presented.

It was moved by Westberg; seconded by Hay to:

Approve the minutes from the November 7, 2024 Meeting

Passed: 5 – 0

3. PRC 24-13: Parks Zone Development Discussion

City Manager Jessi Bon presented and led the Commissioners in discussion. Commissioners engaged in discussion, asked questions, and provided feedback on the draft Parks Zone development regulations.

Recess from 6:57pm to 7:08pm

OTHER BUSINESS

4. Absences and Commissioner Reports

No future absences reported

Commissioner Westberg shared his observation of the popularity of the new Pickleball courts at Luther Burbank Park, highlighting how much they are used, even in damp and cloudy weather.

Chair Struck thanked the Recreation team for opening the MICEC during last November's Bomb Cyclone event, noting it provided a wonderful opportunity for socializing and engaging in great conversations while waiting for phones to charge

Chair Struck asked for a motion to excuse Vice Chair Burstein's and Commissioner McCarthy's absences from tonight's meeting.

It was moved by Westberg; seconded by Marxen to:

Excuse Vice Chair Burstein's and Commissioner McCarthy's absences from tonight's meeting

Passed: 5 – 0

ADJOURNMENT at 7:30 PM



PARKS & RECREATION COMMISSION CITY OF MERCER ISLAND

PRC 25-02
February 6, 2025
Regular Business

AGENDA BILL INFORMATION

TITLE:	PRC 25-02: Parks Zone Development Discussion	<input checked="" type="checkbox"/> Discussion Only <input type="checkbox"/> Action Needed: <input type="checkbox"/> Motion <input type="checkbox"/> Recommendation
RECOMMENDED ACTION:	Review and provide feedback on the draft Parks Zone development regulations.	

STAFF:	Jessi Bon, City Manager Carson Hornsby, Management Analyst II Alison Van Gorp, Deputy CPD Director Kellye Hilde, Deputy Public Works Director Ryan Daly, Recreation Manager Sam Harb, Parks Operations Manager Alaine Sommargren, Deputy Public Works Director	
EXHIBITS:	1. Draft Parks Zone Development Regulations 2. Aubrey Davis Park Background Information	

EXECUTIVE SUMMARY

The Parks Zone is a proposed new zoning district that will establish development regulations for most City-owned and/or managed parks. The purpose of the new zone is to ensure park lands are preserved and managed appropriately, in alignment with the Parks, Recreation, and Open Space (PROS) Plan, City code, master plans, and similar guiding documents.

- During the February 6, 2025, Parks and Recreation Commission (PRC) meeting, the PRC will review and provide feedback on the draft Parks Zone development regulations (see Exhibit 1), which were prepared by staff based on PRC input from the past three meetings.
- Summaries of the discussion and direction received during the January 9, 2025 PRC meeting are provided in the background section below.
- Staff and the PRC will continue to collaborate on the draft text for the new Parks Zone and finalize the PRC recommendation by April 2025.
- It is anticipated that the PRC will hand-off a recommendation to the Planning Commission (PC) in Q2 2025 and the City Council will undertake review and adoption of the new Parks Zone by the end of the year.

BACKGROUND

Parks Zone/Open Space Zone Background

The scope of work for the 2024 Comprehensive Plan Periodic Update, adopted by the City Council in 2022 with [Resolution No. 1621](#), included the creation of a new Parks Zone and development regulations for the new zone. In January 2024, a preliminary draft of the Parks Zone development regulations was presented to the PRC and PC. Following community and commission feedback, the legislative review was paused, and the draft was returned to the PRC for further review. In March 2024, the PRC recommended dividing the Parks Zone planning into two phases: creating a zone for City-owned open space lands and another for public park properties.

The PRC and Open Space Conservancy Trust (OSCT) Board held several joint meetings to develop legislation for the Open Space Zone. On May 8, 2024, PRC and OSCT Chairs presented a joint recommendation to the PC, which completed its review in June 2024 as part of the Comprehensive Plan Update. On September 25, 2024, the PC approved a recommendation for the Open Space Zone code amendment. The City Council adopted the [Open Space Zone](#) on November 4, 2024, with an effective date of December 31, 2024.

Now that the PRC's first phase of work is complete on the Open Space Zone, the PRC has shifted focus to the development of the new Parks Zone with the goal of providing a recommendation to the PC in Q2 2025.

Establishment of the Parks Zone will require the following amendments to the MICC and Comprehensive Plan:

- Development Regulations – create a new subsection or subsection(s) under MICC 19.05, amend [MICC 19.01.040](#) to establish the Parks Zone, and amend [MICC 19.16.010](#) to adopt new definitions as needed.
- Zoning Map – amend the Zoning Map in the MICC to reflect where the Parks Zone applies.
- Land Use Designations – amend the Land Use Designation table in the Land Use Element of the Comprehensive Plan (if needed).

Legislative Review Process

Once the PRC makes its recommendation to the PC, the PC will commence the formal legislative review process to gather public input and provide a recommendation to the City Council, as established in [Chapter 19.15 MICC](#).

The legislative review process includes the following steps:

- The Planning Commission holds a public hearing ([MICC 19.15.020](#)).
- The Planning Commission makes a written recommendation to the City Council following the public hearing ([MICC 19.15.260\(B\)\(2\)](#)).
- The City Council considers the Planning Commission recommendation during a public meeting, deciding to adopt, reject, or amend the recommendation ([MICC 19.15.260\(B\)\(3\)](#)).
- If the Comprehensive Plan requires an amendment for the Parks Zone, the City Council will consider the Parks Zone amendments with the City's annual comprehensive plan amendments, which are limited to once a year by the Growth Management Act ([RCW 36.70A.130\(2\)](#)).

Parks, Recreation, and Open Space (PROS) Plan

The PROS Plan is a six-year plan that anticipates the programming and capital infrastructure investments necessary to meet the community's needs for parks, recreation, open space, trails, arts, and cultural events. The City Council adopted the [Parks, Recreation and Open Space \(PROS\) Plan](#) on March 1, 2022. The PRC served as the lead advisory board on the PROS Plan update with support provided by the Arts Council and OSCT. The 2022 PROS Plan community engagement process included two statistically significant mail-in surveys with concurrent surveys available online, virtual open houses, a dedicated project webpage, and numerous board and commission meetings.

Chapter 4 of the PROS Plan establishes goals and objectives that serve as the policy framework for the provision of parks and recreation services by the City of Mercer Island. Development of master plans, policies, code, and other work products should align with this policy framework, which includes development of the Parks Zone.

Development Code, Parks Code, and Park Operating Policies

As the PRC provides input on the draft Parks Zone development regulations, staff recommend commissioners consider the various tools used by the City to regulate development, operations, and allowed uses and activities in parks. The City's development code, parks code, and park operating policies and procedures each

have a distinct purpose and consist of specific types of rules and regulations regarding parks. Rules and regulations applicable in areas other than the proposed new zone and its associated development regulations are outside the scope of the Parks Zone project. However, the PRC may wish to provide recommendations to the City Council to address other items in future work plans. The purpose and type of regulations included in the development code, parks code, and park operating policies and procedures are summarized below.

Development Code

The Mercer Island Development Code is established in [MICC Title 19 - Unified Land Development Code](#). Title 19 classifies land within the City into zones and regulates land uses and development permitted within each zone. Title 19 zones and regulations work together with the rest of the MICC, Parks Code, and park operating policies. For example, if the Parks Zone includes cycling as a permitted use, the City may develop traffic rules or regulations separately for speed limits or designated cycling areas. Similarly, picnic shelters may be included as a permitted use in the Parks Zone, but Title 19 would not include policies or rules regarding shelter use, rentals, or maintenance.

Parks Code

The Mercer Island Parks Code (aka “Parks Rules”) is established in [MICC Chapter 9.30 - Park Rules](#). The Parks Code is part of the Criminal Code, which is a collection of laws that define crimes and their punishments within the City's jurisdiction. The Parks Code consists of laws that apply to the City's public parks and are enforced by the Mercer Island Police Department. The Parks Code is where unlawful acts are codified, such as building fires in undesignated areas ([MICC 9.30.170](#)), posting unauthorized signs and posters ([MICC 9.30.040](#)), and riding horses in undesignated areas ([MICC 9.30.060](#)). The Parks Code is on the City's work plan to be updated in 2025-2026. Staff will assist the PRC in identifying and logging items for follow-up that are best suited for consideration as part of the Parks Code update.

Park Operating Policies and Procedures

Operating policies and procedures are established to guide citywide operations, including the City's parks and recreation facilities and programs. Operating policies and procedures include operational processes, activities, tasks, decision-making structures, levels of delegation, and responsibilities of staff. Some operating policies and procedures are intended for internal use, such as roles and responsibilities of parks and recreation staff or equipment repair and maintenance schedules. Some operating policies and procedures are public facing, such as facility rental or recreation program policies. Examples of operating policies and procedures can be found on the [Parks Information & Policies webpage](#).

Parks Zone Materials from Prior PRC Meetings

- [Tuesday, October 8, 2024](#)
- [Thursday, November 7, 2024](#)
- [Thursday, January 9, 2025](#)

Re-Cap of Direction Received at the January 9, 2025 PRC Meeting

Summaries of the discussion and direction received at the January 9, 2025 PRC meeting is provided in the sections below. The background information on each topic is included in the materials from the January 9 PRC meeting (see [PRC 25-01](#)).

Public Art

The PRC reached consensus on including art as an allowable use in the Parks Zone and concurred with the recommendation from the Arts Council not to include specific development regulations.

Staff and the PRC discussed the current review process for public art as stewarded by the Arts Council, which is separate from the City's development code. The purpose, function, and jurisdiction of the Arts Council is established in [MICC 3.55.020](#), which specifies their responsibility to "establish guidelines for the commissioning, selection and placement of permanent or temporary works of art in the city." The PRC expressed interest in identifying opportunities for collaboration with the Arts Council regarding art installations in parks and this recommendation will be included in the hand-off memo.

Park Critical Areas

The PRC had inquired about the possibility of split-zoning park properties so that critical areas in parks are included in the Open Space Zone (instead of the Parks Zone). The background information on park critical areas is included in the materials from the January 9 PRC meeting (see [PRC 25-01](#)).

The PRC discussed the matter and recommended that Island Crest Park be considered for subdivision, given that the critical areas lie on the edge of the park. The subdivision process would allow the park to be separated into two parcels and once complete, the active recreation areas would remain in the new Parks Zone and the critical and forested areas would be re-zoned to Open Space. The decision to subdivide and re-zone properties rests with the City Council and the recommendation to pursue this approach will be included in the PRC Hand-off memo. In the meantime, and as part of this initial phase of work, Island Crest Park will be included in the new Parks Zone.

Landings and Street Ends

The PRC discussed the landings and street ends and reached consensus that these properties should remain as ROW given their primary and essential use for utilities.

ISSUE/DISCUSSION

Draft Parks Zone Development Regulations

Staff have prepared an updated draft of the Parks Zone development regulations (see Exhibit 1). The draft development regulations were prepared based on feedback from the PRC over the past three meetings. The draft will continue to be refined as review and discussion continues.

Discussion items are listed below and further described in the following sections.

1. Information on Wireless Communications Facilities.
2. Other Discussion Items.
3. Analysis and background information on Aubrey Davis Park and its zoning designation as "Public Institution." (see Exhibit 2)
4. Mercer Island Community and Event Center

1. Wireless Communications Facilities

Recommendation: The topic of regulating wireless communications facilities in parks was raised at previous PRC meetings. Staff recommend inclusion of development standards for wireless communications facilities in the Parks Zone similar to the development standards included in the Open Space Zone. The staff also recommend including in the transmittal memo to the Planning Commission and the City Council a statement advocating for limited siting of these facilities in parks, to the extent that City authority allows.

Background: Wireless communications facilities consist of infrastructure that transmits and receives data for wireless services, such as radio and satellite antennas and cell towers. Wireless communications facilities are regulated Citywide in [MICC 19.06.040](#) (macro wireless communications facilities), [MICC 19.06.070](#) (small

wireless facilities deployment), and [MICC 19.06.075](#) (small wireless facility deployments design and concealment standards).

Local regulation of wireless communications facilities is severely constrained by an intricate set of limitations contained both within federal and state law and by regulations and orders promulgated by the Federal Communications Commission (FCC). Any changes to how the City regulates wireless communications facilities should be addressed as a separate and holistic City-wide project due to the many complexities involved with these types of communications. Any change to the City's existing regulatory scheme with respect to wireless communications facility siting will require lengthy legal review and analysis, to ensure that any such regulations do not conflict with federal law/regulations and do not create any unintended consequences, such as creation of legal nonconforming uses for existing facilities.

Follow-up from January 9:

The PRC requested additional clarification on the proposed language for wireless communications facilities in the Parks Zone (Exhibit 1) compared to the adopted language in the Open Space Zone.

The Open Space Zone was adopted by the City Council last year (see [Ordinance No. 24C-15](#)) and included references to [MICC 19.06.040](#), [MICC 19.06.070](#), and noted wireless communications facilities are "...subject to design and concealment standards as otherwise provided in the MICC."

The proposed language in the Parks Zone also provides a direct reference to [MICC 19.06.075](#), which is the chapter that regulates design and concealment standards. This additional code reference was added at the recommendation of legal counsel given that regulations in this section address minimizing the impact and visibility of wireless communications facilities. Examples include prohibiting illumination of equipment unless necessary for security reasons, requiring colors to match with surrounding structures, and requiring utilization of the smallest equipment feasible. The reference to [MICC 19.06.075](#) was omitted from the Open Space Zone development regulations, but it can be added through a code amendment at a later date.

2. Other Discussion items

The draft Parks Zone development regulations (see Exhibit 1) include draft development standards that address a range of other matters, which are summarized below. Staff are seeking feedback from the PRC on these sections of the zoning code.

- **Setbacks:** The development standard language proposed for setbacks is taken from the Open Space Zone, however, there are a few additional structures in parks that are proposed to be exempt from setbacks in the Parks Zone including bollards, kiosks, and parking areas. Staff are seeking feedback from the PRC on the draft text.
- **Signs:** The development standard language proposed for signs was tailored to address park operation needs, the PRC will need to make a recommendation on the maximum size for signs. Staff are recommending 16 to 18 sq ft. based on current park operations.
 - i. Signs in the Open Space Zone are limited to a maximum size of 10 sq. ft.
 - ii. There are many signs in parks larger than 10 sq. ft. For example, the sign in the Bike Skills Area is 12 sq. ft. and the notice board at Mercedale Park is approximately 15 sq. ft.
- **Scoreboards:** Scoreboards likely fall under the definition of a "sign" in City Code and need to be referenced in the Parks Zone since scoreboards are present at athletic fields. The PRC will need to make a recommendation on the maximum size for scoreboards and identify any other regulations they wish to implement. Staff are recommending 200 to 220 sq. ft. as the maximum allowed size.
 - i. The largest scoreboard in the park system is 20 ft. x 10 ft.

- **Kiosks:** Kiosks are present in most parks and provide important information about park use. Kiosks are also used to promote upcoming events, volunteer work parties, and other community programs. The PRC will need to make a recommendation on the maximum size and height for kiosks. Staff are recommending 22 sq. ft as the maximum size and 10 ft. as the maximum height, consistent with the Open Space Zone.
 - i. Kiosks in the Open Space Zone are limited to 15 sq. ft. and 10 ft. in height with an exception for Pioneer Park, where kiosks are limited to 22 sq. ft. and 10 ft. in height.
 - ii. The Luther Burbank Park kiosk is the same model that is located at Pioneer Park. This model of kiosk is the largest in the park system other than the Mountains to Sound kiosk at Aubrey Davis Park, which is 8 ft. 8 in. wide and 4 ft. 5 in. in height.

- **Trails:** The language for trail standards is taken from the Open Space Zone. The PRC will be asked to make a recommendation on maximum trail width. Trail width examples are provided below.

Park	Trail Location/Description	Trail Width
Mercerdale	Perimeter asphalt and concrete	5.5-6.5 ft.
Homestead	Asphalt path by tennis courts	8.5 ft.
Groveland Beach	Asphalt path, access downhill	10.5 ft.
Luther Burbank	South Shoreline gravel trail	6.5-7 ft.
Luther Burbank	Gravel path connecting playgrounds	12 ft.
Luther Burbank	Boardwalk in north wetlands area	6 ft.
Luther Burbank	Meadow trail	10-18 ft.
Luther Burbank	Outside Luther Burbank Administrative Building	16 ft.

- **Buildings:** The park building development standards section is still in progress. The intent of this section is to allow for the larger buildings in Luther Burbank Park to continue to operate in a conforming status by identifying them by name in the Parks Zone with key details included such as size and height. This is consistent with the manner in which school buildings are addressed in the Public Institution Zone. Staff are still working to gather the information to populate the table in this section and expect to have that information at the March PRC meeting.

The PRC will be asked to make a recommendation on development standards for other buildings and structures in parks, which include restrooms, maintenance buildings, batting cages, etc. This discussion may be best suited for the March PRC meeting when all of the information is available on buildings.

- **Picnic Shelters:** The development standards for picnic shelters are currently proposed at a maximum height of 16 ft. and 1,200 sq. ft. of gross floor area. Staff are seeking feedback on these proposed regulations.
 - i. There are currently only two picnic shelters in the parks system (Aubrey Davis Park and Deane’s Children’s Park), but there is high demand for these facilities. The Luther Burbank Park Master Plan calls for the addition of a picnic shelter in the future. The shelter at Deane’s Children’s Park is in poor condition and anticipated for replacement.
 - ii. The picnic shelter at Aubrey Davis Park is 15 ft. tall, 36 ft. long, and 30 ft. wide (1,080 GFA).
 - iii. As picnic shelters are replaced, there is a desire to standardize them, meaning that new shelters will likely be designed and built to match the shelter at Aubrey Davis Park.

- Parking: The development standards for parking were drafted to address parking design, ingress and egress, and consideration of minimum parking requirements in situations where a proposed use is expected to create demand for parking beyond existing capacity. Staff are seeking feedback from the PRC on the proposed zoning code language.

The proposed language for minimum parking requirements for parks with athletic fields was included in an earlier draft of the ordinance but removed in this version (see Exhibit 1) due to the challenges with writing "one size fits all" parking regulations. For example, some parks are adjacent to other public facilities like schools, and those parking lots could be available (through mutual agreement with the Mercer Island School District) for shared parking. In addition, some parks have ample on-street parking to support overflow, others do not. It seems that parking regulations are best approached through site-specific planning decisions that factor in park amenities, use, peak use times, and other considerations.

- Impervious Surface: The development standards for impervious service are currently proposed to prohibit a "net new" increase in impervious surfaces parks system-wide with some exclusions.
 - i. Improvements identified in an approved Master Plan are exempt. This allows for the City to undertake a public process to evaluate the addition of a new park amenity. A new spray park, for example, would introduce new impervious service, but if approved via a Master Plan process, would be allowed.
 - ii. Improvements that meet the City's ADA Transition Plan requirements are proposed to be exempt as these improvements address accessibility requirements to meet federal ADA requirements. Accessible parking is included as part of this exemption.
 - iii. Emergency access is exempt to ensure that emergency responders have suitable access to respond to emergencies in parks.
 - iv. Public trails are excluded because any trail that has surfacing other than natural soil is considered impervious. Please note, trail width is proposed to be regulated in the "Trail Standards" section of the development standards.
 - v. Synthetic turf fields are excluded because they are artificial surfaces that contain synthetic, non-living elements. If synthetic turf fields are not exempted, the City will be unable to upgrade existing fields to synthetic turf as it has done in the past. Conversion of natural grass fields to synthetic turf fields increases field capacity and is a long-term strategy to address athletic field demands.
 - vi. Utilities are excluded because they are vital facilities that require impervious surfaces in their construction to operate effectively and efficiently. Many parks have water, sewer, drainage, and other utility systems that are installed in parks out of necessity.
- General Outdoor Lighting: The development standards for general outdoor lighting are currently proposed to minimize glare, sky glow, and light trespass onto neighboring properties. This section includes shielding and installation requirements as well as a number of exemptions for lighting that serves specific purposes or is required by state or federal law.
- Lighting for Outdoor Performance, Sport and Recreation Facilities, and Play Fields: The development standards for this section are currently proposed to meet the standards of the Illuminating Engineering Society of North America (IESNA), minimize illumination of surrounding areas, and require that lights be turned off when not in use.

3. Follow-up on Aubrey Davis Park Zoning Discussion

Staff and the PRC have held several discussions about Aubrey Davis Park and the applicable zoning. To reduce the length of this staff report, the background information on the formation of Aubrey Davis Park is included in Exhibit 2.

Recommendation: Aubrey Davis Park should remain in the Public Institution Zone.

The City is unable to impose Parks Zone development regulations on WSDOT ROW, including Aubrey Davis Park due to the current lease terms and WSDOT's preemptive authority over the state highway system. The City remains committed to maintaining a strong, collaborative relationship with WSDOT in managing the I-90 right-of-way and Aubrey Davis Park operations. This partnership is supported by a series of turnback agreements, leases, and, more recently, the **Aubrey Davis Park Master Plan**, all negotiated in good faith by both parties. A unilateral decision by the City to rezone the I-90 corridor would contradict this cooperative approach and could affect future negotiations regarding turnback agreements and leases. The update and renewal of these agreements are included in the City's 10-year work plan.

If the PRC is supportive of the staff recommendation, the PRC is encouraged to identify issues, concerns, and opportunities to be addressed in the updates and renegotiation of the existing agreements. These recommendations should be included in the hand-off memo to the Planning Commission and the City Council.

4. Mercer Island Community and Events Center (MICEC)

After the January 9 PRC meeting, a commissioner requested to have a conversation about the zoning of Mercer Island Community and Events Center (MICEC). The current zoning of MICEC is R-15.

The MICEC is a 42,755 square foot two-story facility that serves as a venue for special events of all types and sizes. The facility includes a full gymnasium, game room, dance room, fitness room, meeting rooms, catering kitchen, terrace, landing, lawn, art installations, annex facility, emergency generator, and over 220 parking spaces. In addition, the MICEC serves the following functions:

- Recreational and nonrecreational programs, activities, and events.
- Emergency Operations Center, shelter, and warming/cooling center.
- City Council, Board, and Commission meetings.
- Leased space for childcare services.
- City-wide meeting and office space.

Recommendation: Staff do not recommend including MICEC in the Parks Zone. The zoning study for the MICEC is planned for review as part of a larger project to evaluate zoning of City-owned facilities. This work will begin this year with review of the zoning on the back parcel of the City Hall Campus.

NEXT STEPS

PRC Meeting Schedule

The PRC will continue to provide input on the draft Parks Zone development regulations over the course of the next two meetings. It is currently anticipated that the PRC will provide a recommendation on the draft Parks Zone to the PC in Q2 2025. The PC will then conduct the legislative review process and provide a final recommendation to the City Council regarding amendments to the Comprehensive Plan and MICC. The anticipated PRC meeting schedule for this work is provided below.

Thursday, March 6, 2025

- Follow-up on discussion topics from the February 6 PRC meeting.
- Review Draft Parks Zone: full code review (continued).
- Test Fit Analysis – Review applicability of Draft Parks Zone to existing parks, identify non-conforming issues and discuss potential resolution.
- Revisions to Draft Parks Zone as necessary.
- Review first draft of hand-off memo to PC.

Thursday, April 3, 2025

- Finalize All Materials.
- Discussion: Next Steps (hand-off to PC, legislative review process, timeline of the Comprehensive Plan annual update and code amendment).

RECOMMENDED ACTION

Review and provide feedback on the draft Parks Zone development regulations.

DRAFT PARKS ZONE

MICC 19.05.XXX – Parks Zone. [New Subsection]

- A. *Purpose.* The purpose of the Parks Zone is to preserve and maintain parks which provide green space and recreational, social, and conservation opportunities.
- B. *Parks Zone Designation Requirements.* In addition to the requirements established in [MICC 19.15.240](#), Parks must be owned, leased, or managed by the City of Mercer Island and fulfill the purpose provided in subsection (A) above to qualify for classification as Parks Zone.
- C. *Uses Permitted.* The following land uses are permitted in the Parks Zone. A use not permitted by this section is prohibited.
1. Recreational uses.
 2. Recreational facilities and recreational amenities.
 3. Park maintenance facilities.
 4. Luther Burbank Administrative Building, Luther Burbank Boiler Building, and Luther Burbank Caretakers House.
 5. Public art.
 6. Trails.
 7. Habitat restoration and enhancement as authorized by [Chapter 19.07 MICC](#).
 8. Parking.
 9. Temporary uses and structures compatible with the purpose of the Parks Zone, as authorized by the City Manager or designee.
 10. [Wireless communications facilities. \(Only if otherwise permitted by MICC 19.06.040 – Wireless communications or MICC 19.06.070 – Small wireless facilities deployment, and subject to MICC 19.06.075 – Small wireless facility deployments design and concealment standards\).](#)
 11. Utilities.

MICC 19.05.XXX – Parks Zone Development Standards. [New Subsection]

- A. *Applicability.* The provisions of this section shall apply to all development proposals in the Parks zoning designation.

B. *Setbacks.*

1. The following minimum setbacks apply:
 - a. Zero (0) feet if adjacent property is zoned PI, OS, TC, PBZ, C-O, or B; and
 - b. Twenty (20) feet if adjacent property is zoned R-8.4, R-9.6, R12, R-15, MF-2L, MF-2, or MF-3.
2. Setbacks are measured from the adjacent property line or the edge of adjacent public rights-of-way.
3. The following developments are exempt from setback requirements: fences, gates, culverts, trails, landscaping, furnishings, bollards, signs, kiosks, parking areas, and utilities.

C. *Signs and Kiosks.*

1. Signs shall be governed by [MICC 19.12.080](#), except as follows:
 - a. Signs shall not exceed [\[18\]](#) square feet of surface area. Surface area shall be measured as the part of the sign used to display information.
 - b. Exterior lighted signs are prohibited.
 - c. Natural colors shall be required unless necessary for public health, safety, or maintenance.
2. Scoreboards shall not exceed [\[220\]](#) square feet of surface area. Surface area shall be measured as the side of the scoreboard that displays the score. Exterior lighted scoreboards are permitted.
3. Kiosks shall not exceed [\[22\]](#) square feet of surface area or [\[10\]](#) feet in height. Surface area shall be measured as the portion of the kiosk used/usable for providing information.

D. *Trail Standards.*

1. Trails shall not exceed [\[TBD\]](#) feet in width.

E. *Buildings.* [\(This section to be completed for review at a future meeting\)](#)

1. The following requirements apply to buildings in the Parks Zone:

Building	Height Limit	Special Conditions
Luther Burbank Administrative Building		
Luther Burbank Boiler Building		
Luther Burbank Caretakers House		
All other buildings		

2. Flagpoles, antennas, chimneys, mechanical equipment, and rooftop appurtenances do not count toward the building height limit in the Parks Zone.

F. *Picnic shelters.*

1. Picnic shelters shall not exceed [16] feet in height or [1,200] square feet of gross floor area.

G. *Parking.* The following parking requirements apply to all land uses in the Parks Zone.

1. *Design.* Parking lot design must conform to the diagrams included in [Appendix A](#) of this development code, unless alternative design standards are approved by the City Engineer.
2. *Ingress and egress.* The City Engineer shall have the authority to condition future development permit approvals to fix the location and width of vehicular ingress or egress to and from the subject property and alter existing ingress and egress as may be required to control street traffic in the interest of public safety and general welfare.
3. *Minimum parking requirements ~~for specific uses.~~*
 - a. ~~Parks with athletic fields shall provide a minimum of [TBD] parking spaces per athletic field.~~
 - b-a. Parking proposals must demonstrate to the satisfaction of the City Engineer that the number of parking spaces proposed will accommodate the projected parking created by the proposed use. The City Engineer may condition approval to require a minimum number of parking spaces if the proposed use is expected to create demand for additional parking spaces beyond existing and proposed onsite parking facilities.

H. *Impervious Surface.*

1. No net new impervious surface [in the parks system](#) is permitted unless it has been included in an adopted Park Master Plan (or similar planning document that includes a public process and City Council approval), the City of Mercer Island Americans with Disabilities Act (ADA) Plan, or specifically exempted by this section, and stormwater and other applicable requirements are met. The following uses are exempt:
 - a. Emergency vehicle lanes not available for public use.
 - b. ADA Parking.
 - c. Public trails.
 - d. Synthetic turf athletic fields.
 - e. Utilities.

I. *Lighting.*

1. All exterior lighting shall be designed to minimize glare, sky glow, and light trespass onto neighboring properties. Fixtures must be fully shielded and installed in a manner that prevents light trespass beyond the property line of the property on which they are located. Fully shielded means a light fixture constructed and installed in such a manner that all light emitted, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal plane through the fixture's lowest light-emitting part.

2. The following lighting types are exempt from this requirement:
 - a. Lighting within a public right-of-way or easement for the purpose of illuminating roads, trails, or pedestrian ways.
 - b. Lighting fixtures existing prior to the effective date of this section and the repair of the same.
 - c. Emergency lighting.
 - d. Pathway and landscaping lighting fixtures producing less than 200 lumens.
 - e. Temporary seasonal lighting.
 - f. Lighting required by state or federal law.

J. *Lighting for Outdoor Performance, Sport and Recreation Facilities, and Play Fields.*

1. Lighting levels for outdoor performance areas, sport and recreation facilities, and play fields shall not exceed by more than five percent the Illuminating Engineering Society of North America (IESNA) published standards for the proposed activity.
2. Where playing fields or other special activity areas are to be illuminated, lighting fixtures shall be mounted, aimed, and shielded so that their beams fall within the primary playing area and immediate surroundings, and so that no direct illumination is directed off the site.
3. Lighting shall be turned off as soon as possible after the conclusion of an event and shall not remain on for more than 30 minutes following its end.
4. All lighting shall be equipped with timers to automatically extinguish lights, ensuring that facilities are not illuminated when not in use.

MICC 19.16.010 – Definitions

[...]

Athletic Field. A developed field for organized sports, including but not limited to baseball, softball, soccer, lacrosse, and football.

[...]

Community Garden. A shared plot of land where individuals or groups collectively grow fruits, vegetables, flowers, and plants.

[...]

Furnishings. In the Parks Zone or Open Space Zone, small amenities including but not limited to picnic tables, benches, bike racks, trash cans, signs, and pet waste stations.

[...]

Light Trespass. Light that falls beyond the property it is located on.

[...]

Park. Public land that is available for recreational, ecological, educational, or cultural uses. Parks are accessible to the public and typically feature natural landscapes, open spaces, and facilities designed to support leisure, community gatherings, conservation, and outdoor activities.

[...]

Park Maintenance Facilities. Park developments that serve operational or park maintenance purposes including but not limited to buildings and sheds.

[...]

Public Art. Art that is installed in public spaces for the purpose of community enjoyment and enrichment. Public Art is visually and physically accessible to the public and embodies public or universal concepts rather than commercial, partisan, or personal interests.

[...]

Park Maintenance. Activities performed to ensure parks are clean, safe, and operational. Park maintenance includes, but is not limited to infrastructure repair, cleaning, landscaping, and litter removal.

[...]

Recreational Amenities. Furnishings or developments that are provided to supplement recreational uses or enhance recreational facilities, including but not limited to picnic tables, picnic shelters, benches, bleachers, barbecues, outdoor exercise equipment, lighting, electronic and manual scoreboards, and waste receptacles. Recreational Amenities also include all amenities addressed by the definition of Passive Recreational Amenities.

[...]

Recreational Facilities. Buildings, structures, or developments that are provided specifically for recreational uses, including but not limited to restrooms, playgrounds, picnic shelters, concession stands, athletic fields, sport courts, playgrounds, batting cages, bullpens, skateparks, bike skills areas, community gardens, spray parks, amphitheaters, swimming areas, docks, piers, and boat launches.

[...]

Recreational Uses. In the Parks Zone, land uses that provide opportunities for entertainment, athletic, ecological, and/or other leisure activities. Recreational uses include but are not limited to sports, cycling, skating, swimming, and use of community gardens, play equipment, and exercise equipment. Recreational uses include all uses addressed by the definition of passive recreational uses.

MICC 19.01.040 – Zone Establishment

A. Zones.

Zone	Symbol
Single-Family	R-8.4
Single-Family	R-9.6
Single-Family	R-12
Single-Family	R-15
Multiple-Family	MF-2L
Multiple-Family	MF-2
Multiple-Family	MF-3
Business	B
Planned Business	PBZ
Commercial Offices	C-O
Public Institution	PI
<u>Parks</u>	<u>P</u>
Open Space	OS
Town Center	TC

- B. The location and boundaries of the various zones of the city are shown and delineated on the city of Mercer Island Zoning Map which is included in Appendix D of this development code and is incorporated herein by reference.
- C. The location and boundaries of the various zones as hereafter determined by the city council shall be shown and delineated on zone maps covering portions of the city, each of which shall be a part of this Code either by adoption as a part hereof or by amendment hereto.
- D. Each zone map and all notations and other information shown therein shall become part of this Code.
- E. A zone map may be divided into parts and each part may, for purposes of identification, be subdivided into units. Such parts may be separately and successively adopted by means of an amendment of this Code and, as adopted, such zone map, or its parts, shall become a part of this Code.
- F. Changes in the boundaries of a zone shall be made by ordinance adopting an amended map, or part of said zone map.
- G. When uncertainty exists as to the boundaries of any zones shown on any zone map, the following rules shall apply:
 - 1. Boundaries shown on a map as approximately following street lines or lot lines shall be construed as actually following such lines.
 - 2. Where a boundary between zones divides a lot into two or more pieces, the entire lot shall be deemed to be located in the first zone on the following list in which any part of the lot is located: R-15, R-12, R-9.6, R-8.4, MF-2L, MF-3, MF-2, P, OS, PI, PBZ, C-O, TC, and B. The

location of the zone boundary shall be determined by use of the scale appearing on the zone map unless the location of the boundary is indicated by dimensions.

3. Where property abuts Lake Washington, the land use classification of the upland property extends waterward across the abutting shorelands and beds to the line of navigability/inner harbor line as established in 1984 by the board of natural resources by Resolution No. 461.
4. In case any uncertainty exists, the planning commission shall recommend and the city council shall determine the location of boundaries.
5. Where a public street is officially vacated or abandoned, the land use classification applicable to the abutting property shall apply to such vacated or abandoned street. If a vacated street forms the boundary between two or more zones, the land use classifications of each abutting zone shall extend to the mid-point of the vacated street unless the planning commission recommends and the city council decides otherwise.

H. Except as hereinafter provided:

1. No land, building, structure or premises shall be used for any purpose or in any manner other than a use listed in this Code, or amendments thereto, for the zone in which such land, building, structure or premises is located.
2. No building or structure shall be erected nor shall any building or structure be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the requirements of this development code or amendments thereto.
3. No yard or other open spaces provided about any building or structure, for the purpose of complying with the regulations of this Code or amendments thereto shall be considered as providing a yard or open space for any other building or structure.

Aubrey Davis Park Background Information

Parks and Recreation Commission

February 6, 2025

Executive Summary

Aubrey Davis Park is a unique park facility located on Mercer Island. The park consists of 92-acres of highway lids and landscape buffers surrounding I-90 and is located in right-of-way (ROW) and airspace owned by the Washington State Department of Transportation (WSDOT). Aubrey Davis Park is managed and maintained by the City of Mercer Island through a variety of turnback agreements and airspace leases.

The entirety of WSDOT ROW, including Aubrey Davis Park, is zoned as “Public Institution”. The decision to zone WSDOT ROW as Public Institution in the late 1980’s was the result of a multi-year process that was closely coordinated by the City and WSDOT. The zoning designation of Aubrey Davis Park paved the way for an ongoing partnership between WSDOT and the City of Mercer Island, leading to the execution of several agreements and airspace leases that permit the City to operate and maintain recreational facilities in WSDOT airspace.

Recognizing the complexities of ownership and operation, the City of Mercer Island collaborated with WSDOT to develop the Aubrey Davis Park Master Plan in 2019, which provides a long-term vision for maintaining and improving the park while also ensuring alignment with WSDOT’s operational requirements.

History of Aubrey Davis Park

Aubrey Davis Park (also known as "The Lid Park") was built in 1992 to mitigate impacts from the reconstruction of Interstate 90 (I-90). Today, the park encompasses 92 acres within a 2.8-mile-long recreation and transportation corridor. The park includes the Park on the Lid of I-90, the Mountains to Sound Trail, the Boat Launch, and the Greta Hackett Outdoor Sculpture Gallery.

The I-90 corridor, including Aubrey Davis Park, is zoned as Public Institution ([MICC 19.05.010](#)). The Public Institution Zone is a special purpose zone that permits land use for government services, public schools, public parks, transit facilities, hazardous waste treatment and storage facilities, and wireless communications facilities (MICC 19.05.010(A)). The I-90 corridor was unclassified in the Mercer Island zoning code until 1987, when the City zoned the land as Public Institution through a series of ordinances amending the Comprehensive Plan and zoning code shortly before the construction of the “new” I-90.

Aubrey Davis Park is 92-acres of highway lids and landscape buffers located within airspace of the I-90 ROW owned by WSDOT. The City of Mercer Island and WSDOT executed a series of turnback and landscape maintenance agreements (Agreements) in the late 1980s to permit the construction and use of recreational facilities by the City within WSDOT’s ROW and to transfer maintenance responsibilities of the facilities, including Aubrey Davis Park, to the City. As a result of the Agreements, WSDOT and the City executed airspace leases for I-90 ROW with a 40-year term in the early 1990s to permit specific recreational uses of the I-90 highway lids and operation of the east channel boat launch. As the owner and lessor, WSDOT contractually controls the City’s use of Aubrey Davis Park.

A summary of key events related to the development of Aubrey Davis Park, the adoption of the Public Institution Zone, and the City’s relationship with WSDOT is provided in the timeline below.

- June 1970: Ordinance No. 255 was adopted approving the annexation of the former Town of Mercer Island. The Town of Mercer Island was officially dissolved effective, January 1, 1981.

Aubrey Davis Park Background Information

Parks and Recreation Commission

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- October 1984: The Planning Commission provides a recommendation to the City Council in AB 1644 to revise the Zoning Code, concluding their six-year code development and public engagement process.
- February 1985: Ordinance No. A-37 was adopted to repeal Ordinance No. 15 (the ordinance that adopted the original City of Mercer Island Zoning Code) and create MICC chapter 19.04 – Zoning Code. The new chapter integrated the City’s former zoning code, the former Town of Mercer Island Zoning Code, and amendments thereto, in addition to establishing the Public Institution Zone. The original permitted uses of the zone included public fire stations, public police stations, public schools, public parks, and municipal buildings and uses.
- January 1987: I-90 Turnback and Landscape Maintenance Agreement Phase I is executed between the City and WSDOT. Street and landscape maintenance and operation responsibilities for certain areas within WSDOT right of way are transferred to the City in exchange for annual reimbursements from WSDOT.
- February 1987: Ordinance No. B-49 was adopted imposing a moratorium on permit applications and zoning classification applications within WSDOT right of way and adjacent lands to allow sufficient time for the City to study, analyze, and enact amendments to the Comprehensive Plan, Zoning Code, and Zoning Map. The moratorium was enacted as a result of the City adding I-90 right of way and adjacent lands to an ongoing study of the Central Business District. The moratorium did not apply to any permits required for the construction of I-90 or related transportation facilities. The moratorium was extended twice by Ordinance Nos. B-53 and B-56.
- July 1987: I-90 Turnback and Landscape Maintenance Agreement Phase II is executed between the City and WSDOT to jointly develop the East Channel Boat Launch within WSDOT right of way, with management and maintenance responsibility to be assumed by the City via an airspace lease.
- November 1987: Ordinance Nos. A-60, A-61, and B-57 were adopted to amend the City’s Comprehensive Plan, Zoning Code, and Zoning Map as part of the I-90 reconstruction process.
 - Ordinance No. A-61 amended the Public Institution Zone by adding the following permitted use: “The entire area within the Mercer Island I-90 right-of-way, including but not limited to, the roadway, street overcrossings, lids, open space, recreation areas, linear greenbelts and the park and ride lot area as approved by the City on November 14, 1983 and incorporated in the right-of-way plan approved by WSDOT on May 1, 1987. All such uses shall be maintained as set forth in City approved I-90 related documents.”
 - Ordinance No. B-57 amended the Comprehensive Plan to establish a new section titled, “Comprehensive Plan for the Property Within the I-90 Right-of-way and Lands in the Proximity Thereof.” The ordinance references several City approved and adopted plans, studies, and agreements related to the construction of I-90, including the following: “The City of Mercer Island approved I-90 documents which set forth freeway location, design geometrics and environmental features shall be considered as the primary planning policy for the orderly and coordinated use and development of land and structures in the I-90 corridor.”

Aubrey Davis Park Background Information

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- Ordinance No. A-60 amended the Zoning Map to classify the I-90 right of way as Public Institution Zone, among other changes to zoning of the Central Business District. I-90 right of way was unclassified in the Zoning Code prior to Ordinance No. A-60.
- May 1989: I-90 Turnback and Landscape Maintenance Agreement Phase III is executed between the City and WSDOT to jointly develop recreation facilities on the First Hill Lid and transfer landscape maintenance and operation responsibilities to the City.
- December 1989: I-90 Turnback and Landscape Maintenance Agreement Phase IV is executed between the City and WSDOT defining improvements to WSDOT right of way in the Central business District and transferring landscaping and maintenance responsibilities to the City.
- March 1994: The I-90 East Channel Boat Launch Airspace Lease is executed between the City and WSDOT with a term of 40 years. The airspace lease permits the City to operate a public boat ramp and approved concessions at the East Channel Boat Launch facility within WSDOT right of way.
- June 1994: The I-90 First Hill Lid Airspace Lease is executed between the City and WSDOT with a term of 40 years. The airspace lease permits specific uses of the lid by the City for recreational purposes and defines maintenance responsibilities of the City.

Aubrey Davis Park Master Plan

The [Aubrey Davis Park Master Plan](#), adopted in December 2019, provides a long-term vision and strategic framework for maintaining and improving the park. The plan was initiated to address aging infrastructure, enhance accessibility, and ensure the park facilities continue to meet the needs of the community, while also aligning with WSDOT's operational needs and the various documents that govern the management of these facilities. The Master Plan was jointly developed and approved by the City and WSDOT with feedback received from an extensive public engagement process. The Master Plan covers four main categories: park improvements, trail improvements, vegetation management, and arts and culture. The Master Plan will serve as a platform to renegotiate the maintenance agreements and airspace leases with WSDOT.

Washington State Law – Preemptive Authority over State Highway System

Under Washington State law ([RCW 47.01.260\(1\)](#)), “The department of transportation shall exercise all the powers and perform all the duties necessary, convenient, or incidental to the planning, locating, designing, constructing, improving, repairing, operating, and maintaining state highways, including bridges and other structures, culverts, and drainage facilities and channel changes necessary for the protection of state highways...” This statute gives WSDOT “preemptive authority” to exercise all powers over the state highway system. This means cities have no authority to adopt conflicting provisions regarding state highways, including zoning development regulations. The City must comply with the numerous prior agreements with WSDOT and cannot enforce conflicting regulations attempting to control the same uses covered by these agreements that permit the City to maintain Aubrey Davis Park and other recreational facilities within WSDOT right of way.

In 2003, the state statute that authorizes WSDOT to lease surplus air space ([RCW 47.12.120](#)) was amended to provide that surplus property leases will be “subject to the provisions and requirements of zoning ordinances of political subdivisions or governments.” This amendment must be carefully considered as the City and WSDOT

Aubrey Davis Park Background Information

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prepare to renegotiate the air space leases. Additionally, any modifications to the City's zoning code must account for the risk of creating zoning misalignment, ensuring that new regulations do not conflict with existing land use policies or create inconsistencies in how the area is governed.

10-Year Work Plan – Turnback Agreement and Airspace Lease Renegotiation with WSDOT

The airspace leases that permit the City of Mercer Island to operate and maintain recreational facilities in Aubrey Davis Park, including the east channel boat launch and the Lid, will expire in 2034. Additionally, the turnback and landscape maintenance agreements were executed by the City and WSDOT between 1987-1989 and are due for an update. The City and WSDOT will begin the process of renegotiating these agreements in the coming years.