



# PLANNING COMMISSION SPECIAL HYBRID MEETING AGENDA

Tuesday, June 10, 2025 at 6:00 PM

## PLANNING COMMISSIONERS

Chair: Dan Thompson  
Vice Chair: JB Gibson  
Commissioners: Kate Akyuz,  
Nazim Nice, and Anthony Perez

## LOCATION

Mercer Island Community & Event Center and Zoom  
8236 SE 24<sup>th</sup> Street | Mercer Island, WA 98040  
(206) 275-7706 | [www.mercerisland.gov](http://www.mercerisland.gov)

*We strive to create an inclusive and accessible experience. Those requiring accommodation for Planning Commission meetings should notify the Deputy City Clerk's Office 3 days prior to the meeting at (206) 275-7793 or by emailing [cityclerk@mercerisland.gov](mailto:cityclerk@mercerisland.gov).*

Individuals wishing to speak live during Public Appearances (public comment period) must register with the Deputy City Clerk at (206) 275-7791 or [cityclerk@mercerisland.gov](mailto:cityclerk@mercerisland.gov) by 4pm on the day of the Planning Commission meeting. Each speaker will be allowed three (3) minutes to speak.

Join the meeting at 6:00 pm (Public Appearances will start sometime after 6:00 PM) by:

- 1) **Telephone:** Call 253.215.8782 and enter Webinar ID **816 1680 7994**, Passcode **341546**.
- 2) **Zoom:** Click this [Link](#) (Webinar ID **816 1680 7994**, Passcode **341546**)
- 3) **In person:** Mercer Island Community & Event Center | 8236 SE 24<sup>th</sup> Street, Mercer Island, WA 98040

## CALL TO ORDER & ROLL CALL, 6 PM

## PUBLIC APPEARANCES

This is the opportunity for anyone to speak to the Commission about issues of concern. Please limit your comments to three minutes.

## REGULAR BUSINESS

### 1. Planning Commission Meeting Minutes

**Recommended Action:** Approve the May 28, 2025 Regular Meeting minutes.

### 2. PCB25-12: Public Hearing on Permanent Regulations for Temporary Uses and Structures Including Outdoor Dining (Second Reading)

**Recommended Action:** Refer to agenda bill for staff recommendations.

### 3. PCB25-11: Parks Zone Development Code Amendment

**Recommended Action:** Refer to agenda bill for staff recommendations.

## OTHER BUSINESS

### 4. Staff Report

## ADJOURNMENT



# PLANNING COMMISSION REGULAR MEETING MINUTES

Wednesday, May 28, 2025

Item 1.

## CALL TO ORDER

The Planning Commission was called to order by Chair Thompson at 6:01 pm.

Planning Commissioners Kate Akyuz, JB Gibson, Nazim Nice, Anthony Perez, and Dan Thompson were present.

## Staff Participation:

Jeff Thomas, Director (Remote)  
Alison Van Gorp, Deputy CPD Director  
Carson Hornsby, Management Analyst

Kim Adams-Pratt, Contract Legal Counsel  
Deb Estrada, Deputy City Clerk  
Raven Gillis, Recreation Specialist

**PUBLIC APPEARANCES** – There were no public appearances.

## REGULAR BUSINESS

### 1. PCB25-09: Public Hearing on Park Zone Code Amendment

The public hearing was opened at 6:05 PM

There being no public comments, the public hearing was closed at 6:06 PM

### 2. PCB25-10: Public Hearing on Parks Zone Comprehensive Plan Amendment

The public hearing was opened at 6:06 PM

There being no public comments, the public hearing was closed at 6:06 PM

### 3. Planning Commission Meeting Minutes of April 23, 2025, Regular Meeting:

A motion was made by Akyuz; seconded by Perez to:

**Approve the minutes.**

Passed 5-0

### 4. PCB25-09: Park Zone Code Amendment

Presentation by Van Gorp

Motion by Gibson; seconded by Thompson to:

**Approve the proposed minor amendments as presented in PCB25-09, excluding Logs 1, 2, and 6:**

Passed 5-0

Motion by Akyuz; seconded by Perez to:

**Approve the amendment proposed in Log 1 as written.**

Passed 5-0

Motion by Perez; seconded by Akyuz to:

**Add social spaces from individuals and gatherings to the language in Log 1 as previously amended.**

Passed 5-0

Motion by Akyuz; seconded by Nice to:

**Amend MICC 19.05.050 Section C5 to add “and art amenities” after Public art.**

Failed 3-2

Motion by Akyuz; seconded by Perez to:

**Add staff’s alternative to the Public Art definition, “Public art can be implemented in standalone art installations or incorporated into other structures.”**

Passed 4-1

Motion by Thompson; seconded by Gibson to:

**Amend MICC 19.05.050 Section C8 to add “for park-related uses” after Parking.**

Passed 3-2

Motion by Akyuz; seconded by Perez to:

**Amend MICC 19.05.050 Section C, adding new item 12, “Multipurpose Facilities.”**

Passed 4-1

Motion by Thompson; seconded by Nice to:

**Amend MICC 19.05.060, Parks Zone Development Standards, Section B3, adding “Except as follows:” and adding subsection 3(a) to read, “Parking areas located adjacent to property that is zoned R-8.4; R-9.6; R-12; or R.15 require a 20-foot setback.”**

Passed 5-0

**Consensus** – Staff will speak with the Parks Department to determine the definition of trails and bring back a recommendation at the June 10 meeting.

Motion by Thompson; seconded by Gibson to:

**Amend MICC 19.050.060, Parks Zone Development Standards, Section E Building Size, subsection 1, Multipurpose Facilities, removing “3,500 square feet” and adding “Gross floor area limit for multi-purpose facilities shall be the combined gross floor area limit for each building type in the building.”**

Failed 2-3

The Planning Commission recessed from 8:03 to 8:15

Motion by Thompson; seconded by Akyuz to:

**Amend MICC 19.050.060, Parks Zone Development Standards, Section G Impervious Surface, subsection 1, and remove subsection (c) “Public trails.”**

Passed 4-1

Motion by Akyuz; seconded by Thompson to:

**Amend MICC 19.050.060, Parks Zone Development Standards, Section G Impervious Surface, section 1, and remove subsection (d) “Synthetic turf athletic fields.”**

Passed 5-0

Motion by Nice; seconded by Thompson to:

**Amend MICC 19.050.060, Parks Zone Development Standards, Section H Lighting, and add new subsection 2 to read as follows:**

***“Where applicable within the shorelands, new lighting shall adhere to salmon-friendly principles to minimize ecological disruption.***

- a. Remove nonessential lighting to reduce ambient light pollution.***
- b. Ensure fixtures are shielded and positioned to prevent direct illumination of water surfaces.***
- c. Incorporate timers and motion sensors to activate lighting only when necessary.***
- d. Adjust light intensity to the lowest functional level necessary.***

- e. *Use fixtures with warm color temperatures (3000K or less) to minimize the detrimental blue that penetrates deeper into lake waters."*

Passed 5-0

Motion by Perez; seconded by Akyuz to:

**Amend MICC 19.050.060, Parks Zone Development Standards, Section H Lighting, and add new subsection 3 to read as follows:**

***"Where applicable at or near gathering and covered seating, new lighting shall adhere to Dark Sky Protection principles to minimize ecological disruption.***

- a. *Remove nonessential lighting to reduce ambient light pollution.*
- b. *Ensure fixtures are shielded and positioned to prevent direct illumination of adjacent surfaces.*
- c. *Incorporate timers and motion sensors to activate lighting only when necessary.*
- d. *Adjust light intensity to the lowest functional level necessary.*
- e. *Use fixtures with warm color temperatures (3000K or less) to minimize the detrimental blue light."*

Motion by Gibson; seconded by Thompson to amend the main motion and remove,

**Amend the main motion and remove, "Where applicable at or near gathering and covered seating"**

Passed 5-0

Main motion passed 5-0

**Consensus** – Staff will gather more information regarding new Section J Shoreline Recreation, for discussion at the June 10 meeting.

Motion by Akyuz; seconded by Gibson to:

**Amend the definition of Recreational Facilities to include "boathouses" before "and boat launches"**

Passed 4-1

**Consensus** – staff will seek additional clarification regarding boathouse definition.

Motion by Thompson; seconded by Gibson to:

**Amend MICC 19.01.040, Zone Establishment, Section F, to add "To change the zoning of any park in the Parks Zone shall require five (5) votes of the council."**

Motion by Thompson; seconded by Gibson to:

**Amend the main motion to add "affirmative" votes**

Passed 5-0

Main motion failed 3-2

Motion by Thompson; seconded by Gibson to:

**Amend MICC Title 19 – Appendix D – Zoning Map to amend the City of Mercer Island Zoning Map to change Aubrey Davis Park from "PI Zone" to "Parks Zone."**

Passed 3-2

## 5. PCB25-10: on Parks Zone Comprehensive Plan Amendment

Motion by Gibson; seconded by Akyuz to:

**Recommend that the City Council adopt the proposed amendments to the Comprehensive Plan Land Use Designation Table and Land Use Map**

Motion by Gibson; seconded by Thompson to:

**Amend Amendment to MICC 19.01.040(A) Zones – Amend City of Mercer Island Land Use Map to change Aubrey Davis Park from “Linear Park” to “Park.”**

Passed 4-1

Main motion passed 4-1

**Consensus** – Address the additional recommendations in PCB25-10 at the June 10 meeting.

## **OTHER BUSINESS**

### **6. Staff Report**

Deputy Director Alison Van Gorp reported that there will be a special meeting on June 10, a regular meeting on July 23, and no meeting in August.

**ADJOURNED** - The meeting adjourned at 9:50 pm

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Deborah Estrada, Deputy City Clerk



# PLANNING COMMISSION CITY OF MERCER ISLAND

PCB 25-12  
June 10, 2025  
Public Hearing

## AGENDA BILL INFORMATION

<b>TITLE:</b>	PCB 25-12: Public Hearing on Permanent Regulations for Temporary Uses and Structures Including Outdoor Dining (Second Reading).	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Recommendation
<b>RECOMMENDED ACTION:</b>	Hold public hearing and make motions to recommend amendments and/or adoption of the proposed permanent regulations related to temporary uses and structures.	

<b>STAFF:</b>	Molly McGuire, Senior Planner
<b>EXHIBITS:</b>	1. Draft Permanent Regulations for Temporary Uses and Structures 2. Temporary Uses and Structures Comment Matrix

## EXECUTIVE SUMMARY

The purpose of this agenda bill is to recommend the adoption of permanent regulations for temporary uses and structures in place of interim regulations which were originally adopted on June 4, 2024, under [Ordinance No. 24C-07](#) and renewed for an additional 6-months on May 20, 2025 under [Ordinance No. 25C-07](#).

- Temporary uses and structures are development or activities that take place on a property for a period of 180 days or less. They can include a wide range of development and activities from garage sales to outdoor festivals.
- Prior to 2024, the City did not have a permit process for temporary uses or structures and the development code lacked clarity about how such structures and uses were regulated. As a result, some temporary uses and structures were not allowed.
- At its December 5, 2023 meeting, the City Council docketed a project to develop regulations for temporary uses and structures when it approved [Resolution No. 1655](#).
- On June 4, 2024, the City Council adopted Ordinance No. 24C-07, which established the following:
  - Interim regulations and permitting procedures for temporary structures and uses, and
  - A work plan for developing permanent regulations for temporary structures and uses by the second quarter of 2025.
- On May 20, 2025, the City Council renewed the interim regulations for an additional 6-months under Ordinance No. 25C-07.
- Staff prepared draft permanent regulations for temporary uses and structures for the Planning Commission to review and provide initial comments on (Exhibit 1).
- The draft regulations would establish:
  - Development standards for temporary uses and structures on real property not owned by the City of Mercer Island ("private property");
  - Development regulations to continue a pandemic-era allowance for outdoor dining use within public rights of way and private parking spaces; and
  - A permitting process for temporary uses and structures.
- On February 26, 2025, the Planning Commission held a first reading of the draft permanent regulations and provided initial feedback to staff.

- The Planning Commission provided comments and proposed amendments to the draft regulations, which were compiled and categorized by staff and included in Exhibit 2.
  - The Planning Commission will discuss the proposed amendments and draft regulations at its public hearing on June 10, 2025.

## BACKGROUND

In 2023, the City Council approved [Resolution No. 1655](#) setting the 2024 Docket, which added Comprehensive Plan and development regulation amendments to the City's Work Plan. City Council directed staff to proceed with developing interim regulations to address two docketed items related to temporary uses and structures and renew the existing interim regulations for outdoor dining. More information on the background of the interim regulations is provided in [PCB25-05](#), from the February 26, 2025 Planning Commission meeting.

The Planning Commission held a regular meeting on February 26, 2025 where it had the first reading of the draft regulations for temporary uses and structures. The Commission provided initial feedback on the draft regulations and asked staff questions related to various topics. Staff requested that the Planning Commissioners provide comments, amendments, and questions and established a deadline for these materials to be submitted, prior to the previously scheduled March 26, 2025 public hearing. The March 26, 2025 public hearing was canceled and rescheduled for June 10, 2025.

Based on the comments and questions received, included in Exhibit 2, staff identified several key topics that may require additional information and/or clarification. These topics are as follows:

- Zoning
  - Land uses
- Land Use Review Types
  - Type I land use reviews, Type II land use reviews, Type III land use reviews, Type IV land use reviews, Public notification, Public notice, Code official decisions, Hearing examiner decisions
- Nonconforming Structures, Sites, Lots, and Uses
  - Legal nonconforming status of structures, sites and uses and illegal nonconformance of structures, sites and uses
- Variances
  - Criteria for approval
- Deviations
- Existing Regulations for Commerce on Public Property
  - Right-of-way use permits and Summer Celebration

Further information on each of these topics is provided below to support the Commission in making an informed recommendation to City Council on the draft permanent regulations.

## ZONING

Mercer Island contains 13 different zoning designations across the Island. Zones are used to guide the development goals of the City by incentivizing certain land uses in specific areas or prohibiting other land uses in areas where they would be undesirable. For example, "professional, scientific, and technical services" are not an allowed use in the single-family residential zoning district by way of exclusion of all unlisted uses. The zoning designation dictates what kinds of development can occur on a specific property (also known as land uses), and the standards by which these developments must comply with.

## Land Uses

Land uses can be categorized into three different types: 1) uses that are permitted outright; 2) uses that are permitted through the authorization of a conditional use permit; and 3) uses that are prohibited.

Uses that are permitted outright typically require one or more land use permits and/or a building permit, unless specifically exempted through the code. Permits are used to regulate development to ensure certain uses and structures comply with the standards set out in the development code. For example, development that is allowed within critical areas, such as a wetland, requires a Critical Area Review application to determine that the development would not result in adverse impacts to the wetland by demonstration of compliance with wetland buffers, buffer averaging, or mitigation. All land use permits fall into one of the permit types listed in [MICC 19.15.030](#), Land Use Review Types, and are reviewed according to the procedures established by the code.

Uses that are permitted through the authorization of a conditional use permit are those that are allowed in a zone, but that are subject to additional conditions, usually designed to mitigate anticipated impacts. For example, government services are listed as a conditional use in the single-family zoning designation, and are required to meet standards related to setbacks, parking, and shielding of utilities since the surrounding land uses are likely residential uses. If a government service obtains a conditional use permit to operate in a single-family residential zone and demonstrates that the additional conditions are met to the satisfaction of the hearing examiner, the use is permitted.

Each zone also contains prohibited uses. Uses can be prohibited through either explicitly stating the use, or a blanket statement to prohibit any use that is not listed in the allowed uses. [MICC 19.02.010](#) establishes the allowed uses in single-family zones. This section includes the statement “A use not permitted by this section is prohibited. Please refer to [MICC 19.06.010](#) for other prohibited uses.”

The City does not have an existing process by which a use can be authorized if it does not conform to the development code in Title 19 MICC. Even a development that obtains a variance for a dimensional standard consistent with the criteria in [MICC 19.06.110\(B\)](#) is permitted and is not “nonconforming.”

## LAND USE REVIEW TYPES

MICC 19.15.030 categorizes land use permits into four different categories of review. Each review type has different public noticing, review, decision, and appeal processes. There are currently interim regulations in place which re-organize the existing tables and clarify certain processes for specific land use permit applications related to compliance with Senate Bill 5290. The proposed draft regulations for temporary uses and structures do not consider the changes that were made by [Ordinance No. 24C-17](#), as these are interim regulations adopted by City Council and are subject to change as they go through Planning Commission review during the drafting of permanent regulations. MICC 19.15.030 defines each of the land use review types as follows:

1. **Type I Land Use Reviews**

Type I reviews are based on clear, objective and nondiscretionary standards or standards that require the application of professional expertise on technical issues.

2. **Type II Land Use Reviews**

Type II reviews are based on clear, objective and nondiscretionary standards or standards that require the application of professional expertise on technical issues. The difference between Type I and Type II review is that public notification shall be issued for Type II decisions.

3. **Type III Land Use Reviews**

Type III reviews require the exercise of discretion about nontechnical issues. These reviews include the development of a staff report, which includes Findings of Fact and Conditions of Permit Approval. Staff reports are not explicitly required by the code, but common practice for the types of permits



under this land use review type necessitate a staff report to demonstrate the proposed development meets the standards established in the development code.

#### 4. **Type IV land use reviews**

Type IV reviews require discretion and may be actions of broad public interest. Decisions on Type IV reviews are only taken after an open record hearing. These reviews also include the development of a staff report, which is common practice for applications requiring a public hearing and review by a hearing examiner. The staff report also includes Findings of Fact and Recommended Conditions of Permit Approval that the hearing examiner can adopt as part of their decision.

### ***Public Notification***

Type II land use reviews are required to provide public notification. This notification is provided at the time of complete application to allow the community to be notified of the application prior to approval of the permit. The public notification is posted in the Weekly CPD Bulletin, which is published every Monday and includes the permit number, name of the applicant, location, and description of the project, a link to the website where additional information can be found, and the name of the reviewer assigned to the project where the community can ask questions or submit comments.

### ***Public Notice***

Type III and IV land use reviews are required to provide public notice of application, which is different from a public notification. Notice is provided in the Weekly CPD Bulletin, mailed to all property owners within 300 feet of the property, posted on the site in a location that is visible to the public right-of-way, and made available to the general public upon request. These notices are more detailed than public notifications. The code requires that the dates of the application, determination of completeness, and the notice of application, name of the applicant, location and description of the request, requested actions and/or required studies, date and time of the open record hearing (if applicable), environmental documents, statement of the public comment period, staff contact information, other permits not included in the application, description of development regulations used in determining consistency with the City's comprehensive plan, and a link the website where additional information can be found to be provided on the notice.

### ***Code Official Decisions***

Type I, II, and III land use reviews are subject to a decision by the Code Official. The Code Official is defined as "the director of the community planning and development department for the city of Mercer Island or a duly authorized designee."

### ***Hearing Examiner Decisions***

Most Type IV land use reviews are subject to a decision by the hearing examiner following a public hearing. Shoreline Variances and Shoreline Conditional Use Permits must obtain a recommendation from the hearing examiner to the Department of Ecology for their final decision. Design Commission Design Review applications are decided by the Design Commission.

## **NONCONFORMING STRUCTURES, SITES, LOTS AND USES**

Any use that is explicitly allowed in a zoning designation, whether through permitted uses lists or the approval of a conditional use permit, is a conforming use. Nonconforming uses occur when a structures, site, lot, or use does not meet the standards required for those structures, sites, lots, or uses established in the current code. A structure, site, lot, or use can become nonconforming due to code amendments that change standards in the zone where the structure, site, lot, or use exists. Such structures, sites, lots and uses can generally continue and be maintained subject to certain conditions intended to limit any expansion of the nonconformity.

[MICC 19.01.050](#) provides explicit standards and requirements for the continuation and maintenance of structures, sites, lots, and uses that are legally nonconforming.

### ***Legal Nonconforming Status of Structures, Sites, and Uses***

Nonconforming structures, sites, and uses must meet certain criteria in order to be considered “legally established” nonconformities. All structures, sites, and uses that lawfully existed prior to September 26, 1960, shall be considered legally nonconforming. Structures, sites, and uses that were constructed or initiated after September 26, 1960, that were in conformance with all applicable code provisions in effect at the time of their creation but are not in compliance with current land use codes as a result of subsequent changes in code requirements are deemed to be legally nonconforming structures, sites and uses.

A structure, site, lot, or use permitted through a conditional use permit must conform to the applicable code requirements at the time the conditional use permit is approved. For this reason, a conditional use is a “conforming use” at the time it is initiated and would not become a “nonconforming use” until regulations are amended to those that the use no longer conforms to. One of the ways an applicant can demonstrate their use is a legal nonconforming use following a code change is through the record of a previous building permit or land use permit, including a conditional use permit. A conditional use that was legally established through a conditional use permit that becomes nonconforming due to later development regulation changes may be maintained in legal nonconforming status as long as no new nonconformities are created, there is no expansion of any existing nonconformity, and legal nonconforming status is not lost. This is true for all legally nonconforming structures, sites, and uses.

### ***Illegal Nonconformance of Structures, Sites, and Uses***

Structures, sites, and uses that were not in conformance with all applicable code provisions in effect at the time of their creation are illegal and shall be brought into compliance with all applicable provisions of the code.

## **VARIANCES**

Variances are currently defined in the MICC as “A modification of standard development code provisions based on special circumstances and complying with the city’s variance criteria”. Variances are available to any applicant or property owner to request to vary from any numeric standard in the code, with the exception of [Chapter 19.07 MICC](#), Environment. Variances may only be granted if the applicant can demonstrate they can meet all of the criteria in the criteria for approval section, which are construed extremely narrowly. Variances are decided by the hearing examiner following a public hearing.

### ***Criteria for Approval***

MICC 19.06.110(B)(2) lists the criteria that an applicant must demonstrate the variance request meets. The first criterion is generally the most difficult to meet for the R-8.4, R-9.6, R-12, and R-15 zoning designations, which states:

“The strict enforcement of the provisions of this title will create an unnecessary hardship to the property owner. For the purposes of this criterion, in the R-8.4, R-9.6, R-12, and R-15 zoning designations, an “unnecessary hardship” is limited to those circumstances where the adopted standards of this title prevent the construction of a single-family dwelling on a legally created, residentially zoned lot.”

In the last 5 years, only one variance request has been granted, which was for a variance in the required 5-foot setback for structures from the edge of an access easement in MICC 19.02.020(H)(1). Nonresidential uses located in the residential zones are generally not eligible for a variance based on this provision.

## DEVIATIONS

Deviations are currently defined in the MICC as “A minor modification of standard development code provisions that does not require the special circumstances necessary for granting a variance and which complies with the city’s deviation criteria”. Currently, the MICC contains an option for setback deviations to provide increased protection of a critical area or critical area buffer. The criteria for approval in this section appears to be more consistent with criteria that may be established for a potential “temporary use permit deviation”, including:

- a. No use deviation shall be allowed;
- b. The granting of the deviation will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is situated;
- c. The granting of the deviation will not alter the character of the neighborhood, nor impair the appropriate use or development of adjacent property;
- d. The deviation is consistent with the policies and provisions of the comprehensive plan and the development code;
- e. The basis for requesting the deviation is not the direct result of a past action by the current or prior property owner;
- f. The setback deviation is associated with the approval of development of a single lot or subdivision that is constrained by critical areas or critical area buffers;
- g. The building pad resulting from the proposed deviation will result in less impact to critical areas or critical area buffers; and
- h. Yard setbacks shall not be reduced below the following minimums:
  - i. Front and rear setbacks may not be reduced to less than ten feet each;
  - ii. Side setbacks may not be reduced to less than five feet.

## EXISTING REGULATIONS FOR COMMERCE ON PUBLIC PROPERTY

Regulations for commerce on public property are established in [MICC 19.06.050 – Commerce on public property](#). This section allows business owners to use a portion of the right of way or public sidewalks for private commerce. Commerce on public property is permitted through Community Planning and Development with a right of way use permit or through Parks and Recreation with a special event permit depending on the location and scale of the proposed use or activity. Commerce on public property permits are generally applicable for the exchange of goods or services by any person(s), corporation, or company when the applicant business has an active business license for a location immediately adjacent to the public property location where the use will take place. Special event permits are applicable to more large-scale events that will take place on public property, such as a wedding ceremony or ticketed event in one of Mercer Island’s parks.

During the COVID-19 Pandemic, the City adopted interim regulations for commerce on public property to allow businesses to more easily utilize outdoor spaces. The interim regulations amended MICC 19.05.060 to consider existing eating and drinking establishments that temporarily provide outdoor food and beverage service on adjacent public property to be considered temporary and may be approved without review or approval by the Design Commission.

### ***Right-of-Way Use Permits***

The MICC defines right-of-way as: “Land acquired by reservation, dedication, prescription or condemnation, and intended to be used by a road, sidewalk, utility line or other similar public use”. Right-of-Way Use Permits are currently required for any person(s), corporation, or company who wishes to use the public right-of-way for the exchange of goods or services, regardless of the duration, scale, and location of the proposed activity within the right-of-way. These activities are subject to the criteria for permit approval outlined in MICC

19.06.050(D), where private commerce on public property permits must be reviewed by the code official for compliance with approval criteria related to business license requirements, location conditions, nuisance controls, and design standards.

Right-of-Way Use Permits are currently processed as a Type I land use review, which are reviewed and decided by the City's Public Works Department as the designated code official. This permit process is used to regulate private commerce on public property and to ensure compliance with the approval criteria. Review and approval by the Public Works Department is necessary to ensure smooth operation of streets and utilities and to determine alternate routes for traffic, ensure emergency vehicle access, and regulate duration. The primary concern for the Public Works Department is the safety of pedestrians and motorists. Review for safety would need to occur with a commerce on public property permit. Should certain activities be exempted from needing to obtain a permit, enforcement of compliance with the approval criteria in this section would occur only on a complaint-basis after a code enforcement request is filed, or if the City Engineer determines that the use is causing a hazard.

### ***Summer Celebration***

[MICC 19.06.050\(I\)](#) exempts the annual City-sponsored event known as "Summer Celebration" from compliance with the provisions of this section. Summer Celebration is required to obtain a ROW Use Permit, but it is not subject to the review criteria in the commerce on public property section. This event is specifically exempted from this section because it would not meet the criteria for approval which requires the applicant to have an active business license for a location immediately adjacent to the public property location where the request is made; however, Summer Celebration provides a great community benefit.

## **ISSUE/DISCUSSION**

### **PROPOSED CODE AMENDMENTS**

The draft regulations provided in Exhibit 1 were created to establish regulations and a permitting process for temporary uses and structures that would otherwise be prohibited or unregulated. These regulations would apply to temporary uses and structures on real property not owned by the City of Mercer Island, referred to as "private property".

Following the briefing on February 26, 2025, the Planning Commissioners provided comments, questions, and proposed amendments to the draft regulations, which are included in Exhibit 2. The proposed amendments were sorted into two different categories: minor and substantive.

- **Minor.** Minor changes are those changes that are non-substantive and would not significantly change the policy direction of the development regulations. Examples of minor changes include wordsmithing, reorganization, or amendments for consistency with other changes that are more substantive. The following Log Numbers have been categorized as minor changes. The Commission may reclassify specific amendments if more detailed discussion is desired to make a recommendation, otherwise, the recommended motion includes the recommendation to adopt all of the following minor changes: Log Nos: 1, 10, 17, 20, 21, 22, and 24.
- **Substantive.** Substantive changes are those changes that would significantly impact the policy direction of the development regulations. These changes require review or discussion by the Planning Commission and often include several proposed alternatives. The Planning Commission should focus on the Log Items categorized as "Substantive" in Exhibit 2, during the meeting.

During the March 26, 2025 meeting, staff will walk through each of the proposed substantive amendments and the proposed motions, which are detailed in the Recommended Action section below.

## NEXT STEPS

- June 10, 2025 – Planning Commission public hearing, deliberations, and potential recommendation.
- July 22, 2025 – Planning Commission continued deliberations and recommendation (*if needed*).
- (Meeting date TBD) – City Council briefing on PC recommendation and first reading of an ordinance to adopt permanent regulations for temporary structures and uses.
- (Meeting date TBD) – City Council second reading of an ordinance to adopt permanent regulations for temporary structures and uses.

## RECOMMENDED ACTION

Staff recommends the following motions:

**Main Motion:** “Move to recommend that the City Council adopt the proposed amendments to MICC 19.06.050 – Commerce on public property as amended; proposed new section MICC 19.06.130 – Temporary use permits as amended; and proposed amendments to MICC 19.15.030 – Land use review types as amended.”

**Note:** once the main motion has been made and seconded, the Planning Commission can begin making amendments by motion as it sees fit.

**Secondary Motion – Minor Amendments:** “Move to approve the minor amendments and amend the draft materials as presented in PCB 25-12.”

**Note:** this motion would make all of the minor amendments outlined in Exhibit 2. If there are amendments categorized as minor that the Planning Commission would like to discuss further, the motion could be modified to: “move to approve the minor amendments except for proposed amendments [insert log numbers] and amend the draft materials as presented in PCB 25-12.” The excepted amendments can then be addressed with the same process proposed for substantive amendments.

**Secondary Motion – Substantive Amendments:** “Move to approve substantive amendment [insert log number] alternative [insert preferred alternative letter] as presented.”

**Note:** Each time a substantive amendment motion is made all the following variables will need to be inserted: (1) amendment log number and (2) the preferred alternative. The phrase “as presented” can be changed to “as amended” if the Planning Commission would like to make further changes to the alternative such as proposing specific language. If changes to an alternative are proposed the tertiary motion below would need to be made to detail the proposed change prior to voting on the secondary motion.

**Tertiary Motion – Changes to a substantive amendment alternative:** “Move to amend alternative [insert preferred alternative] as follows: [provide the proposed amendment].”

**Motion to Table:** “Move to table discussion of the main motion and substantive amendments [insert log numbers] until the July 22, 2025 Planning Commission meeting.”

**Note:** If the Planning Commission is unable to resolve all of the proposed amendments at the June 10 meeting, or if additional information or staff recommendations are required, this matter can be tabled until the July 22, 2025 meeting.

**[LOG 1]****MICC 19.06.050 – Commerce and Temporary Structures on Public Property.****[LOG 2a]**

- A. The purpose of this chapter is to allow for the safe, healthful and aesthetic use of public property in zones that allow commercial uses, for the benefit of private commerce. Use of Parks property is covered separately by MICC 9.3 and 4.44 and elements of those sections of code may be applicable to commercial uses that cross over between Parks and commercially zoned properties.

**[LOG 2b]**

- A. The purpose of this chapter is to allow for the safe, healthful and aesthetic use of public property for the benefit of private commerce. The provisions of this chapter do not exempt proposed activities from compliance with other titles of the Mercer Island City Code.

**[LOG 3a]**

- B. The provisions of this section shall apply only to public sidewalks, streets and rights-of-way ("public property") within the Town Center zone.

**[LOG 3b]**

- B. The provisions of this section shall apply only to public sidewalks, streets and rights-of-way within the Town Center zone, Planned Business Zone, and Commercial Office zone.

**[LOG 3c]**

- B. The provisions of this section shall apply only to public sidewalks, streets and rights-of-way ("public property") within the Town Center, Planned Business, and Commercial Office zones.

**[LOG 4a]**

- C. Any person(s), corporation, or company who wishes to use ~~the~~ public property right-of-way for the exchange of goods or services shall apply for a private commerce on public property permit. Such permit shall be in the form specified by the code official and shall contain such information as deemed necessary by the code official.

**[LOG 4b]**

- C.

**[LOG 14b]**

- C. Any person(s), corporation, or company who wishes to use the public right-of-way for the exchange of goods or service shall apply for a private commerce on public property permit, except as provided below. Such permit shall be in the form specified by the code official and shall contain such information as deemed necessary by the code official.

1. Temporary uses and structures associated with commerce on public property operating for seven calendar days or less in any given 90-calendar day period do not require a permit. Nothing in this section exempts commerce on public property activities from compliance with the criteria in MICC 19.06.050(D), Criteria for permit.

- D. *Criteria for permit.* A private commerce on public property permit shall be reviewed based on the following criteria:

**[LOG 5]**

1. The applicant business has an active business license or is in the process of applying for a business license for a location immediately adjacent to the public property location where the request has been made.

**[LOG 6a]**

2. The location of the private commerce on public property-business activity does not create a safety hazard for motorists, bicyclists or pedestrians.

**[LOG 6b]**

2. The location of the private commerce on public property-business activity does not create a safety, noise, or environmental hazard for motorists, bicyclists or pedestrians

**[LOG 7a]**

- a. The business private commerce on public property location maintains sufficient area for the free passage of pedestrians along sidewalks and access to other adjacent businesses.

**[LOG 7b]**

- a. The business location maintains sufficient area for the free passage of pedestrians per ADA standards, along sidewalks and access to other adjacent businesses.

**[LOG 7c]**

- a. The business private commerce on public property location maintains sufficient area for the free passage of pedestrians per ADA standards, along sidewalks and access to other adjacent businesses.

**[LOG 6a]**

- b. The business-private commerce on public property location does not obstruct the views of motorists turning into or out of a street or parking lot.

3. The business operation does not generate litter, noise or other nuisances that would be objectionable to the public or other businesses in the immediate area.

- a. Adequate refuse containers shall be provided.

**[LOG 8a]**

- b. Hours of operations are sensitive to the surrounding neighborhood and shall be limited from 7:00am to 10:00pm.

**[LOG 8b]**

- b. Hours of operations are sensitive to the surrounding neighborhood in compliance with WAC 173-60-040.

**[LOG 9]**

- ~~c. No music or sound is amplified.~~

- d. The area can be maintained in a clean condition.

**[LOG 49]**

- e. Physical improvements can be removed or secured when not in operation at the end of permitted use.

**[LOG 10]**

- ~~4. The design for any non-temporary improvements is consistent with the design requirements for the Town Center plan.~~

5. The location and design do not unreasonably obstruct the visibility of any adjacent businesses.

**[LOG 11a]**

6. The location of a private commerce on public property-business engaged in the sale of alcoholic beverages is separated from the public space with a barrier, fence, landscaping or other demarcation.

**[LOG 11b]**

6. The location of a private commerce on public property-business engaged in the sale of alcoholic beverages is separated from the public space with a barrier, fence, landscaping or other alcohol-required demarcation.

**[LOG 12a]**

7. The proposed use shall not conflict with scheduled or ongoing city maintenance, public works projects, emergency operations, or other municipal activities. The code official shall coordinate with the Public Works Department and other relevant city divisions to identify and mitigate potential conflicts. If conflict arises, the code official may:

- a. Conditionally approve the permit with modified hours, locations, or operational constraints to avoid interference.
- b. Require relocation of the temporary use at the applicant's expense.
- c. Deny the permit if no feasible mitigation exists.

**[LOG 13a]**

8. The total number of public parking stalls [cannot] be reduced by 50% on a given block for temporary uses or structures, including previously approved permits.

**[LOG 13b]**

8. The total number of public parking stalls occupied by the commerce on public property activity may not exceed two public parking stalls immediately adjacent to the business associated with the activity.

- E. A permit to operate a private business on public property shall be reviewed and approved by the design commission; provided, that occasional, temporary business operations involving temporary structures and/or temporary right-of-way obstructions may be approved by the code official. ~~Permit applications from one or a group of existing eating and drinking establishments at Mercer Island to temporarily operate private business on public property during the effective period set forth in section 6 of Ordinance No. 21C-25 shall be considered to be temporary, and they may be approved by the code official without review or approval by the design commission.~~ Permit applications from existing eating and drinking establishments at Mercer Island to temporarily provide outdoor food and beverage service on public property adjacent to the eating and drinking establishment shall be considered to be temporary, and they may be approved by the code official without review or approval by the design commission.
- F. All permittees must comply with all applicable city, county, state and federal laws, including the International Fire Code.



**[LOG 14a]**G. Term:

1. Temporary uses and structures with a term less than one week in any given three month period do not require a permit. Nothing in this section exempts a temporary use or structure from the criteria set in MICC 19.06.050(D).
2. Permits for ongoing commercial use on public property shall be subject to renewal annually on the date of the original permit approval. Failure to submit a renewal request within 30 days of the annual renewal date shall result in the suspension of the permit.

H. The revocation of a permit shall be governed by chapter 6.10 MICC.

**[LOG 15a]**

~~I. The provisions of this section shall not apply to the annual city-sponsored event known as "Summer Celebration."~~

**[LOG 15b]**

I. The provisions of this section shall not apply to the annual city-sponsored events known as "Summer Celebration" and "Mercer Island Farmers Market."

**[LOG 15c]**

I. The provisions of this section shall not apply to ~~the annual city-sponsored~~ events sponsored in part or full by the City known as "Summer Celebration" and "Mercer Island Farmers Market."

**[LOG 15d]**

I. The provisions of this section shall not apply to the annual event known as the "Mercer Island Farmers Market," or the annual city sponsored event known as "Summer Celebration".

J. The code official may require a bond or assignment of funds as set out in MICC 19.01.060(C) to ensure that public property subject to commercial use under this section is restored to its former condition immediately following cessation of the commercial use.

K. The code official may require evidence of insurance, indemnification or other measures deemed necessary and sufficient to limit the city's liability for the acts or omissions of persons, corporations, or companies seeking and obtaining permission to use public property for commercial purposes.

**[LOG 12b]**

~~L. A commerce on public property authorization does not constitute a surrender by the city of any property rights to the right-of-way. Additionally:~~

1. The City Engineer may require removal of improvements associated with commerce on public property if it is determined to create a hazard or as required to perform scheduled or ongoing maintenance, public works projects, emergency operations, or other municipal activities.

**[LOG 14b]**

~~L.\* Temporary uses and structures associated with commerce on public property operating for seven calendar days or less in any given 90-calendar day period do not require a permit. Nothing in this~~

section exempts commerce on public property activities from compliance with the criteria in MICC 19.06.050(D), Criteria for permit.

**[LOG 16]**

**MICC 19.06.130 – Temporary Use and Structure Permits – Outside of the Town Center.**

**[LOG 17]**

- A. *Purpose and applicability.* A temporary use permit authorizes a use or conforming structure on private property on a short-term basis. Temporary encampments are not considered temporary uses for purposes of this section and are instead subject to the requirements contained within MICC 19.06.090.
- B. *Permit required.*
  - 1. No temporary use or structure shall be permitted within the city except in accordance with the provisions of this chapter. A temporary use permit is required for temporary uses except those specifically exempted pursuant to MICC 19.06.130(D).
  - 2. The property owner or their authorized agent may apply for a temporary use permit on private property.
  - 3. Any temporary use or structure authorized by this chapter may be subject to other permitting and review requirements of the MICC and/or other public agencies.

**[LOG 18a]**

- C. *Application.* The application for a temporary use permit shall be submitted on forms obtained from the Community Planning & Development Department, and consistent with MICC 19.15.060. The application shall contain all information deemed necessary by the code official to determine if the proposed permit or action will comply with the requirements of this section. The Community Planning & Development Department shall verify that the application is consistent with the requirements of this chapter, and that the application contains proof of a valid business license, if applicable. Temporary use applications shall be processed as a Type I land use review, pursuant to MICC 19.15.030 Land Use Review Types.

**[LOG 18b]**

- C. *Application.* The application for a temporary use permit shall be submitted on forms obtained from the Community Planning & Development Department, and consistent with MICC 19.15.060. The application shall contain all information deemed necessary by the code official to determine if the proposed permit or action will comply with the requirements of this section. The Community Planning & Development Department shall verify that the application is consistent with the requirements of this chapter, and that the application contains proof of a valid business license, if applicable. Temporary use applications shall be processed as a Type III land use review, pursuant to MICC 19.15.030 Land Use Review Types.

**[LOG 18c]**

- C. *Application.* The application for a temporary use permit shall be submitted on forms obtained from the Community Planning & Development Department, and consistent with MICC 19.15.060. The application shall contain all information ~~deemed necessary by the code official~~ as required on the application forms to determine if the proposed permit or action will comply with the requirements of this section. The Community Planning & Development Department shall verify

that the application is consistent with the requirements of this chapter, and that the application contains proof of a valid business license, if applicable. Temporary use applications consistent with existing land use code shall be processed as a Type I land use review, pursuant to MICC 19.15.030 Land Use Review Types. All other applications will be processed as a Type II land use review.

**[LOG 18d]**

- C. Application. The application for a temporary use permit shall be submitted on forms obtained from the Community Planning & Development Department, and consistent with MICC 19.15.060. The application shall contain all information deemed necessary by the code official to determine if the proposed permit or action will comply with the requirements of this section. The Community Planning & Development Department shall verify that the application is consistent with the requirements of this chapter, and that the application contains proof of a valid business license, if applicable. Temporary use and temporary use renewal applications shall be processed as a Type II land use review, pursuant to MICC 19.15.030 Land Use Review Types. Temporary use deviation applications shall be processed as a Type IV land use review, pursuant to MICC 19.15.030 Land Use Review Types.

D. *Exemptions.*

1. The following activities on private property are exempt from the permit requirements of this chapter, but shall comply with other substantive requirements of this chapter, unless specifically noted otherwise:

**[LOG 19a]**

- a. Garage sales, yard sales, and estate sales conducted by or on behalf of the occupant(s) of a residential dwelling. ~~Tents or other temporary structures used in conjunction with any garage, yard, or estate sale shall not exceed 120 square feet in area;~~

**[LOG 19b]**

- a. Garage sales, yard sales, and estate sales conducted by or on behalf of the occupant(s) of a residential dwelling. Tents or other temporary structures used in conjunction with any garage, yard, or estate sale shall not exceed 120 square feet in area, with a maximum of one tent per 2,000 SF of lot area, or two tents, whichever is greater;
- b. Rummage and other outdoor sales sited at a school, church, or other nonresidential institutional facility;
- c. Exemptions for Construction-Related Activities: The following uses and structures do not require a temporary use permit, provided they are associated with an approved land use application and/or construction permit:

**[LOG 20]**

- i. When located in an R zone, a single contractor's office under 400 square feet, storage yard, and equipment parking and equipment servicing not to exceed 8 hours in duration on or near the site or in the vicinity of an active construction project.

**[LOG 21 & 22]**

- ii. In all other zones, contractor's office, storage yard, and equipment parking and servicing on or near the site or in the vicinity of an active construction project.
- iii. Sales/marketing trailers used for the purpose of real estate sales and/or rental information, located within the subdivision or development to which they pertain.

**[LOG 23]**

- d. Any temporary use or structure with a term of less than one week in any given three month period. The underlying development standards of the zoning designation applicable to the site on which the temporary use or structure is proposed do not apply.

**E. Criteria for approval.**

- 1. The code official, in consultation with appropriate City departments, shall review each application for a temporary use permit. The code official may approve, or condition and approve, an application for a temporary use permit if the application satisfies all of the following criteria:

**[LOG 24]**

- a. The temporary use will not be ~~materially~~ detrimental to the public health, safety or welfare, nor injurious to property or improvements in the vicinity of the temporary use;

**[LOG 25]**

- ~~b. The structure or use is located where there is safe ingress and egress from the street, including a clear sight area adjacent to the street;~~
- c. Structures proposed for the temporary use comply with applicable provisions of the Building and Fire Codes;

**[LOG 26a]**

- ~~d. Adequate parking is available to serve the temporary use, and if applicable, the temporary use does not occupy required off-street parking areas for adjacent or nearby uses;~~

**[LOG 26b]**

- d. Adequate parking (based on parking requirements for Town Center retail businesses) is available to serve the temporary use, and if applicable, the temporary use does not occupy or use required off-street parking areas for adjacent or nearby uses;

**[LOG 27]**

- d\*. The temporary use shall obtain all necessary permits and/or authorizations required by the City and/or state and federal agencies.

e\*. The temporary use or structure shall require the landlord's / property owner's approval. Nothing in this section compels a landlord or property owner to permit a tenant to expand its business to the exterior.

f\*. The use or structure shall not interfere with ADA accessible parking spaces or access to adjacent and surrounding businesses.

**[LOG 28a]**

e. Hours of operation of the temporary use are specified, and would not adversely impact surrounding uses. Temporary uses in the single-family residential zone shall comply with limits on permitted construction in the single-family zone;

**[LOG 28b]**

e. Hours of operation of the temporary use are specified, and would not adversely impact surrounding uses. Temporary uses within the R-8.4, R-9.6, R-12, and R-15 zoning designations are limited to hours of operation between [time] and [time];

**[LOG 29a]**

f. The temporary use will not cause nuisance factors such as noise, light, or glare which would adversely impact surrounding land uses, no music or sound is amplified;

**[LOG 29b]**

f. The temporary use will not cause nuisance factors such as noise, light, or glare which would adversely impact surrounding land uses. Any mechanical equipment shall not exceed the maximum permissible noise levels set forth in WAC 173-6[0]-040, which is hereby incorporated as though fully set forth herein. Any such equipment shall not be located within 5 feet of any lot line;

**[LOG 29c]**

f. The temporary use will not cause nuisance factors such as noise, light, or glare which would adversely impact surrounding land uses. No music or sound may be amplified. Any mechanical equipment shall not exceed the maximum permissible noise levels set forth in WAC 173-60-040, which is hereby incorporated as though fully set forth herein. Any such equipment shall not be located within 5 feet of any lot line;

**[LOG 29d]**

f. The temporary use will not ~~contribute-cause~~ nuisance factors such as amplified noise, light, or glare which would adversely impact surrounding land uses, music or sound;

g. The temporary use will not include permanent fencing, walls, or other structures that would hinder removal of the structure from the site; and

h. The temporary use will comply with the applicable portions of MICC Title 19 including, but not limited to, Ch. 19.07, Environment, 19.10, Trees, 19.13, Shoreline Master Program, and 19.21, Environmental Procedures.

**[LOG 30]**

- i\*. Minimum parking regulations required in MICC 19.04.040 and MICC 19.11.130 are available to serve the temporary use, and if applicable, the temporary use does not occupy required off-street parking areas for adjacent or nearby uses;

**[LOG 31a]**

- j\*. When located in an R zone, unless exempt per [MICC] 19.06.130(D), temporary structures must meet the underlying development standards of the zone, except that on lots greater than 160,000 square feet, temporary structures to enclose outdoor swimming pools or sport courts that existed prior to January 1, 2025 may exceed the height limit by a maximum of ten feet if necessary to span across the pool deck or sport court;

**[LOG 32]**

- k\*. The temporary use or structure will comply with the underlying development standards of the zoning designation and approved conditional uses applicable to the site on which the temporary use or structure is proposed.

**[LOG 33]**

- ~~2. Except as otherwise provided above, the underlying development standards of the zoning designation applicable to the site on which the temporary use or structure is proposed do not apply.~~

**[LOG 34]**

- F. *Additional conditions for certain temporary uses/structures.* The following temporary uses and structures are permitted when authorized by the issuance of a temporary use permit when the applicable conditions set forth in this section and in MICC 19.06.130(E), Criteria for approval, have been met.

1. Any proposed use or structure may request a variance from the underlying development standards of the zoning designation applicable to the site on which the temporary use or structure is proposed pursuant to section 19.06.110 and subject to the following conditions:
  - a. Temporary use applications shall be processed as a Type IV land use review, pursuant to MICC 19.15.030 Land Use Review Types.
  - b. Land use review approvals shall expire five years from the date of notice of the decision. Nothing in this section exempts a temporary use or structure from the time limitations pursuant to MICC 19.06.130(G). Renewal of expired land use approvals shall require a new application.
  - c. Temporary use or structure permits approved under this section may be renewed as a Type II land use review provided the proposed use or structure has not changed, and the Type IV land use approval has not expired.

**[LOG 27]**

- ~~1. Mobile Food Vendors. Mobile food vendors shall comply with the following conditions:~~

- ~~a. The mobile food vendor shall obtain and keep the Eastside Fire and Rescue permit or approval and King County Health Department permit or approval on the mobile food vending facility at all times, and copies of these approvals shall be made available to the City upon the City's request.~~
  - ~~b. The mobile food vendor must be located on a paved surface. If the mobile food vendor will be operating within a parking area, the mobile food vending facility may not protrude into the drive aisle, block fire lanes, or result in the site providing less than the required minimum number of parking stalls.~~
  - ~~c. A mobile food vendor shall not be parked in a location that will impede garbage collection.~~
  - ~~d. A mobile food vendor must obtain permission from the property owner prior to operating.~~
  - ~~e. The mobile food vendor must have fully functional wheels and be able to move immediately by being towed or driven without the removal of blocks or other structural devices.~~
- ~~2. Subject to approval by the code official, existing eating and drinking establishments may temporarily utilize private parking areas for outdoor food and beverage service, provided the private parking area is immediately adjacent to the eating and drinking establishment, and the following conditions are met:~~
- ~~a. Use of any portion or percentage of private off street parking areas for outdoor food and beverage service shall require the landlord's / property owner's approval. Nothing in this section compels a landlord or property owner to permit a tenant to expand its business to the exterior.~~
  - ~~b. To the extent necessary to provide outdoor food and beverage service, minimum parking regulations normally applicable to eating and drinking establishments required in MICC 19.04.040 and MICC 19.11.130 are waived to enable such uses to serve patrons in adjoining parking spaces for the duration of the temporary use.~~
  - ~~c. The use of outdoor food and beverage service shall not interfere with ADA accessible parking spaces or access to adjacent and surrounding businesses.~~
  - ~~d. The temporary use shall obtain all necessary permits and/or authorizations required by the City and/or state and federal agencies.~~

**[LOG 35a]**

- F. *Additional conditions for certain temporary uses/structures.* The following temporary uses and structures are permitted in the Town Center when authorized by the issuance of a temporary use permit when the applicable conditions set forth in this section and in MICC 19.06.130(E), Criteria for approval, have been met.

**[LOG 35b]**

F. *Additional conditions for certain temporary uses/structures.* The following temporary uses and structures are permitted in the public portions of the Town Center when authorized by the issuance of a temporary use permit when the applicable conditions set forth in this section and in MICC 19.06.130(E), Criteria for approval, have been met.

1. Mobile Food Vendors. Mobile food vendors shall comply with the following conditions:
  - a. The mobile food vendor shall obtain and keep the Eastside Fire and Rescue permit or approval and King County Health Department permit or approval on the mobile food vending facility at all times, and copies of these approvals shall be made available to the City upon the City's request.

**[LOG 36]**

- b. The mobile food vendor must be located on or adjacent to a paved surface. If the mobile food vendor will be operating within a parking area, the mobile food vending facility may not protrude into the drive aisle, block fire lanes, or result in the site providing less than the required minimum number of parking stalls.
- c. A mobile food vendor shall not be parked in a location that will impede garbage collection.

**[LOG 37]**

- d. A mobile food vendor must obtain permission from the property owner prior to parking or operating on private property.
- e. The mobile food vendor must have fully functional wheels and be able to move immediately by being towed or driven without the removal of blocks or other structural devices.

2. Subject to approval by the code official, existing eating and drinking establishments may temporarily utilize private parking areas for outdoor food and beverage service, provided the private parking area is immediately adjacent to the eating and drinking establishment, and the following conditions are met:

- a. Use of any portion or percentage of private off-street parking areas for outdoor food and beverage service shall require the landlord's / property owner's approval. Nothing in this section compels a landlord or property owner to permit a tenant to expand its business to the exterior.

**[LOG 38]**

- ~~b. To the extent necessary to provide outdoor food and beverage service, minimum parking regulations normally applicable to eating and drinking establishments required in MICC 19.04.040 and MICC 19.11.130 are waived to enable such uses to serve patrons in adjoining parking spaces for the duration of the temporary use.~~
- c. The use of outdoor food and beverage service shall not interfere with ADA accessible parking spaces or access to adjacent and surrounding businesses.



- d. The temporary use shall obtain all necessary permits and/or authorizations required by the City and/or state and federal agencies.

**[LOG 39]**

3. [Staff please add a section here for Farmers Market]

G. Time limitation.

1. The code official may issue a temporary use or structure permit up to the durations set forth in Table A, Table of Temporary Use and Structure Permit Duration.

**Table A. Table of Temporary Use and Structure Permit Duration**

Temporary Use or Structure	Maximum Duration	Applicable Development Standards
<b>[LOG 27]</b> Temporary Uses or Structures (not including activities listed in MICC 19.06.130(D), Exemptions <del>and Mobile food vendors</del> )	<b>[LOG 40]</b> 180 Days <sup>+</sup> <b>[LOG 41]</b> 180 <u>Consecutive</u> Days <u>in a twelve-month period</u>	MICC 19.06.130(E)
Activities listed in MICC 19.06.130(D), Exemptions not related to another permit.	<b>[LOG 42]</b> <u>Three consecutive days</u> , 30 days of site occupation or operation in any calendar year, unless otherwise stated	MICC 19.06.130(D)
Activities listed in MICC 19.06.130(D), Exemptions related to another permit.	<b>[LOG 43a]</b> <del>180 days of site occupation or operation in any calendar year, unless otherwise stated</del> <sup>+</sup> <u>Expires on the earlier of project completion or related permit expiration</u> <b>[LOG 43b]</b> 180 <u>consecutive</u> days of site occupation or operation in any <del>calendar year</del> <u>12-month period, unless otherwise stated</u> <sup>+</sup> <b>[LOG 43c]</b> <del>180 days of site occupation or operation in any calendar year, unless otherwise stated</del> <sup>+</sup> <u>The use shall be allowed through the duration of the active construction project or active sales/marketing for real estate sales and/or rental information. The use shall be discontinued within 30 days of the project</u>	MICC 19.06.130(D)

	<u>completion, cessation of work, or completion of real estate rental or sales</u>	
<p><b>[LOG 44]</b></p> <p><del>Mobile food vendors</del><u>Activities located within the Town Center Zone</u></p>	<p><b>[LOG 45a]</b></p> <p><del>30 days or as provided pursuant to the terms of the issued temporary use permit</del><u>Indefinite, subject to annual renewals. Failure to submit a renewal request within 30 days of the annual renewal date shall result in the expiration of the permit</u></p> <p><b>[LOG 45b]</b></p> <p>30 days <u>in any 12-month period in the Town Center</u> <del>or as provided pursuant to the terms of the issued temporary use permit</del></p> <p><b>[LOG 45c]</b></p> <p><del>[60 or 90]</del><u>30</u> days or as provided pursuant to the terms of the issued temporary use permit</p>	MICC 19.06.130(F)(1)

**[LOG 40]**

~~\*The code official may grant an extension not to exceed 30 days in total, upon the applicant showing compliance with all conditions of permit approval. If a request for an extension is not received in writing at least one week prior to the end of the time limit stated on the temporary use permit, the temporary use permit shall expire and the use or structure shall be timely removed pursuant to MICC 19.06.130(I).~~

- H. *Limitation on activity.* A property will not be granted a temporary use permit for a temporary use or structure for a minimum of three months after the expiration of a previous temporary use or structure permit.
- I. *Removal of a temporary use.* The code official shall establish, as a condition of each temporary use permit, a date by which the use/structure and all physical evidence of the use/structure must be removed. The site occupied by the temporary use or structure shall be restored to the original or better condition upon the removal of the use or structure. If the permittee has not removed the use/structure as required by the temporary use permit, the city may take any and all enforcement action permitted by law, including, but not limited to abatement pursuant to MICC Title 6.
- J. *Assurance device.* The code official may require a financial guarantee pursuant to the requirements in MICC 19.01.060, in a form acceptable to the finance department, to assure compliance with the provisions of this title and the temporary use permit as approved.

**MICC 19.15.030 – Land Use Review Types.**

There are four categories of land use review that occur under the provisions of the development code.

- A. *Type I.* Type I reviews are based on clear, objective and nondiscretionary standards or standards that require the application of professional expertise on technical issues.
- B. *Type II.* Type II reviews are based on clear, objective and nondiscretionary standards or standards that require the application of professional expertise on technical issues. The difference between Type I and Type II review is that public notification shall be issued for Type II decisions.
- C. *Type III.* Type III reviews require the exercise of discretion about nontechnical issues.
- D. *Type IV.* Type IV reviews require discretion and may be actions of broad public interest. Decisions on Type IV reviews are only taken after an open record hearing.
- E. The types of land use approvals are listed in Table A of this section. The required public process for each type of land use approval are listed in Table B of this section.
- F. *Consolidated permit processing.* An application for a development proposal that involves the approval of two or more Type II, III and IV reviews may be processed and decided together, including any administrative appeals, using the highest numbered land use decision type applicable to the project application. Consolidated land use reviews shall be subject to the longest review time period identified in MICC 19.15.040.
  1. The following permits and land use reviews are excluded from consolidated review and approval:
    - a. Building permits associated with the construction of one or more new single-family dwellings on lots resulting from the final plat approval of a short subdivision or long subdivision.
    - b. Building permits associated with shoreline conditional use permits and shoreline variance.
    - c. Project SEPA reviews.
  2. When a review is heard by multiple decision bodies, the higher decision body will make the final decision, and the lower decision body will review the project at a public meeting and issue a recommendation that will be reviewed by the higher decision body. The higher decision body will either adopt the recommendation as part of the permit conditions, will remand the recommendation back to the lower body for further consideration, will amend the recommendation, or will deny adoption of the recommendation and will adopt their own permit conditions. The hierarchy of decision bodies is as follows, from highest to lowest:
    - a. City council;
    - b. Hearing examiner;
    - c. Design commission.

G. *Interior alterations exempt from site plan review.*

1. Applications for interior alterations are exempt from site plan review provided they meet the following criteria:
  - a. The proposed development does not result in additional sleeping quarters or bedrooms;
  - b. The proposed development would not result in nonconformity with federal emergency management agency substantial improvement thresholds; or
  - c. The proposed development would not increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.
2. Applications for interior alterations are subject to review for consistency with any otherwise applicable building, plumbing, mechanical, or electrical codes.

H. *Land use review types and review processing procedures.*

Table A. Land Use Review Type

Type I	Type II	Type III	Type IV
<ul style="list-style-type: none"> <li>• Home business</li> <li>• Nonmajor single-family dwelling building permits</li> <li>• Tree removal permit</li> <li>• Right-of-way permit</li> <li>• Special needs group housing safety determination</li> <li>• Tenant improvement/change of use</li> <li>• Shoreline exemption <sup>1</sup></li> <li>• Critical area review <sup>1</sup></li> <li>• Temporary commerce on public property</li> <li>• Site development permits</li> <li>• Transportation concurrency certificate</li> </ul> <p><b>[LOG 46]</b></p> <p>• <del>Temporary use permit</del></p>	<ul style="list-style-type: none"> <li>• Modified wireless communication facilities (6409 per 47 CFR 1.40001)</li> <li>• Lot line revision</li> <li>• Setback deviations</li> <li>• Final plat <sup>2,3</sup></li> <li>• Code official design review</li> <li>• Accessory dwelling unit</li> <li>• Parking modification <sup>7</sup> (reviewed by city engineer)</li> <li>• Small wireless facility deployment</li> <li>• Seasonal development limitation waiver</li> <li>• Final short plat</li> </ul> <p><b>[LOG 46]</b></p> <p>• <u>Temporary use permit</u></p>	<ul style="list-style-type: none"> <li>• New and modified wireless (non-6409) eligible facility</li> <li>• SEPA threshold determination</li> <li>• Critical area review 2</li> <li>• Public agency exception</li> <li>• Temporary encampment <sup>4</sup></li> <li>• Short plat alteration and vacations</li> <li>• Preliminary short plat</li> <li>• Development code interpretations</li> <li>• Major single-family dwelling building permit <sup>5</sup></li> <li>• Shoreline substantial development permit <sup>1</sup></li> <li>• Shoreline revision (substantial development) <sup>1</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Preliminary long plat approval</li> <li>• Conditional use permit</li> <li>• Variance</li> <li>• Critical areas reasonable use exception</li> <li>• Long plat alteration and vacations</li> <li>• Parking modifications <sup>7</sup> (reviewed by design commission)</li> <li>• Variance from short plat acreage limitation</li> <li>• Wireless communication facility height variance</li> <li>• Planned unit development</li> <li>• Design commission design review</li> <li>• Permanent commerce on public property</li> <li>• Shoreline conditional use permit (SCUP) <sup>6</sup></li> <li>• Shoreline variance <sup>6</sup></li> <li>• Shoreline revision (variance and SCUP)</li> </ul> <p><b>[LOG 47]</b></p> <p>• <u>Temporary use permit variance</u></p>

Temporary Uses and Structures Matrix

Comment Categorization Key

Substantive	Comment proposes significant changes to the Temporary Uses and Structures draft code, Planning Commission (PC) should discuss at its next meeting.
Minor	Non-substantive changes that would not significantly change the policy direction of the Temporary Uses and Structures draft code.
Q	Comment is a question or does not propose specific amendments to the text. Staff responses to these questions are provided.

Table 1. Planning Commission Housing Element Comment Matrix.

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
MICC 19.06.050 – Commerce on Public Property				
1	Dan Thompson	Amend the title to read: “Commerce <u>and Temporary Structures</u> on Public Property.”	N/A	Minor
2a	Kate Akyuz	Amend (A) to read: “The purpose of this chapter is to allow for the safe, healthful and aesthetic use of public property in zones that allow commercial uses, for the benefit of private commerce. <u>Use of Parks property is covered separately by MICC 9.3 and 4.44 and elements of those sections of code may be applicable to commercial uses that cross over between Parks and commercially zoned properties.</u> ”	While it is not necessary to clarify that use of city parks are covered under a separate code section, and that there may be cross over between these sections, if the Commission wishes to include this information, staff recommends the Staff Proposed Alternative in Log 2b. See Staff Response to 2b for more information.	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
2b	Staff Proposed Alternative	Amend (A) to read: “The purpose of this chapter is to allow for the safe, healthful and aesthetic use of public property for the benefit of private commerce. <u>The provisions of this chapter do not exempt proposed activities from compliance with other titles of the Mercer Island City Code.</u> ”	Commercial uses are allowed in many zones, including the Multi-Family zones. Should the Planning Commission want to allow commerce on public property in zones beyond the Town Center, Logs 3b and 3c would accomplish this more specifically. Additionally, any proposed development or use must comply with the entirety of the Mercer Island City Code, whether explicitly stated in certain chapters or not. If the Planning Commission wants to include this information, staff recommends broadening the clarification to include the entire MICC instead.	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
3a	Dan Thompson	Amend (B) to read: "The provisions of this section shall only apply to public sidewalks, streets and rights-of-way ( <u>"public property"</u> ) within the Town Center zone."	<p>"Public property" and "Right-of-way" are slightly different from each other and are not typically interchangeable.</p> <p>"Public property" is defined as "Any property under direct ownership or control by the city of Mercer Island. This includes, but is not limited to, parks, green belts, open spaces, rights-of-way, and ground around public buildings but excludes Interstate 90 and any property owned by the state of Washington".</p> <p>"Right-of-way" is defined as "Land acquired by reservation, dedication, prescription or condemnation, and intended to be used by a road, sidewalk, utility line or other similar public use".</p> <p>This amendment would broaden the criteria in MICC 19.06.050(D) to apply to all public property within the Town Center zone, and not only public sidewalks, street and rights-of-way. If these criteria were applied to a public park, for example, the criteria that requires the applicant business to have an active business license for a location immediately adjacent to the public property location where the request has been made would prohibit a lot of the commerce activities that may occur within the public parks through a Special Event Permit. Please see PCB25-05 for more information on the kinds of activities permitted through this process.</p> <p>Additionally, uses in parks are regulated through Chapter 9.30, the Mercer Island Park Code. It does not appear that there are any conflicts between Chapter 9.30 and Section 19.06.050 MICC at this time.</p>	Substantive



Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
3b	Kate Akyuz	Amend (B) to read: "The provisions of this section shall only apply to public sidewalks, streets and rights-of-way within the Town Center zone, <u>Planned Business Zone, and Commercial Office zone.</u> " [Several folks in the community have requested that the City consider small coffee shops or other retail amenities in neighborhoods other than TC. Given restaurants are allowed in the PBZ it seems odd to not allow the use there as well. The CO zone has a lot of similarities to these zones and the split among the three in terms of use feels somewhat arbitrary. Could be value in considering CO zone as well.]	As currently developed, there are little to no opportunities for commerce on public property within the PBZ and CO zone since one of the criteria for operation of commerce on public property is that the business must have an active business license for a location immediately adjacent to the public property location where the request has been made. A cursory street-view walkthrough of the businesses abutting public property in the PBZ and CO zone shows that there are no businesses immediately adjacent to public property.	Substantive
3c	Staff Proposed Alternative	Amend (B) to read: "The provisions of this section shall only apply to public sidewalks, streets and rights-of-way ( <u>"public property"</u> ) within the Town Center, <u>Planned Business, and Commercial Office zones.</u> "	Should the Planning Commission want to recommend adoption of both Logs 3a and b, this staff proposed alternative would incorporate both amendments.	Substantive
4a	Dan Thompson	Amend (C) to read: "[...] wishes to use <del>the public property right-of-way</del> for [...]"	See Staff Response to Log 3a for the implications of broadening these criteria to all public property, not only public right-of-way.	Substantive
4b	Anthony Perez	Amend (C) to read: "Any person(s), corporation, or company who wishes to use the public <u>property right-of-way</u> for the exchange of goods or services shall apply for a private commerce on public property permit. Such permit shall be in the form specified by the code official and shall contain such <u>Zoning Code and Land Use</u> information as deemed necessary by the code official."	This amendment includes the amendment in Log 4a, and adds application information.  Also consider Log 14b.	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
Q1	Dan Thompson	MICC 19.06.050(C) "Such permit shall be in the form specified by the code official and shall contain information as deemed necessary by the code official". What information?	<p>The information that is deemed necessary by the code official to determine that the application meets all applicable criteria can be found in the permit application form for <a href="#">ROW Use Permits</a>.</p> <p>This language is standard through the Title 19 MICC, and while it may seem vague, in practice it allows the code official to require additional studies, for example, a Critical Area Study, or other permit applications, if this is necessary to approve the Temporary Use Permit application. Any additional information required from the applicant would be requested at the time of completeness review, consistent with the standards in MICC 19.15.070.</p>	Q
5	Kate Akyuz	Amend (D)(1) to read: "The applicant business has an active business license <u>or is in the process of applying for a business license</u> for a location immediately adjacent to the public property location where the request has been made." [The new Economic Development Plan attempts to address barriers for small businesses. It is possible that a business plan would be viable contingent on ability to have outdoor summer seating. Adding this allows prospective business to invest in new enterprises with confidence the use would be allowed.]	This amendment would allow any business, whether they have an active business license or not, to obtain a commerce on public property permit. The administering of this allowance could be difficult, since staff are not clear how an applicant can adequately show they are in the process of applying for a business license.	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
6a	Dan Thompson	Amend (D)(2) to read: "The location of the <u>private commerce on public property</u> <del>business activity</del> does not create a safety hazard for motorists, bicyclists or pedestrians."  AND  Amend (D)(2)(b) to read: "The <del>business-private commerce on public property</del> location [...]"	N/A	Substantive
6b	Anthony Perez	Amend (D)(2) to read: "The location of the <u>private commerce on public property</u> <del>business activity</del> does not create a safety, noise, or environmental hazard for motorists, bicyclists or pedestrians."	This amendment includes the amendment in Log 6a.	Substantive
7a	Dan Thompson	Amend (D)(2)(a) to read: "The <u>private commerce on public property</u> <del>business</del> location [...]"	N/A	Substantive
7b	Kate Akyuz	Amend (D)(2)(a) to read: "The business location maintains sufficient area for the free passage of pedestrians <u>per ADA standards</u> , along sidewalks and access to other adjacent businesses." [This is a topic the Council has been working to address. Given the implementation of ADA standards for street corners starting in TC, it may be important to note this for project feasibility exploration purposes.]	N/A	Substantive
7c	Staff Proposed Alternative	Amend (D)(2)(a) to read: "The <u>private commerce on public property</u> <del>business</del> location maintains sufficient area for the free passage of pedestrians <u>per ADA standards</u> , along sidewalks and access to other adjacent businesses."	Should the Planning Commission wish to recommend adoption of both Logs 7a and b, this Staff Proposed Alternative would incorporate both amendments.  Both amendments are minor in nature, but due to the alternatives have been categorized as substantive for discussion.	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
8a	Dan Thompson	Amend (D)(3)(b) to read: "Hours of operations are sensitive to the surrounding neighborhood <u>and shall be limited from 7:00am to 10:00pm.</u> "	<p>Limitations on hours of operation to these specific hours could prevent existing or future outdoor dining from operating to the full extent of their business hours.</p> <p>Under the current code, if a business was causing a nuisance and negatively impacting the surrounding neighborhood, this would be investigated through a code enforcement request. The code enforcement officer would determine whether the use is being sensitive to the surrounding neighborhood, and if it is not, the offending activity would be required to cease.</p> <p>If the Planning Commission would like to set a limit on the hours of operation, staff recommends providing reasoning for selecting the specific hours proposed with its recommendation. This will help to ensure the hours have not been arbitrarily selected.</p>	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization																			
8b	Kate Akyuz	<p>Amend (D)(3)(b) to read: “Hours of operations are sensitive to the surrounding neighborhood <u>in compliance with WAC 173-60-040.</u>”</p> <table><tr><th rowspan="2">EDNA OF NOISE SOURCE</th><th colspan="3">EDNA OF RECEIVING PROPERTY</th></tr><tr><th>Class A</th><th>Class B</th><th>Class C</th></tr><tr><td>CLASS A</td><td>55 dBA</td><td>57 dBA</td><td>60 dBA</td></tr><tr><td>CLASS B</td><td>57</td><td>60</td><td>65</td></tr><tr><td>CLASS C</td><td>60</td><td>65</td><td>70</td></tr></table> <p>[...] For the purpose of eliminating arbitrary code standards it would be good to specify the decibels of noise allowed to pass from one EDNA property type to another per state code. MI may want more restrictive standards than the state code allows, however, some specific limits would be useful for commercial properties to understand the requirement here and plan accordingly.]</p>	EDNA OF NOISE SOURCE	EDNA OF RECEIVING PROPERTY			Class A	Class B	Class C	CLASS A	55 dBA	57 dBA	60 dBA	CLASS B	57	60	65	CLASS C	60	65	70	<p>The maximum environmental noise levels in <a href="#">Chapter 173-60 WAC</a> already apply to all activity across the state. A reference to this WAC section is not necessary, but it can be added here if the Planning Commission prefers, since this reference is included elsewhere in the MICC.</p> <p>Related Logs: 9</p>	Substantive
EDNA OF NOISE SOURCE	EDNA OF RECEIVING PROPERTY																						
	Class A	Class B	Class C																				
CLASS A	55 dBA	57 dBA	60 dBA																				
CLASS B	57	60	65																				
CLASS C	60	65	70																				
9	Kate Akyuz	<p>Strike (D)(3)(c) which reads: “No music or sound is amplified.” [Propose striking this only if item 3(b) is amended to apply prescriptive noise limit standards. Low-volume music ambiance in an outdoor restaurant is desirable to many local patrons and most MI restaurants close before 9 PM, i.e. well within the state’s and city’s requirements of time of day for limiting noise. Allowing for music would allow for acoustical performances on summer evenings and elevate the desirability of local restaurant venues.]</p>	<p>N/A</p> <p>Note: This amendment would only be proposed if Log 8b is recommended for adoption.</p>	Substantive																			

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
Q2	Dan Thompson	MICC 19.06.050(D)(3)(e) "Physical improvements can be removed or secured when not in operation." Every night?	The code does not require physical improvements to be removed or secured but only specifies that they <i>can</i> be removed. This is to ensure that physical improvements are temporary and can be removed if the City Engineer or code enforcement officer finds that the activity is not in compliance with the criteria for permit, or if the City needed to access the area related to safety or maintenance needs	Q
49	Anthony Perez	Amend (D)(3)(e) to read: "Physical improvements can be removed or secured when not in operation <u>at the end of permitted use.</u> "	Please see Staff Response to Q2. This amendment would not require physical improvements to be able to be removed or secured when not in operation if the permitted use extends over a longer period of time. "When not in operation" limits this requirement to "closed" business hours. Adding "at the end of permitted use" expands this to the end of the time frame specified in the permit.	Substantive
10	JB Gibson	Strike (D)(4), which reads "The design for any non-temporary improvements is consistent with the design requirements for the Town Center plan". [Unnecessary].	Amendment is minor. All development within the Town Center must comply with design requirements, unless stated otherwise pursuant to Chapter 19.11 MICC.	Minor
Q16	Anthony Perez	Comment in favor of keeping (D)(4).	If the Commission is in favor of keeping (D)(4), Log 10 will need to be removed from the Minor amendments.	Q
Q3	Dan Thompson	MICC 19.06.050(D)(4) "The design for any non-temporary improvements is consistent with the design requirements for the Town Center plan." Is this necessary?	See Staff Response to Log 10.	Q
11a	Dan Thompson	Amend (D)(6) to read: "The location of a <u>private commerce on public property permit</u> <del>business</del> engaged in the sale of alcoholic beverages [...]"	N/A. Amendment is minor in nature, but due to proposed alternatives has been categorized as substantive for discussion.	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
11b	Anthony Perez	Amend (D)(6) to read: "The location of a <u>private commerce on public property permit</u> <del>business</del> engaged in the sale of alcoholic beverages is separated from the public space with a barrier, fence, landscaping, or other <u>alcohol-required</u> demarcation.	This amendment includes the amendment in Log 11a.	Substantive
12a	JB Gibson	<p>Amend (D) to add item (7): "The proposed use shall not conflict with scheduled or ongoing city maintenance, public works projects, emergency operations, or other municipal activities. The code official shall coordinate with the Public Works Department and other relevant city divisions to identify and mitigate potential conflicts. If conflict arises, the code official may:</p> <ul style="list-style-type: none"><li>a. Conditionally approve the permit with modified hours, locations, or operational constraints to avoid interference.</li><li>b. Require relocation of the temporary use at the applicant's expense.</li><li>c. Deny the permit if no feasible mitigation exists."<p>[This preserves the city's ability to perform necessary maintenance and projects].</p></li></ul>	<p>This amendment allows the city to coordinate scheduled maintenance, public works projects, emergency operations, or other activities with the approved commerce on public property activities. While staff understand the reasonings for this proposed amendment, administering portions of the language may be difficult, especially with the inclusion of other proposed amendments, specifically Log 14a. For example, this only allows the code official to identify when these conflicts may arise through the application process, and Log 14a does not require activities less than one week over a three month period to obtain a permit.</p> <p>Staff have prepared an alternative that accomplishes the same goal of preventing conflicts and allowing the city the right to remove a commerce on public property activity should it be necessary to perform certain city activities. See the Staff Prepared Alternative in Log 12b.</p>	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
12b	Staff Proposed Alternative	Amend 19.06.050 to add (L): “A commerce on public property authorization does not constitute a surrender by the city of any property rights to the right-of-way. Additionally: 1. The City Engineer may require removal of improvements associated with commerce on public property if it is determined to create a hazard or as required to perform scheduled or ongoing city maintenance, public works projects, emergency operations, or other municipal activities.”	This language is similar to that found in MICC 19.06.060 for regulations for permanent encroachments in the right-of-way.	Substantive



Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
13a	JB Gibson	Amend (D) to add item (8): "The total number of public parking stalls can not be reduced by 50% on a given block for temporary uses or structures, including previously approved permits". [Ensures temp uses in the ROW do not significantly reduce TC parking capacity].	<p>The use of the term "block" may result in difficulties administering this criterion. "Block" is not a term that is defined in the MICC, however, the MICC does include a definition for "Block frontage" which "refers to all property fronting on one side of a street that is between intersecting streets, or that is between a street and a required through-block connection. An intercepting street or required through-block connection determines only the boundary of the block frontage on the side of the street in which it intercepts".</p> <p>Additionally, the criterion listed in MICC 19.06.050(D)(1) requires the applicant to have an active business license for a location immediately adjacent to the public property location where the request has been made. This standard effectively limits the use of public property to only those areas immediately adjacent, so a business would not be allowed to occupy multiple parking spaces, stretching beyond the frontage immediately adjacent to their business.</p> <p>If the Planning Commission desires to further restrict the amount of parking that a business use may occupy to maintain parking availability in the Town Center, staff recommends the alternative listed in Log 13b.</p>	Substantive
13b	Staff Proposed Alternative	Amend (D) to add item (8): "The total number of public parking stalls occupied by the commerce on public property activity may not exceed two public parking stalls immediately adjacent to the business associated with the activity.	The number of public parking stalls a use can occupy may be adjusted.	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
Q4	Dan Thompson	MICC 19.06.050(E) “[...] Permit applications from existing eating and drinking establishments at Mercer Island to temporarily provide outdoor food and beverage service on public property adjacent to the eating and drinking establishment shall be considered to be temporary, and they may be approved by the code official without review or approval by the design commission.” Questions related to the use of the words “temporarily” and “temporary”.	Since “temporary” is not defined in the MICC, the city would rely on Webster’s Dictionary definition, which defines “temporary” as “lasting for a limited time”.	Q
14a	JB Gibson	Amend (G): <u>Term:</u> (1) <u>Temporary uses and structures with a term less than one week in any given three month period do not require a permit. Nothing in this section exempts a temporary use or structure from the criteria set in MICC 19.06.050(D).</u> (2) Permits [...] [This would allow businesses short term uses (i.e. sidewalk sales) without the complexity of permit approvals, insurance, and bonding].	The ROW Use Permit that is required for commerce on public property activities is used to regulate safe use of the public right-of-way. Exempting all activities from obtaining a permit could result in safety concerns due to street or sidewalk closures or obstructions which would not be resolved until after a code enforcement complaint is made and/or the City Engineer observes the issue.  Under the current code, all commerce on public property would require a permit. This amendment creates a carve out for temporary uses and structures with a term less than one week in a three-month period.  Should the Planning Commission wish to incorporate this amendment, staff recommends the Staff Proposed Alternative in Log 14b.	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
14b	Staff Proposed Alternative	Amend 19.06.050 (C): “Any person(s), corporation, or company who wishes to use the public right-of-way for the exchange of goods or service shall apply for a private commerce on public property permit, <u>except as provided below</u> . Such permit shall be in the form specified by the code official and shall contain such information as deemed necessary by the code official. 1. <u>Temporary uses and structures associated with commerce on public property operating for seven calendar days or less in any given 90-calendar day period do not require a permit. Nothing in this section exempts commerce on public property activities from compliance with the criteria in MICC 19.06.050(D), Criteria for permit.</u>	The staff proposed alternative would relocate this amendment to the “applicability” section in MICC 19.06.050(C). This is more consistent with how other sections of our code are constructed.	Substantive
Q5	Dan Thompson	MICC 19.06.050(G) “Permits for ongoing commercial use on public property shall be subject to renewal annually on the date of the original permit approval. Failure [...]” Question related to the use of the word “annually”.	This allows for an applicant operating a commercial use to renew their permit on an annual basis.	Q
15a	JB Gibson	Strike (I): “The provisions of this section shall not apply to the annual city sponsored event known as ‘Summer Celebration’”. [Unnecessary if Section G is approved].	Summer Celebration is specifically exempted from the criteria for permit due to the criteria which reads “The applicant business has an active business license for a location immediately adjacent to the public property location where the request has been made”. This criterion essentially prohibits the typical Summer Celebration event due to the event including vendors who do not have businesses immediately adjacent to the ROW where their booths are located.  Adoption of this proposed amendment would result in the prohibition of portions of Summer Celebration as it has historically operated.	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
15b	Kate Akyuz	Amend (l) to read: "The provisions of this section shall not apply to the annual city sponsored events known as 'Summer Celebration' and 'Mercer Island Farmer's Market'." [Is this still sponsored by the City - I thought benefactors in the community had taken over Summer Celebration. If Summer Celebration is listed here shouldn't the Farmer's Market also be listed? Isn't that also sponsored by the City or financially supported by the City with additional policing? Alternatively this could read - events sponsored in part or full by the City.]	<p>Summer Celebration is a city sponsored event. The City does not sponsor the Mercer Island Farmer's Market.</p> <p>The Mercer Island Farmer's Market has operated on the island for almost two decades and has been historically permitted through a ROW Use Permit with an annual renewal to operate throughout the summer.</p> <p>Certain criteria for commerce on public property would prohibit the Farmer's Market as it has historically operated, similar to the situation described in the Staff Response to Log 15a related to Summer Celebration.</p> <p>Staff recommends clarifying that the Mercer Island Farmer's market is exempt from the provisions of the commerce on public property section to align with how the use has historically been permitted. Please see Staff Proposed Alternative in Log 15d.</p>	Substantive
15c	Kate Akyuz	Amend (l) to read: "The provisions of this section shall not apply to the annual city sponsored events sponsored in part or full by the City known as 'Summer Celebration' and 'Mercer Island Farmer's Market'."	N/A	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
15d	Staff Proposed Alternative	Amend (I) to read: “The provisions of this section shall not apply to the annual <u>event known as the “Mercer Island Farmer’s Market”</u> , or the annual city sponsored event known as “Summer Celebration”.	Staff recommends this alternative to address summer celebration and the Farmer’s Market. As proposed an additional land use permit would not be required for Summer Celebration and the Mercer Island Farmer’s Market. These two ongoing events would still require right of way permits to ensure that rights of way are used safely. Both the annual event (Summer Celebration) and the ongoing event (Farmer’s Market) have historically been permitted with a right of way permit without incident.	Substantive
Q6	Kate Akyuz	<p>Question related to (J) which reads: “The code official may require a bond or assignment of funds as set out in MICC 19.01.060(C) to ensure that public property subject to commercial use under this section is restored to its former condition immediately following cessation of the commercial use.”</p> <p>We need to remove “may require” and state explicitly when it is and is not required to avoid arbitrary decision-making by staff with different degrees of experience with or interpretations of the code. If MICC 19.01.060(C) makes it very clear when bonds will be required, without need of interpretation, then please disregard this comment.</p>	<p>MICC 19.01.060(C)(1)(a): The city may require an applicant to guarantee that activities allowed through the issuance of a permit or through approval of an application will be undertaken and completed to the city's satisfaction. This includes, but is not limited to, guarantees that improvements will be constructed; that they shall remain free from defects of materials, workmanship, and installation for a set period of time; and that landscaping shall survive for a set period of time.</p> <p>(b): “Guarantees may be required for: significant construction in streets; work on public property not performed by the city; nonresidential landscaping; critical areas stabilization and restoration; permanent site restoration on nonresidential projects; and other activities if the city engineer or city attorney determines there is sufficient potential risk of property damage or injury to persons or the environment in the event the applicant fails to complete the permitted work.</p> <p>Staff believe these existing code provisions are adequate for determining when a bond is required.</p>	Q

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
Q7	Kate Akyuz	<p>Question related to (K) which reads: “The code official may require evidence of insurance, indemnification or other measures deemed necessary and sufficient to limit the city’s liability for the acts or omissions of persons, corporations, or companies seeking and obtaining permission to use the public property for commercial purposes.”</p> <p>We need to provide explicit provisions for when insurance is required. Most municipal ILAs and contracts have explicit boilerplate language regarding bonds and insurance that is based on non-arbitrary standards. It may be possible to provide the information needed for applicants to understand the feasibility of their proposal in advance of application by listing any code that details insurance requirements here as is done with bonds above.</p>	<p>Standards for hold harmless/indemnification agreement and covenant not to sue are found in MICC 19.01.060(B).</p> <p>MICC 19.01.060(B)(1) states: “<i>General</i>. The owner of private property for which a permit application is submitted may be required to provide a hold harmless/indemnification agreement and covenant not to sue approved by the city and recorded with the King County recorder's office prior to the issuance of the permit. Said agreements shall be negotiated and in a form approved by the city attorney, and shall run with the land and be binding on the applicant and his/her successors, heirs and assigns for such period of time as shall be determined appropriate by the city official charged with issuing the permit or approving the application.</p> <p>Standards for performance guarantees and liability protection can be found in MICC 19.01.060(C).</p> <p>MICC 19.01.060(C)(2) states: “<i>Insurance</i>. Prior to issuing a permit or approving an application, the city may require the applicant to provide a certificate of general liability insurance, with limits of liability in an amount acceptable to the city attorney, from an insurance company authorized to do business in Washington, insuring against injury to persons and damage to property, and may require that the city be named as an additional insured.”</p> <p>Staff believe these existing code provisions are adequate for determining when indemnification and/or insurance is required.</p>	Q

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
MICC 19.06.130 – Temporary Use Permits				
16	Dan Thompson	Amend the title to read: “Temporary <u>Use and Structure Use Permits – Outside of the Town Center.</u> ”	<p>Excluding the Town Center zone from the standards for temporary use and structures on private property could result in a gap in regulations. MICC 19.06.050 regulates only commerce on public property in the Town Center zone, which would not cover the private property located within the Town Center where an applicant may wish to establish a temporary fruit stand, or host a mobile food vendor, for example.</p> <p>Should the Planning Commission wish to establish separate regulations for temporary uses and structures within and outside the Town Center zone, this can be done through the regulations themselves. Staff would not recommend establishing applicability in the title of this section as it causes conflicts that would need to be addressed where standards are specified to only apply to the Town Center zone.</p>	Substantive
17	Dan Thompson	Amend (A): “ <i>Purpose and applicability.</i> A temporary use permit authorizes a use or <u>conforming</u> structure on private property on a short term basis.”	<p>This amendment does not change the way that temporary uses and structures would be authorized. The review of a temporary use application includes ensuring that the proposal conforms to all applicable standards, as established in this draft code. If the code official finds that the proposal complies with all standards, then a permit can be issued and the structure would be conforming. Illegal nonconformities are dealt with through a separate section in the code, <a href="#">MICC 19.01.050</a>(A)(3).</p>	Minor



Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
Q8	Kate Akyuz	Question related to (B)(2) which reads: “The property owner or their authorized agent may apply for a temporary use permit on private property.” Can a leasee be designated by the property owner as an authorized agent? Ran into a problem with this recently on a public Temp Construction easement due to a trust owning the land a business was operating on. This was problematic due to multiple trustees and not a clear signatory, ie we needed the agent + at least one trustee. If this is moot/too far afield to be an issue here, please disregard this question.	The City has an existing process for establishing an authorized agent – an authorization for permit application would be reviewed at the time of application submittal. If the authorization cannot be established through the <a href="#">Affidavit of Agent Authority</a> or <a href="#">Affidavit of Ownership</a> , the code official will ask for more information to determine that the applicant has the authority to apply for the permit.	Q
18a	JB Gibson	Amend (C): “[...] Temporary use applications shall be processed as a Type I land use review, pursuant to MICC 19.15.030 Land Use Review Types”. [Public notice should be provided].	Please see PCB25-12 for more information on land use review types.  Please see the Alternatives proposed by other Commissioners and staff in Logs 18b, c and d.  If Log 34 is recommended for approval, staff recommends the Staff Proposed alternative in Log 18d to include the Type IV land use review for variances.	Substantive



Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
18b	Dan Thompson	<p>Amend (C): “[...] Temporary use applications shall be processed as a Type III land use review, pursuant to MICC 19.15.030 Land Use Review Types.” [Currently a TUP is treated as a Type I application which means there is no public notice to the neighbors, no ability for neighbors to comment or participate, or appeal since the permit will vest before the appeal period expires. Type I permits are only allowed when there is no discretion involved in the decision.</p> <p>However, the criteria in the TUP ordinance are totally discretionary within the code official. The only reason the TUP applications to date have no findings of fact or conclusions or law re: the criteria and weighing of interests between the applicant and neighbors is because the Beach and Shore Club pool covers have been allowed for years under their CUP’s, the other is an ice cream truck in the town center on private property, and the Country Club’s tennis cover would never pass the discretionary criteria.</p> <p>Based on the comments I have heard personally, and the visual from the completed cover on the Country Club’s tennis courts, and the fact the Country Club limbed up the trees that screened the cover, I think there will be neighbor objects to the cover when its TUP comes up again and the neighbors receive notice (although council tacitly approved this TUP for 20 years).</p> <p>After all, how can the code official or DSG make a fair determination based on the discretionary criteria if neighbors and citizens are not allowed to comment and participate in the permit process?]</p>	<p>Please see PCB25-12 for more information on land use review types.</p> <p>Please see the Alternatives proposed by other Commissioners and staff in Logs 18a, c and d.</p>	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
18c	Kate Akyuz	Amend (C): “ <i>Application</i> . The application for a temporary use permit shall be submitted on forms obtained from the community planning and development department, and consistent with MICC 19.15.060. The application shall contain all information <del>deemed necessary by the code official</del> <u>as required on the application forms</u> to determine if the proposed permit or action will comply with the requirements of this section. The community planning and development department shall verify that the application is consistent with the requirements of this chapter, and that the application contains proof of a valid business license, if applicable. Temporary use applications <u>consistent with existing land use code</u> shall be processed as a Type I land use review, pursuant to MICC 19.15.030 land use review types. <u>All other applications will be processed as a Type II land use review.</u> ”	<p>The proposed amendments related to the land use review types would be difficult to administer. If a permit is issued for a land use action, it is either consistent with the code, or has been conditioned to be consistent with the code.</p> <p>Staff recommends clarifying this amendment to provide clear thresholds for a Type I versus Type II land use review procedures for temporary use applications. This can be done by either specifically stating the land use code that the application must comply with, i.e. the residential development standards in MICC 19.02.020, or determine specific activities that can be processed as Type I. Staff recommends avoiding the phrase “all other applications” and include specific applications that would be processed as a Type II land use review as they apply to temporary uses.</p> <p>Please see the Alternatives proposed by other Commissioners and staff in Logs 18a, b and d.</p>	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
18d	Staff Proposed Alternative	Amend (C): [...] Temporary use <u>and temporary use renewal</u> applications shall be processed as a Type I land use review, pursuant to MICC 19.15.030 Land Use Review Types. <u>Temporary use deviation applications shall be processed as a Type IV land use review, pursuant to MICC 19.15.030 Land Use Review Types.</u>	This amendment is recommended to maintain internal consistency if Logs 34 and 47 are recommended for adoption. Staff recommends using the term “deviation” instead of variance. The term “deviation” is currently defined in the MICC as “A minor modification of standard development code provisions that does not require the special circumstances necessary for granting a variance and which complies with the city's deviation criteria”. The Planning Commission can establish deviation criteria for temporary uses and structures that contain minor modifications to the standard development code provisions (such as setbacks, height, lot coverage, etc). This would prevent confusion regarding the applicability of the variance criteria in MICC 19.06.110(B), since variances are typically very specific application types processed with high approval criteria. Variances can only be granted under extremely limited circumstances.	Substantive
19a	JB Gibson	Strike “Tents or other temporary structures used in conjunction with any garage, yard, or estate sale shall not exceed 120 square feet in area” from (D)(1)(a). [Unnecessary if section (E)(1)(k) amendment is approved].	The current code would require associated tents or other temporary structures over 120 to obtain a permit. This amendment would broaden the exemption from a permit for garage, yard, or estate sales and would allow for any size structure or tent associated with these activities without review of a permit.	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
19b	Nazim Nice	Amend (D)(1)(a) to read: "Garage sales, yard sales, and estate sales conducted by or on behalf of the occupant(s) of a residential dwelling. Tents or other temporary structures used in conjunction with any garage, yard, or estate sale shall not exceed 120 square feet in area, <u>with a maximum of 1 tent per 2,000 SF of lot area, or two tents, whichever is greater;</u> "	<p>This amendment clarifies the number of tents that are allowed to be associated with the garage, yard, or estate sale.</p> <p>If these thresholds are exceeded, a temporary use permit would be required and evaluated based on the criteria for permit approval. Additional tents may be authorized, and this threshold is only for an exemption from a permit.</p>	Substantive
Q9	Kate Akyuz	<p>Question related to (D)(1)(a) which reads: "Garage sales, yard sales, and estate sales conducted by or on behalf of the occupant(s) of a residential dwelling. Tents or other temporary structures used in conjunction with any garage, yard, or estate sale shall not exceed 120 square feet in area;"</p> <p>"occupant(s)" – Does this apply to/include multi-family as organized by the building or not? If not please clarify.</p> <p>"shall not exceed 120 square feet in area" – Staff please clarify the total maximum number and size of tents.</p>	<p>"Dwelling unit" is defined as "A building or a contiguous portion of a building providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation (see also "Accessory dwelling unit (ADU)"). This standard allows for the occupant(s) of a residential dwelling unit to hold a garage, yard, or estate sale.</p> <p>The total maximum number of tents is not clarified in the current code. It appears that Log 19b addresses this question. The Planning Commission may choose to approve Log 19b, or an alternative.</p>	Q
20	Nazim Nice	Amend (D)(1)(c)(i) to read: " <u>When located in an R zone, a single contractor's office under 400 square feet, storage yard, and equipment parking, and equipment servicing not to exceed 8 hours in duration on or near the site or in the vicinity of an active construction project.</u> "	If these thresholds are exceeded, the property owner must obtain a temporary use permit that demonstrates compliance with all criteria for approval in MICC 19.06.130(E).	Minor

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
21	Nazim Nice	Amend (D)(1)(c)(ii) to read: <u>"Sales/marketing trailers used for the purpose of real estate sales and/or rental information, located within the subdivision or development to which they pertain. In all other zones, Contractor's office, storage yard, and equipment parking and servicing on or near the site or in the vicinity of an active construction project."</u>	N/A	Minor
22	Nazim Nice	Amend (D)(1) to add (iii): "Sales/marketing trailers used for the purpose of real estate sales and/or rental information, located within the subdivision or development to which they pertain."	Renumbers (D)(ii) to (iii). No change to original text.	Minor
23	JB Gibson	Amend (D)(1) to add (d): "Any temporary use or structure with a term less than one week in any given three month period. The underlying development standards of the zoning designation applicable to the site on which the temporary use or structure is proposed do not apply". [This would allow short term uses to be exempt from the complexity of permit approvals, zoning regulations, and use regulations (i.e. food truck for a graduation party)].	This amendment would allow any temporary use or structure with a term of less than one week in any given three month period to be exempt from obtaining a permit and the temporary use or structure would not need to comply with the underlying development standards of the zoning designation.	Substantive
Q10	Kate Akyuz	Question related to (E)(1) which reads: "The code official, in consultation with appropriate city departments, shall review each application for a temporary use permit. The code official may approve, or condition and approve, an application for a temporary use permit if the application for a temporary use permit satisfies all of the following criteria:" "condition and approve" – Please provide the possible conditions and reasons for those conditions in order to avoid arbitrary terms in the code.	Typically, conditions of approval are applied to permit approval to ensure that the proposed development complies with the approval criteria, establishes permit expiration, and sets operation requirements, if applicable, etc. Not all application approvals require conditions of approval, but the code official is authorized to include them if necessary. Conditions of approval are often very specific to a project. Staff would not recommend establishing specific conditions of approval that would apply to all projects within these development standards to maintain flexibility.	Q

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
24	Dan Thompson	Amend (E)(1)(a) to read: "The temporary use will not be materially detrimental to the public health, safety or welfare, nor injurious to property or improvements in the vicinity of the temporary use;"	N/A	Minor
Q17	Anthony Perez	Comment in favor of keeping "materially" in (E)(1)(a). [The rationale remains interpretive, with a level of incremental reason that may require defensive reasoning, instead of self-proclaimed.]	If the Commission is in favor of keeping "materially" in (E)(1)(a), Log 24 will need to be removed from the Minor amendments.	Q
25	Kate Akyuz	Strike (E)(1)(b) which reads: "The structure or use is located where there is safe ingress and egress from the street, including a clear sight area adjacent to the street;" [This does not make sense if the use cannot be viewed from the street.]	This standard does not require a temporary use or structure to not be visible from the street but rather ensures that there is clear sight area adjacent to the street to allow for turning vehicles and crossing pedestrians to see the street clearly from the ROW. Staff would not recommend approving this amendment as it helps avoid safety concerns and ensures safe ingress and egress from the street by allowing for clear sight lines.	Substantive
26a	JB Gibson; Kate Akyuz	Strike (E)(1)(d) which reads: "Adequate parking is available to serve the temporary use, and if applicable, the temporary use does not occupy required off street parking areas for adjacent or nearby uses". [Akyuz: A temporary use shouldn't require parking which is permanent in nature. How will adequate be evaluated. This is too arbitrary as written.]	N/A	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
26b	Dan Thompson	Amend (E)(1)(d) to read: "Adequate parking <u>(based on parking requirements for Town Center retail businesses)</u> is available to serve the temporary use, and if applicable, the temporary use does not occupy <u>or use</u> required off-street parking areas for adjacent or nearby uses."	<p>The current code standard for adequate parking is intentionally vague to put the burden of proof on the applicant to demonstrate that they can provide an adequate number of parking spaces to serve their use, whether that is 0 parking spaces for a lemonade stand, or existing street parking for a garage sale that limits the hours of operation to mitigate impacts to the neighborhood. This standard essentially provides flexibility to the applicant and imposing parking requirements for permanent, long-term uses in the Town Center could prohibit many temporary uses due to the burden of meeting these standards.</p> <p>If the Planning Commission does want to establish parking minimums for temporary uses and structures, additional staff analysis would be required. This would likely not be able to be accomplished by the next meeting in July, as this is a significant ask due to the level of evaluation required for different uses.</p> <p>Staff does not recommend utilizing the parking minimums established for the Town Center retail businesses.</p>	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
27	JB Gibson	<p>Amend (E)(1) to add a new letter (d*): "The temporary use shall obtain all necessary permits and/or authorizations required by the City and/or state and federal agencies."</p> <p>(e*): "The temporary use or structure shall require the landlord's / property owner's approval. Nothing in this section compels a landlord or property owner to permit a tenant to expand its business to the exterior."</p> <p>(f*): "The use or structure shall not interfere with ADA accessible parking spaces or access to adjacent and surrounding businesses."</p> <p>Strike (F)(1)(a) through (e) and (2)(a) through (d) for standards related to mobile food vendors and outdoor eating and drinking establishments.</p> <p>Strike "and Mobile food vendors" from (G) Table A, Row 2, Column 1. [Not applicable if section F-1 and 2 amendments are approved].</p> <p>*Numbering subject to change based on other proposed amendments.</p>	<p>These amendments are grouped together as they all involve striking all additional requirements for mobile food vendors and outdoor dining. This would allow mobile food vendors and outdoor dining to be authorized if they meet the standards in MICC 19.06.130(E), Criteria for approval and do not impose additional criteria.</p> <p>Several of the criteria that originally applied only to mobile food vendors and outdoor eating and drinking would apply to all temporary uses and structures under this amendment.</p> <p>Related Logs: 36, 37, 38</p>	Substantive



Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
28a	Dan Thompson	Amend (E)(1)(e) to read: “Hours of operation of the temporary use are specified, and would not adversely impact surrounding uses. <u>Temporary uses in the single-family residential zone shall comply with limits on permitted construction in the single-family zone.</u> ”	If the intent of this proposed amendment is to limit noise of the temporary use, <a href="#">MICC 8.24.020</a> (R) states “Production at any time of any of the following sounds or noises, which by reason of their intensity, frequency, duration, volume, pitch or any other reason, disturb the peace, quiet, repose or comfort of any person or persons: [see code in MICC]”. If a complaint is received related to excessive noise resulting from the temporary use, the code enforcement officer would determine if the use is considered a nuisance based on this code. Since there are already regulations in place for noise, if the intent of this proposed amendment is to limit hours of operation in general, not related to noise, staff recommends establishing specific hour limitations. “Limits on permitted construction in the single-family zone” does not refer to a code section that establishes specific limits. Limits on permit related activities that produce construction related noise are established in MICC 8.24.020(Q), and temporary uses would need to comply with these standards.	Substantive
28b	Staff Proposed Alternative	Amend (E)(1)(e) to read: “Hours of operation of the temporary use are specified, and would not adversely impact surrounding uses. <u>Temporary uses within the R-8.4, R-9.6, R-12, and R-15 zoning designations are limited to hours of operation between [time] and [time].</u> ”	This staff proposed alternative would clarify and set a specific standard for hours of operation for temporary uses. Setting a clear and specific standard would simplify the administration of this provision. If the Planning Commission would like to make this amendment, the hours of operation must be defined.	Substantive
Q18	Anthony Perez	Comment against the amendment in Log 28a. [Criteria for compliance shall be stated elsewhere and assumed to cover entire TUP process.]	N/A	Q

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
Q11	Dan Thompson	MICC 19.06.130(E)(1)(f) "The temporary use will not cause nuisance factors such as noise, light, or glare which would adversely impact surrounding land uses;" Question surrounding the word "nuisance".	Nuisances are regulated through Chapter 8.24 MICC, Nuisance Control Code, which provides definitions of the types of activities that constitute a nuisance.	Q
29a	Dan Thompson	Amend (E)(1)(f) to read: "The temporary use will not cause nuisance factors such as noise, light, or glare which would adversely impact surrounding land uses, <u>no music or sound is amplified;</u> "	Logs 29a and b are related, and can be combined if the Planning Commission desires. See Log 29c for Staff Proposed Alternative.	Substantive
29b	Nazim Nice	Amend (E)(1)(f) to read: "The temporary use will not cause nuisance factors such as noise, light, or glare which would adversely impact surrounding land uses. <u>Any mechanical equipment shall not exceed the maximum permissible noise levels set forth in WAC 173-6[0]-040, which is hereby incorporated as though fully set forth herein. Any such equipment shall not be located within 5 feet of any lot line;</u> "	If Log 29b is recommended for adoption, the WAC reference would need to be revised to "WAC 173-60-040".	Substantive
29c	Staff Proposed Alternative	Amend (E)(1)(f) to read: "The temporary use will not cause nuisance factors such as noise, light, or glare which would adversely impact surrounding land uses. <u>No music or sound may be amplified. Any mechanical equipment shall not exceed the maximum permissible noise levels set forth in WAC 173-60-040, which is hereby incorporated as though fully set forth herein. Any such equipment shall not be located within 5 feet of any lot line.</u> "	Synthesis of 29a and 29b	Substantive
29d	Anthony Perez	Amend (E)(1)(f) to read: "The temporary use will not <del>cause</del> <u>contribute</u> nuisance factors such as <u>amplified</u> noise, light, or glare which would adversely impact surrounding land uses, music or sound;"	This amendment can be included in the Staff Proposed Alternative synthesis in Log 29c if desired.  It is possible that clarification is necessary for the last portion of the sentence surrounding "music or sound".	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
30	JB Gibson	Amend (E)(1) to add a new criterion: “Minimum parking regulations required in MICC 19.04.040 and MICC 19.11.130 are available to serve the temporary use, and if applicable, the temporary use does not occupy required off-street parking areas for adjacent or nearby uses”. [Ensures temp uses do not reduce the neighborhoods parking capacity].	See Staff Response to Log 26b. Staff does not recommend utilizing commercial parking requirements intended to satisfy parking demand for permanent, long-term uses, for all temporary uses and structures.	Substantive
31	Nazim Nice	Amend (E)(1) to add a new criterion: “When located in an R zone, unless exempt per [MICC] 19.06.130(D), temporary structures must meet the underlying development standards of the zone, except that on lots greater than 160,000 square feet, temporary structures to enclose outdoor swimming pools or sport courts that existed prior to January 1, 2025 may exceed the height limit by a maximum of ten feet if necessary to span across the pool deck or sport court.”	<p>Unless there is a specific reason for establishing the date for previously existing swimming pools or sport courts as January 1, 2025, staff recommends using the effective date of the ordinance to avoid arbitrarily setting a date. This would still have the same effect on existing structures.</p> <p>If the Planning Commission would like to make the change proposed in 31a, staff requests they also provide clarification on two details:</p> <ul style="list-style-type: none"><li>• Should this apply in all zones or be limited to only the R zones?</li><li>• If this will only apply in R zones, what would apply in all other zones?</li></ul>	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
32	JB Gibson	Amend (E)(1) to add a new criterion: “The temporary use or structure will comply with the underlying development standards of the zoning designation and approved conditional uses applicable to the site on which the temporary use or structure is proposed”. [This would prohibit uses not allowed in a particular zone, unless already conditionally approved, and enforce height, setback, and lot coverage requirements to maintain neighborhood character. See proposed section F-2 for uses/structures requiring a variance].	<p>These existing regulations were created to allow for flexibility in the development standards of underlying zones that would prohibit a lot of temporary uses, including lemonade stands on a private property within the front yard setback. However, Log 23 does exempt uses within a certain time limitation to be exempt from complying with the underlying development standards.</p> <p>This amendment would effectively prohibit a temporary structure like the Mercer Island Country Club’s “tennis bubble” which exceeds height limitations in a residential zone.</p> <p>This amendment would also conflict with Log 23, since nothing in that section exempts a temporary use from compliance with MICC 19.06.130(E), Criteria for approval.</p> <p>Additionally, if a use is authorized through the approval of a Conditional Use Permit, no additional permits would be required to permit a use consistent with the CUP.</p> <p>If both Logs 31 and 32 are desired for adoption, staff recommends the Planning Commission direct staff to develop an alternative that would combine both of these amendments.</p>	Substantive
33	JB Gibson; Dan Thompson	Strike (E)(2) which reads: “Except as otherwise provided above, the underlying development standards of the zoning designation applicable to the site on which the temporary use or structure is proposed do not apply”.	This amendment would require all temporary uses to meet all of the requirements of the development standards for the applicable zone. As described in Log 32, this could prohibit some temporary uses.	Substantive

34	JB Gibson	<p>Amend (F) to add (1*): "Any proposed use or structure may request a variance from the underlying development standards of the zoning designation applicable to the site on which the temporary use or structure is proposed pursuant to section 19.06.110 and subject to the following conditions:</p> <p>(a) Temporary use applications shall be processed as a Type IV land use review, pursuant to MICC 19.15.030 Land Use Review Types.</p> <p>(b) Land use review approvals shall expire five years from the date of notice of decision. Nothing in this section exempts a temporary use or structure from the time limitations pursuant to MICC 19.06.130(G). Renewal of expired land use approvals shall require a new application.</p> <p>(c) Temporary use or structure permits approved under this section may be renewed as a Type II land use review provided the proposed use or structure has not changed and the Type IV land use approval has not expired".</p> <p>[Provides public notice and comment on variance requests that will potentially impact the neighborhood character].</p>	<p>Please see PCB25-12 for a discussion on variances and variance approval criteria. Variances in the R-8.4, R-9.6, R-12, and R-15 zones are construed extremely narrowly and the applicant must demonstrate that regulations established in the development code prevent the construction of a single-family dwelling. There are very few circumstances that would meet this criteria, if any.</p> <p>It appears that the intent of this amendment is provide flexibility in the development standards in the underlying zoning designation with a more extensive public process through a public hearing and decision by the hearing examiner. If the Planning Commission wishes to add this flexibility, without going through the variance criteria established in MICC 19.06.110(B), staff recommends that the Planning Commission direct staff to provide an alternative that will be presented during the July meeting. Please see Staff Response to 18d above regarding the use of the term "deviation" over "variance".</p> <p>Below are some topics that the Planning Commission should consider and provide feedback to staff:</p> <ul style="list-style-type: none"><li>• Permit name: Temporary Use Deviation Permit</li><li>• Standards that are allowed to be deviated from, for example, setbacks, height, lot coverage, gross floor area and by how much</li><li>• The process for renewals, for example, limited to a certain number of renewals, valid for a certain amount of time, etc.</li><li>• Criteria for approval of the Temporary Use Deviation Permit that the Hearing Examiner is able to review (see Log 48 for possible criteria proposed by Chair Thompson)</li></ul>	Substantive
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Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
			If the Planning Commission desires to recommend this amendment as proposed, staff recommends clarifying whether this would be most appropriate following (F), or if it should be included in another section. If this amendment is recommended for adoption as proposed, staff also recommends including Log 18d for consistency.	
35a	Dan Thompson	Amend (F) to read: “ <i>Additional conditions for certain temporary uses/structures.</i> The following temporary uses and structures <u>in the Town Center</u> are permitted when authorized by the issuance of a temporary use permit when the applicable conditions set forth in this section and in MICC 19.06.130(E), Criteria for approval, have been met.”	<p>This amendment limits mobile food vendors and outdoor food and beverage service to only the Town Center. This conflicts with the amendment in Log 16 where all of the standards in MICC 19.06.130 would only apply to zones outside the Town Center.</p> <p>Should the Planning Commission recommend the adoption of this amendment, staff recommends the Planning Commission does not adopt Log 16 to avoid confusion in the applicability of these standards.</p>	Substantive
35b	Anthony Perez	Amend (F) to read: “Additional conditions for certain temporary uses/structures. The following temporary uses and structures in the <u>public portions</u> of the Town Center are permitted when authorized by the issuance of a temporary use permit when the applicable conditions set forth in this section and in MICC 19.06.130(E), Criteria for approval, have been met.”	See staff response to Log 35a.	Substantive
36	Kate Akyuz	Amend (F)(1)(b) to read: “The mobile food vendor must be located on <u>or adjacent to</u> a paved surface. If the mobile food vendor will be operating within a parking area, the mobile food vending facility may not protrude into the drive aisle, block fire lanes, or result in the site providing less than the required minimum number of parking stalls.”	<p>This amendment would potentially allow for a mobile food vendor to park on grass or other unpaved surface if it is adjacent to a paved surface.</p> <p>If Log 27 is recommended for approval, this criterion would be removed.</p>	Substantive



Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
37	Kate Akyuz	Amend (F)(1)(d) to read: “A mobile food vendor must obtain permission from the property owner prior to <u>parking or operating on private property.</u> ”	<p>This amendment would require a mobile food vendor to obtain permission from a property owner prior to parking on private property, for example, a mobile food vendor parking outside of a grocery store to obtain supplies to operate on a different site.</p> <p>If Log 27 is recommended for approval, this criterion would be broadened to apply to all temporary uses and moved up to (E) for criteria for approval.</p>	Substantive
38	Dan Thompson	Strike (F)(2)(b) which reads: “To the extent necessary to provide outdoor food and beverage service, minimum parking regulations normally applicable to eating and drinking establishments required in MICC 19.04.040 and MICC 19.11.130 are waived to enable such uses to serve patrons in adjoining parking spaces for the duration of the temporary use.”	<p>This amendment would prohibit the use of adjoining parking spaces to serve patrons if there is not enough parking provided for the uses as established in MICC 19.04.040 and MICC 19.11.130. In the Town Center, a lot of the businesses that could take advantage of this allowance share parking with other adjoining businesses. The impact of a business utilizing one or two parking spaces immediately adjoining the business is anticipated to be minimal. It is possible that this amendment could prohibit Barrels Wine Bar’s use of a parking space adjoining their business.</p> <p>Additionally, if Log 35 is recommended for adoption, the parking standards in MICC 19.04.040 would not apply since these standards would be limited to activities in the Town Center zone. If this amendment is not recommended for adoption, and Log 35 is, staff recommends removing the reference to parking standards in the commercial zones in a revision.</p>	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
Q19	Anthony Perez	Comment against removing (F)(2)(b). [Not waiving permanent and permitted parking requirements for TUP greatly constricts the accessibility of the TUP Events this section is intended to promote. Full compliance with permanent requirements is unreasonable and may not be possible currently nor to a greater extent in the probable future.]	N/A	Q
39	Kate Akyuz	Amend (F) to add (3). [Staff please add a section here for Farmer's Market.]	Staff require additional direction in developing standards to regulate a farmer's market. Currently, if a farmer's market were to apply for a temporary use permit to operate on private property, they would be required to demonstrate compliance with MICC 19.06.130(E). What additional impacts would the Planning Commission seek to mitigate through additional conditions specific to a farmer's market that are not addressed in the existing criteria for approval?	Substantive
40	JB Gibson; Dan Thompson	Strike footnote 1 in "180 Days" from (G) Table A, Row 2, Column 2.  Strike (G) Table A Footnote 1: "The code official may grant an extension not to exceed 30 days in total, upon the applicant showing compliance with all conditions of permit approval. If a request for an extension is not received in writing at least one week prior to the end of the time limit stated on the temporary use permit, the temporary use permit shall expire and the use or structure shall be timely removed pursuant to MICC 19.06.130(I)". [Gibson: Unnecessary].	If the footnote allowing for an extension is struck, no temporary uses or structures would be allowed to obtain an additional 30 day extension. This would limit the Mercer Island Country Club's "Tennis Bubble" from operating as originally intended.	Substantive



Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
41	Dan Thompson	Amend (G) Table A, Row 2, Column 2 to read: "180 <u>Consecutive Days in a twelve-month period.</u> "	Staff recommends clarification of the intent of this amendment, if recommended for adoption. For example, would a temporary use be able to operate for one 179 consecutive day period, followed by another 179 consecutive day period since they would not be exceeding 180 consecutive days in a 12-month period?	Substantive
42	Dan Thompson	Amend (G) Table A, Row 3, Column 2 to read: " <u>Three consecutive days</u> , 30 days of site occupation or operation in any calendar year, unless otherwise stated"	This amendment would limit all activities listed as exempt from the temporary use permit requirement that are not related to another permit to only be allowed to operate for three consecutive days, and for 30 days of site occupation or operation in a year. This would effectively limit, for example, a yard sale or rummage sale at a church to one weekend per year.	Substantive
43a	JB Gibson	Amend (G) Table A, Row 4, Column 2 to read: " <del>180 days of site occupation or operation in any calendar year, unless otherwise stated</del> <sup>1</sup> . <u>Expires on the earlier of project completion or related permit expiration.</u> " [Avoids conflict between a project duration and duration limits set in this provision].	N/A	Substantive
43b	Dan Thompson	Amend (G) Table A, Row 4, Column 2 to read: "180 <u>consecutive days</u> of site occupation or operation in any <del>calendar year</del> <u>12-month period, unless otherwise stated</u> " [I propose that any TUP be limited to 6 months in any 12-month period (although I oppose any TUP in the single-family zone). The inclement weather is October through March. As the TUP is currently written a TUP can be up to 7 consecutive months, and renewed every three, so 9 months per year. This is a temporary use permit, and really targeted for short (two week) uses or structures, not 9 months/year. Anything longer should go through the CUP process.]	See Staff Response to Log 41.	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
43c	Nazim Nice	Amend (G) Table A, Row 4, Column 2 to read: <u>"180 days of site occupation or operation in any calendar year, unless otherwise stated". The use shall be allowed through the duration of an active construction project or active sales/marketing for real estate sales and/or rental information. The use shall be discontinued within 30 days of the project completion, cessation of work, or completion of real estate rental or sales."</u>	N/A	Substantive
44	JB Gibson	Amend (G) Table A, Row 5, Column 1 to read: <u>"Mobile food vendors. Activities located within the Town Center Zone."</u> [Aligns with durations allowed for temporary uses on public property. This enables businesses to provide year round uses].	If Log 16 is recommended for approval, this amendment would cause conflict.	Substantive
45a	JB Gibson	Amend (G) Table A, Row 5, Column 2 to read: <u>"30 days or as provided pursuant to the terms of the issued temporary use permit. Indefinite, subject to annual renewals. Failure to submit a renewal request within 30 days of the annual renewal date shall result in the expiration of the permit."</u> [Aligns with durations allowed for temporary uses on public property. This enables businesses to provide year round uses].	This amendment is dependent on Log 44, as this duration would be applied to activities located within the Town Center instead of mobile food vendors.  If Log 34 is recommended for approval, staff recommends clarification on the expiration and renewal of a project that obtains a "Temporary Use Permit Deviation" which expires after 5 years.	Substantive
45b	Dan Thompson	Amend (G) Table A, Row 5, Column 2 to read: <u>"30 days in any 12-month period in the Town Center, or as provided pursuant to the terms of the issued temporary use permit"</u>	If Log 16 is recommended for approval, this amendment would cause conflict.  If Log 44 is recommended for approval, staff recommends revising this amendment to eliminate "in the Town Center" as this would create a redundancy.	Substantive

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
45c	Kate Akyuz	Amend (G) Table A, Row 5, Column 2 to read: “[60 or 90]30 days or as provided pursuant to the terms of the issued temporary use permit”. [This is an inadequate time for many successful and beloved vendors on MI including the old Wood Fired Pizza and the Thai place at the old Baskin Robbins site. Please increase this value to a more reasonable value such as 60 or 90 days.]	If Log 44 is recommended for approval, this duration would apply to activities within the Town Center instead of mobile food vendors. This amendment would not cause a conflict, but the intent of this amendment may not align with the change of the applicable use.	Substantive
MICC 19.15.030 Table A. Land Use Review Types				
46	JB Gibson	Strike “Temporary use permit” from the Type I land use category and add “Temporary use permit” to the Type II land use category. [Aligns with amendment in 19.06.130(C)].	If Log 18b is recommended for approval, this amendment would cause conflict.	Substantive
47	JB Gibson	Amend Table A to add “Temporary use permit variance” to the Type IV land use category. [Aligns with amendment in 19.06.130(F)(1)].	This amendment should only be recommended for adoption if Log 34 is recommended for adoption.	Substantive
Misc.				

48	Dan Thompson	<p>Possible Criteria for a Variance in the Single-Family zone under a TUP:</p> <ol style="list-style-type: none"><li>1. Whether the non-conforming structure is one that the CUP had in the past but let lapse. This is basically resurrecting the grandfathered status of the non-conforming structure through a variance.</li><li>2. The distance of the setbacks of the non-conforming structure from any residentially zoned property. This would likely favor a CUP that generally have larger lots so greater setbacks. Greater setbacks would help limit the impact to adjacent single-family homes.</li><li>3. The extent to the which the temporary structure will exceed the zone's regulatory limits.</li><li>4. The size of the lot compared to the size or GFA of the proposed non-conforming structure.</li><li>5. The number of months/year the non-conforming structure will be up, and whether it is planned to be a recurring structure each year (the Country Club requested a 20-year guarantee to cover the cost of the roof).</li><li>6. The number of individuals who will use or benefit from the non-conforming structure. For example, the cover for the tennis courts at the Country Club will serve hundreds of tennis players each winter whereas a cover for a tennis court on a single family lot will serve only a family.</li></ol>	<p>The Planning Commission should decide which of these possible criteria concepts they would like to incorporate and direct staff to draft criteria to address them or provide specific criteria recommendations.</p> <p>Deviation (variance) criteria should be measurable and result in a desired outcome, whether that is being ineligible for the deviation, or have additional requirements in order for the deviation to be granted.</p> <p>Please also see Staff Response to Log 18d regarding the use of the term “deviation” over “variance” and Log 34 for more information on criteria.</p>	Substantive
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		<div><div>7. The proposed screening for the non-conforming structure. This is usually part of a CUP but historically has been ignored by some CUP's despite complaints from neighbors when trees are cut down or limbed up after approval of the CUP.</div><div>8. Whether the applicant intends to charge a separate fee to use the structure so as to commercialize it</div><div>9. The objections from the neighbors and whether those objections can be mitigated.</div><div>10. The increase in the intensity of use of the property due to the variance, including traffic, light, off-site parking, noise, and hours of operation.</div><div>11. Whether the dimensions of the proposed non-conforming structure are discretionary or whether the dimensions are required by a governing body. For example, the Country Club's application stated a 40' height limit was required for a tournament level indoor tennis court. To be honest, it isn't really clear if that is correct.</div><div>12. Whether the property's structures already exceed the zone's regulatory limits for the zone. Some properties built before adoption of the 2017 RDS that reduced some regulatory limits like GFAR exceed the current regulatory limits for the single-family zone but are grandfathered in. Some CUP's even exceed the pre-2017 regulatory limits for the single-family zone. That should be a consideration when considering whether to</div></div> <td></td> <td></td>		
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Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
		grant a variance to further exceed the zone's regulatory limits.		
Q12	JB Gibson	If these amendments get approved, I recommend an additional round of review and public comment so that we can get public feedback on this updated framework.	If the Planning Commission would like to continue deliberations after June 10, a third discussion of the draft can be scheduled for the next Planning Commission meeting. Given the volume of Planning Commission proposed amendments, continuing deliberations to July is expected.	Q
Q13	Dan Thompson	The TUP really applies to non-conforming structures, not uses. The TUP really has little to do with uses, but mostly to do with non-conforming structures. Every TUP application so far is for an existing use that the zone or a conditional use permit allows. As a result, I have noted in the titles that this ordinance is about non-conforming structures and not uses.	Temporary structures are not inherently “non-conforming”. Please see PCB25-12 for a discussion surrounding nonconforming uses and how these are regulated within the existing MICC.  PCB25-12 also includes information related to land uses, which may have associated structures, but not always. Temporary uses are regulated through this section, as uses can have impacts even when they do not have associated structures. Mobile food vendors are a good example of a use that is not associated with a structure.	Q

Q14	Dan Thompson	<p>The TUP is really three unconnected TUP's for different zones. As Commissioner Nice suspected at the last meeting, this ordinance is really three different temporary use permit ordinances:</p> <p>A. The use of public property in the town center for private business use. This is to allow outdoor dining on public property. To date only Barrels has requested this, and the council has allowed this through a series of temporary ordinances since Covid. I don't see that the legal machinery of a TUP is necessary, but since it is public property will defer to the city on this.</p> <p>B. The allowance of temporary structures (not uses) on private property in the town center even though the zone allows the use and the temporary structure meets the zone's regulatory limits. Some examples include the flower shop in the corner of the Walgreen's property, a food truck on the Chevron property, a food truck by the old Baskin Robbins property, and an application for a TUP for an ice cream truck on the Rite Aid property. My question whether a TUP is necessary for private property in the town center when the use is allowed in the zone and the structure meets the regulatory limits.</p> <p>C. The allowance of a non-conforming structure in the single-family zone. This is due to the council's desire to allow the Country Club to cover its outdoor tennis courts during the winter when a regulation cover must be 39' tall and no zone on MI let alone the SFH zone (30') allows a structure to be 39' tall absent housing in the town center. I think this section of the TUP should be eliminated entirely. The residents don't want businesses in the</p>	<p>Please note that mobile food vendors are a use and not a structure. Uses that are allowed within certain zoning designations often require the issuance of a land use permit prior to operation or issuance of a building permit, even if the use is allowed outright. Please see PCB25-12 for more information on land use reviews.</p>	Q
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Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
		SFH zone, or non-conforming structures, certainly for 6-9 months/year.		



Q15	Dan Thompson	<p>A Conditional Use Permit vs. A Temporary Use Permit. A conditional use permit allows a permanent non-conforming use in a zone. This is usually the single-family zone because the SFH zone has the most restrictive uses (single family homes) and because historically the land in the single-family zone has been cheaper. So clubs, churches, private schools all have CUP's in the residential zone. A CUP has several advantages over the conforming uses in the same zone (single family homes) including:</p> <ul style="list-style-type: none"><li>A. A non-conforming use that allows the CUP to charge hundreds of thousands of dollars in dues or fees each year.</li><li>B. Most CUP's are exempt from property taxes so the city's other property taxpayers must make up for that lost property tax.</li><li>C. Additional impervious surface limits to allow greater parking (usually offset by the fact a CUP has a lower gross floor area to lot area ratio than a house).</li></ul> <p>However, the fundamental rule is a non-conforming use in a CUP does not also receive greater regulatory limits for height, setbacks, or gross floor area to lot area ratio than conforming uses (single family houses) because that is unfair and is basically a rezone.</p> <p>The CUP process is pretty intense, and the city examines all the issues a CUP creates and develops restrictions to deal with these if the CUP is worth it with neighbor input: traffic, parking, noise, light, and just intensity of use.</p> <p>A temporary use permit is something Mercer Island has never had, for any zone. Instead, temporary use or structure is dealt with through the conditional use permit process. The proposed "temporary use permit" ordinance as discussed below has nothing to do with non-conforming uses in a zone and everything to do with</p>	<p>If a Conditional Use Permit is obtained for an activity, it is a permitted use and is not non-conforming. Conditional uses are allowed uses within certain zoning designations. Please see PCB25-12 for more information on types of land uses.</p> <p>Temporary use permits have not been previously processed through a conditional use permit process. Conditional uses are only those uses specifically listed in the code as allowed subject to additional conditions that go beyond the development standards in the underlying zone, usually to mitigate anticipated impacts of a more intense use.</p> <p>The city has not previously had a temporary use permit, so any temporary use and structure that does not meet the underlying development standards in the zoning designation would either have been prohibited, or subject to code enforcement. Please see the discussion in PCB25-05 related to existing development standards for temporary uses.</p>	Q
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Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
		allowing structures that exceed regulatory limits for conforming uses in the zone. This has never been allowed on Mercer Island before, and the proposed TUP has no limits whatsoever except the code official's discretion.		

Q16	Dan Thompson	<p>Why not a variance – the 2017 rewrite of the residential development standards.</p> <p>A. The 2017 rewrite of the RDS. Beginning in 2013 the Development Services Group (the precursor to the CPD) implemented some secret code interpretations re: lot coverage and exemptions to GFAR that resulted in the return of the “McMansion” in the single-family zone. Some of us fought for four years to rewrite the RDS, including Mayor Nice and former councilman Dan Grausz. In 2017 the new RDS was adopted, but since there was no moratorium on permits during the rewrite builders filed dozens of building permits that vested under the old RDS.</p> <p>The new RDS removed any discretion from the planning dept. to increase lot coverage or GFAR limits, or height, and reduced GFAR by 5% and eliminated deviations that had been abused (plus required 30-day public notice for any building permit).</p> <p>The citizen anger during the rewrite and afterwards was intense at public meetings. In 2018 the city places a \$28 million general levy on the ballot that lost by 58.5% due to residual anger over out-of-scale development in the single-family zone that was still going on due to the vested permits. This led to nearly all the senior leadership in the city resigning (or being fired later on including Evan Maxim) and a new council.</p> <p>B. Why not a variance for the country club cover? A variance in the single-family zone is VERY difficult to obtain. For a conforming use like a single-family house the property owner must show the regulatory limit the variance is requested for</p>	<p>Commentary only, no question has been asked. Please see the discussion related to variances in PCB25-12.</p>	Q
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Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
		prohibits <i>any</i> development of the property. In 2022 the JCC requested a variance to certain increased regulatory limits to redevelop its property, but the city’s outside counsel determined that a variance for a CUP was not available in the single-family zone under Mercer Island’s development code and comprehensive plan, which was formalized in an administrative interpretation. <a href="#">DSC ADMINISTRATIVE POLICY DETERMINATION</a>		

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
Q17	Dan Thompson	<p>Is this TUP Ordinance really necessary. To date, there have been four TUP's granted or applied for:</p> <p>A. A cover for the tennis courts at the Country Club. There is no change in the use (tennis) which is part of the CUP. The TUP is really about allowing a 40' tall cover in the single-family zone that has a 30' height limit that is not subject to a variance for CUP in the SFH zone.</p> <p>B. A cover for the swimming pool at the Beach Club at the city's insistence. But this cover has been allowed for over a decade as part of the Beach Club's CUP, and does not violate the zone's regulatory limits (height and gross floor area to lot area ratio). A TUP is totally unnecessary for this cover, and the TUP is just another administrative hassle each year for the Beach Club.</p> <p>C. A cover for the swimming pool at the Mercerwood Shore Club. Exactly the same as the Beach Club. The use is already consistent with the Shore Club's CUP and the pool cover is part of the CUP and meets the zone's regulatory limits. A TUP is completely unnecessary each year.</p> <p>D. An ice cream truck in the Rite Aid parking lot. Why is a TUP necessary for this if the private property owner is willing to allow it and this use is consistent with the property and zone?</p> <p>The only part of the TUP that is relevant or necessary is private use of public property in the town center for outdoor dining, and even then Barrels is the only business to ever apply for such a permit.</p>	<p>The proposed regulations for temporary uses are necessary because without them, some temporary uses and structures are either subject to development standards intended for more intense permanent uses or outright prohibited.</p>	Q

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
Q18	Dan Thompson	Eliminate a TUP in the single family zone that exceeds the zone’s regulatory limits. Basically, this TUP is simply an end round Administrative Interpretation 22-004 that held a CUP cannot obtain a variance from the regulatory limits in the single-family zone. To allow greater regulatory limits than the SFH zone allows or would be available to a CUP under the CUP process in a temporary use ordinance that can be 9 months/year is disingenuous. Although I don’t think a TUP is necessary or should be allowed in the SFH zone I definitely don’t believe a TUP should be an end round AI 22-004 that prohibits a CUP from even applying for a variance to the regulatory limits in the SFH zone.	Commentary only, no question has been asked.	Q
Q19	Dan Thompson	Eliminate a TUP for retail businesses in the single-family zone that exceed 2 weeks per year. I don’t think the citizens – when asked – will support amending the RDS through a TUP to allow retail businesses in the single-family zone, and a central tenant of the town center is to condense retail businesses in the town center to create retail density and walkability.	Commentary only, no question has been asked.	Q

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
Q20	Nazim Nice	Can the City provide permit history for the MICC bubble at property 8700 SE 71st, both past and ongoing applications? You've already provided TUP[24]-001. What is ZTR23-002 regarding? Are there other land use or building permits?	<p>Permit history for the property at 8700 SE 71st St (Mercer Island Country Club) includes:</p> <p>1963 Rezone – Denied</p> <p>1982 Conditional Use Permit for the construction of covered tennis facility – Approved</p> <p>1983 Lot Line Revision – Recorded</p> <p>1983 Setback Variance – Approved</p> <p>1992 Conditional Use Permit for renovations and expansion – Approved</p> <p>2005 Conditional Use Permit for 2<sup>nd</sup> story addition and site improvements – Approved</p> <p>ZTR23-002 is the reference number for the code amendment currently under consideration for the adoption of permanent regulations for temporary uses and structures.</p>	Q

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
Q21	Nazim Nice	Is there available permit history for the Conditional Use Permits for the MICC, Beach Club, and Mercerwood Shore Club? Do these conditional use permits allow covers over pools/sport courts? Are both the conditional use and temporary use permits necessary for these structures to be permitted?	<p>Permit history for all properties on the island can be found in the City's GIS portal: <a href="#">Interactive City Web Map   City of Mercer Island Geospatial Hub</a></p> <p>To find previous land use permits:</p> <ol style="list-style-type: none"><li>1. Search for a property using the address or parcel number</li><li>2. Toggle on the "Land Use" layer found within the "Property" layer</li><li>3. Use the "Rectangle Identify" tool to draw an area over the subject property to encapsulate all of the land use permits associated with the property (be sure to not cross property lines, as the report will pull permits for other properties)</li><li>4. The results include descriptions of the requested land use permits, as well as the last known status. There is also a link to all of the property documents that are associated with the permit</li></ol> <p>If a Conditional Use Permit is granted that includes, for example, a covered pool, an additional temporary use permit would not be required. The Beach Club and Shore Club currently have Temporary Use Permits related to their seasonal pool covers.</p>	Q



Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
Q22	Nazim Nice	When referring to a “lot” in the proposed language, with upcoming code changes that include Unit lots, would the word “lot” mean both a Parent Lot or a Unit Lot? Are there recommendations on how to refer to this clearly?	<p>On March 18, 2025, the City Council adopted Interim Ordinance No. 25C-06, which adopted temporary regulations to comply with Senate Bill 5258, which relates to unit lot subdivision. That ordinance temporarily amended the definition of “Lot” as follows (additions show in underline):</p> <p>“Lot: A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law to be used, developed or built upon as a unit.</p> <p>1. Corner lot: A lot located at the junction of and abutting two or more intersecting streets.</p> <p>2. Upland lot: A lot having no frontage on Lake Washington.</p> <p>3. Waterfront lot: A lot having frontage on Lake Washington.</p> <p>4. <u>Parent lot: The initial lot from which unit lots are subdivided pursuant to MICC 19.08.080.</u></p> <p>5. <u>Unit lot: A lot created by the subdivision of a parent lot pursuant to MICC 19.08.080.”</u></p> <p>As defined, using the term “lot” would refer to both parent and unit lots. In most cases outside of a unit lot subdivision, “lot” will effectively be synonymous with “parent lot” because parent lots are required to meet all development standards and only unit lots have unique allowances. If a standard is intended to apply specifically to a parent or unit lot, that term should be used.</p>	Q

Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
Q23	Nazim Nice	In MICC 19.06.130 Table A, are activities listed in MICC 19.06.130D ( <i>Exemptions related to another permit</i> ) limited to the items listed under 19.06.130(D)(1)(c)? Or are there others?	If any of the uses in MICC 19.06.130(D) were related to another permit, they would fall under this category. It is possible, but not likely, that there would be other activities that are related to a permit in this section other than construction-related activities	Q

Q24	Dan Thompson	<p>Currently there is a conditional use permit process for non-conforming uses in a zone. Here is a Link to the permit application. <a href="#">conditionalusepermit.pdf</a> Could we just use the CUP for temporary uses in the single family zone instead of a new TUP. The only differences I see is a CUP is a Type IV permit, a CUP is for 12 months rather than 6-9 months every 12 months, and a CUP does not allow a structure to exceed the zone's regulatory limits for conforming uses.</p>	<p>Conditional use permits and nonconforming uses are two separate things. Conditional use is defined in MICC 19.16.010 as: "A use listed among those permitted in any given zone but authorized only after a conditional use permit has been granted." A conditional use permit is a Type IV land use review, which requires a pre-decision public hearing. The decision for conditional use permits is made by the Hearing Examiner after the public hearing (MICC 19.15.030). Requiring a conditional use permit is requiring a process for review.</p> <p>A conditional use must conform to all of the regulations of Title 19 MICC at the time it is proposed and permitted. For this reason, a conditional use is a "conforming use" at the time it is initiated and would not become a nonconforming use until regulations are amended that the use no longer conforms to. For example, the land use "hotel/motel" requires a conditional use permit in the TCMF-3 subarea of Town Center (MICC 19.11.020). An application to develop a hotel in the TCMF-3 subarea of the Town Center would be reviewed as a conditional use permit. All development in the Town Center must also meet the Town Center design standards established in Chapter 19.11 MICC. The conditional use permit for the hotel would be reviewed and conditioned to ensure that it conforms to the Town Center design standards at the time the permit application is reviewed. Note: This is a really simplified description of the process, this type of development would be one of the more complicated uses to permit in the City because there are several other permits and authorizations that would be required in addition to the conditional use permit.</p>	Q
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			<p>Nonconforming uses are those uses that do not conform to the land use standards for the zone in which they take place. Nonconforming uses are regulated by MICC 19.01.050 - Nonconforming structures, sites, lots and uses. Nonconforming uses can be either legally established or illegal nonconforming uses. A legally established nonconforming use is a use "[ ... ] that were in conformance with all applicable code provisions in effect at the time of their creation but are not in compliance with current land use codes as a result of subsequent changes in code requirements [ ... ]" (MICC 19.01.050(A)(2)). An illegal nonconforming uses are those that "[ ... ] were not in conformance with all applicable code provisions in effect at the time of their creation [ ... ]" (MICC 19.01.050(A)(3)).</p> <p>To return to the hotel in the TCMF-3 example, if after the hotel was permitted the City changed the design standards in such a way that the permitted hotel no longer conformed, it would be considered a legally established nonconforming use in addition to being a conditional use authorized by a conditional use permit.</p> <p>The City does not have an existing process by which a use can be authorized if it does not conform to the the Development Code in Title 19 MICC. Yes, the Planning Commission can recommend a requirement that temporary uses be processed as a Type IV land use review, similar to the process for a conditional use permit. As discussed above, a conditional use permit (and any land use permit except for a variance) cannot authorize a use or structure that does not conform to the standards of the development code established in Title 19 MICC.</p>	
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Log #	Received From	Amendment/Comment/Question	Staff Response	Categorization
			<p>Changing the review process for a given use does not authorize alternative development standards. If the Planning Commission wants to establish a flexible standard that allows temporary uses to exceed the maximum building height in a given zone, that should be established in the code by setting a standard in the proposed regulations in MICC 19.06.130.</p> <p>Requiring a Type IV land use review for temporary uses would add to the necessary review time for temporary uses. Each Type IV land use review requires a pre-decision public hearing prior to either the Hearing Examiner or the Design Commission issuing a decision. A public hearing can often add at least two months to the land use review. Costs for applicants would also be higher because the permit fees for Type IV land use reviews include the costs associated with the added review and administering the public hearing.</p>	



# PLANNING COMMISSION CITY OF MERCER ISLAND

PCB 25-11  
June 10, 2025  
Special Business

Item 3.

## AGENDA BILL INFORMATION

<b>TITLE:</b>	PCB 25-11: Parks Zone Development Code Amendment	<input type="checkbox"/> Discussion Only
<b>RECOMMENDED ACTION:</b>	Approve a recommendation regarding the Parks Zone Development Code amendment.	<input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Recommendation
<b>STAFF:</b>	Carson Hornsby, Management Analyst II Alison Van Gorp, Deputy Director of Community Planning and Development	
<b>EXHIBITS:</b>	1. Draft Parks Zone Development Code Amendment	

## EXECUTIVE SUMMARY

The Parks Zone is a proposed new zone that will establish development regulations for most City-owned and/or managed parks. The purpose of the Parks 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.

- Creation of a new zone requires amendments to Title 19 of the Mercer Island City Code (MICC), the Zoning Map in MICC Title 19 Appendix D, and the Land Use Designation Table and Land Use Map in the Comprehensive Plan.
- The Parks and Recreation Commission (PRC) provided their recommendation on the Parks Zone to the City Council and Planning Commission (PC) in April 2025, and the City Council directed the PC to complete legislative review of the Parks Zone by June 2025.
- At the May 28 PC meeting, the PC held public hearings for the Parks Zone amendments to the Development Code and Comprehensive Plan. The PC approved a recommendation regarding the Comprehensive Plan amendment and began the legislative review process related to the Development Code amendment.
- The PC will continue legislative review of the Parks Zone Development Code amendment and approve a recommendation to the City Council at the June 10 PC special meeting.

## 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

[Ordinance No. 24C-15](#) establishing the Open Space Zone on November 4, 2024 with an effective date of December 31, 2024.

After the adoption of the Open Space Zone, the PRC shifted focus to development of the Parks Zone in October 2024. The PRC finalized their Parks Zone recommendation on April 9, 2025. The PRC Chair and Vice Chair presented the PRC's Parks Zone recommendation to the City Council on April 15, 2025, and the City Council passed a motion directing the PC to complete legislative review of the Parks Zone by June 2025. The PRC Chair and Vice Chair presented the PRC's Parks Zone recommendation to the PC at the April 23, 2025 PC meeting. The PC asked the PRC Chair, Vice-Chair, and staff questions related to the recommendation. The PC held two public hearings for the Parks Zone amendments to the Development Code and Comprehensive Plan at the May 28 PC meeting and approved their recommendation to the City Council regarding the Comprehensive Plan amendment. The PC will continue legislative review of the Development Code amendment and approve a recommendation to the City Council at the June 10 PC special meeting. The PC may also approve any additional recommendations, outside of the Comprehensive Plan and Development Code amendments at the June 10 meeting.

## ISSUE/DISCUSSION

### Parks Zone Development Code Amendment

Creation of a new zone requires an amendment to the Development Code. The draft Development Code amendment (see Exhibit 1) includes the draft Parks Zone Development Regulations and Zoning Map as summarized below:

- Amendment to MICC Title 19 to add a new subsection MICC 19.05.05, establishing the Parks Zone purpose, designation requirements, and uses permitted.
- Amendment to MICC Title 19 to add a new subsection MICC 19.05.060, establishing the Parks Zone development standards.
- Amendment to [MICC 19.16.010 – Definitions](#) to add new definitions for key terms used in the Parks Zone development regulations.
- Amendment to [MICC 19.01.040 – Zone Establishment](#) to establish the Parks Zone.
- Amendment to MICC Title 19 Appendix D – Zoning Map.

### Draft Code Amendment Updates

The PC approved several motions to revise the draft Parks Zone Code Amendment during the May 28 meeting. Staff live-edited the amendments into the draft and took note of topics to provide more information on at the June 10 PC meeting. The updated draft Parks Zone Code Amendment (Exhibit 1) includes new revisions for consideration by the PC, as summarized below.

#### Purpose

The two separate amendments to the purpose statement that the PC passed during the May 28 meeting resulted in an incomplete sentence. Staff have proposed a small revision to improve readability while preserving the PC's intent with the two amendments.

#### Permitted Uses

The PC passed a motion during the May 28 meeting to revise the permitted uses section to include "parking for park-related uses." There are some situations where parking areas proposed to be included in the Parks Zone are used for non-park uses. For example, the Luther Burbank parking lot is used by clients of the City's Youth and Family Services. Other parking areas are used on occasion for overflow school parking or parking for non-park events such as the parking areas at Island Crest Park and Homestead Park. WSDOT may potentially use parking

at Aubrey Davis Park for transportation uses. In practice, the City would need to install signs with new parking regulations and the Police Department would be responsible for enforcement.

Additionally, multipurpose facilities were moved next to the other facility types in the permitted uses.

### Setbacks

The PC passed a motion during the May 28 meeting to require a 20-foot setback for parking areas in the Parks Zone located adjacent to property zoned R-8.4; R-9.6; R-12; or R-15. The PC asked staff to review the effects of this amendment and return to the next meeting with more information. There are several parks with existing parking areas adjacent to residential zones that will become nonconforming as a result of this change including but not limited to Groveland Beach Park, Slater Park, Homestead Park, and potentially parking areas in Aubrey Davis Park and other parks. If this amendment is adopted, the nonconforming parking areas in the Parks Zone would need to be reduced in size or relocated before they can be repaved, leading to reduced parking capacity and increased capital project costs. Several parks are already operating at or beyond current parking capacity and this issue is further exacerbated by increased seasonal parking demand. Staff do not recommend including this amendment.

### Trail Standards

The PC proposed two separate amendments to the Trail Standards at the May 28 meeting to include shoulders in the proposed maximum trail width of 12 feet, add a minimum width of 10 feet for shared use trails, require shoulders for shared use trails, and require that islands or bollards not reduce trails to less than 4 feet in width. The PC asked staff to return to the next meeting with more information.

The PRC and staff had several discussions about trail standards throughout the development of the PRC's Parks Zone recommendation. The final PRC recommendation included only a maximum trail width because trails benefit from some flexibility when it comes to trail construction, materials, etc. Ideally, every trail is tailored to specific uses, landscapes, habitats, and other related factors. As trail standards become more restrictive and/or complex, the ability to meet the needs of individual trails diminishes.

The 12-foot maximum trail width was proposed with the ability to allow shoulders as needed, for example, a paved trail with gravel shoulders. Trail shoulders provide a safe place for trail users to move out of the way of other traffic. Additionally, minimum clearance for emergency response vehicles is 20 feet, and some trails may need additional shoulder area to accommodate emergency access vehicles. In most cases, the additional clearance needed for emergency response vehicles can be satisfied with natural surfaces, but that is not always the case.

The proposed amendments related to shared use trails present a few additional complications. The PC passed a motion during the May 28 meeting to remove trails from the impervious surface standard exemptions. A new proposed minimum shared use trail width of 10 feet would make many trails throughout the park system nonconforming, and removal of trails from the impervious surface exemptions would significantly complicate the City's ability to bring these trails into a conforming status. If both the proposed minimum and maximum width requirements including shoulders are adopted, the City would not have any flexibility to alter trail width if necessary. Additionally, the development and application of new trail categories and regulations should be done as part of a comprehensive process and may be better suited for a different policy document, such as the Bike and Pedestrian Facilities Plan or park-specific master plans.

Staff have proposed an amendment to the trail standards in Exhibit 1. The amendment seeks to clarify which surface materials will be included in the width measurement. The amendment also limits the 10-foot minimum



width for shared use trail to *paved* trails. This will exclude the many dirt/gravel walking path style trails that would not comply with this width standard.

### Lighting

The PC approved several amendments to the lighting standards during the May 28 meeting. Staff committed to returning to the next meeting with more information and revised language for lighting. The PC's draft lighting amendments reflect a strong commitment to minimizing environmental impacts, particularly in shoreline areas. Staff support the Commission's direction and have proposed targeted revisions to improve clarity, enforceability, and consistency with related regulations. These revisions are not intended to alter the Commission's intent, but rather to streamline implementation and enhance technical precision. The proposed lighting revisions are summarized below:

- Clearer subheadings were added for general requirements, exemptions, and ecological lighting standards. The overlapping "salmon-friendly" and "Dark Sky" principles have been consolidated into a single section titled "Ecological and Low-Impact Lighting Standards". This structure improves legibility for applicants and facilitates more efficient review by staff.
- Additional language ensures that lighting design also considers Crime Prevention Through Environmental Design (CPTED) principles and pedestrian safety. This promotes balanced lighting that supports both ecological sensitivity and safe use of park facilities and trails.
- To support consistent implementation, the revised language incorporates measurable and objective lighting standards. These updates ensure applicants have clear expectations and enable staff to verify compliance through standard review processes.
  - Foot-candle maximums: 3.0 for walkways and 5.0 for entrances and high-traffic trail intersections
  - Lumen exemption: Applies to fixtures producing fewer than 200 lumens per fixture
  - Color temperature: Limited to 3000 Kelvin or less unless higher temperatures are required for safety; Kelvin ratings must be documented in submittals
- Applicants will be required to submit photometric plans and fixture specification sheets during permit review. These materials illustrate lighting layout, shielding, intensity, and color temperature, providing objective evidence of compliance.

### Shoreline Recreation

Commissioner Akyuz previously proposed amendments to permit water-based recreational uses and promote access to the shoreline under the heading "Shoreline Recreation". After additional analysis, staff do not recommend including this proposed amendment. These uses are largely already allowed in the Parks Zone draft as well as the Shoreline code (MICC 19.13) and are also well supported in policy documents including the PROS plan and Luther Burbank Master Plan, as outlined below.

Staff have reviewed the Shoreline code in [MICC 19.13](#) for relevance to shoreline areas and water-based recreational uses in the Parks Zone. The Urban Park Environment shoreline designation (mapped in [Appendix F](#)) applies to all parks and street ends located on Lake Washington, including the parks that will be included in the Parks Zone (Luther Burbank, Slater, Groveland Beach and Clark Beach). Within the Urban Park Environment, the following applies:

- Marinas are prohibited
- Public Piers, Docks, Boardwalks are permitted
  - The Luther Burbank docks are proposed to be rebuilt and a public pier/dock permit application is currently under review
- Overwater Boat Houses are prohibited

- Public Facilities and Noncommercial Recreational Areas are permitted in the shorelands (within 200 feet of the shoreline)
  - These existing permitted use categories could likely cover facilities such as a city-operated boat/kayak rental or a non-profit rowing club/shell house. These use categories also appear to be compatible with the Recreational Facilities use permitted in the Parks Zone.

The [PROS Plan](#) identifies objectives related to improving access to the shoreline, renovating existing shoreline infrastructure and enhancing water-based recreation programs. The [Luther Burbank Park Master Plan](#) includes a vision for water-based recreational uses being supported from the Luther Burbank Boiler Building and also a “Shell House” located upland from the Boiler Building (to avoid shoreline impacts) – see page 15 of the [Master Plan](#) and the [Map](#). The Boiler Building has recently been partially renovated, and the City is considering options for future use of this facility once the Luther Burbank dock renovation is complete.

Staff also recommend replacing the word “boathouse” in the Recreational Facilities definition to avoid conflicting with the Shoreline code. Another term such as “boat storage” or “watercraft storage” would be more appropriate. For the definition of Recreational Amenities, a term such as “water-based uses” or “boating and fishing” could be added to more explicitly allow water-based recreation.

#### Aubrey Davis Park

During the PRC’s process of developing a Parks Zone recommendation, staff offered two scenarios for Aubrey Davis Park. Either the Parks Zone project could be put on hold to allow more time for discussion, planning, and coordination with WSDOT, or the PRC could move forward with development of their Parks Zone recommendation along with a separate recommendation on Aubrey Davis Park. The PRC opted to provide a separate recommendation on Aubrey Davis Park and continue developing their recommendation on the Parks Zone. Since Aubrey Davis Park was excluded from the list of parks proposed to be included in the Parks Zone early in the process, the development regulations included in the PRC’s recommendation largely do not account for structures and development in Aubrey Davis Park. For example, the PRC’s proposed maximum trail width was recommended based on examples and measurements that did not include trails in Aubrey Davis Park, some of which have a width larger than 12 feet.

The PC passed a motion to include Aubrey Davis Park in the Parks Zone during the May 28 PC meeting with one meeting left to finalize a recommendation on the Parks Zone. Based on the PC’s motion, Aubrey Davis Park is now proposed to be subject to development regulations that will make structures in Aubrey Davis Park nonconforming. The process that staff and the PRC went through to research park development and obtain measurements and information for the Parks Zone development regulations took several months. The City Council directed the PC to complete their work on the Parks Zone in time for the City Council’s scheduled review on July 1. There is not sufficient time to do the research and collect the information necessary to rewrite the development regulations to account for the inclusion of Aubrey Davis Park.

In addition, the City’s GIS mapping of Aubrey Davis Park is based on areas the City is responsible for maintaining, which includes many small sections of ROW along North Mercer Way, Island Crest Way, and other adjacent streets. For example, the median in Island Crest Way just south of I-90 is part of Aubrey Davis Park. These small ROW areas are likely not appropriate for inclusion in the Parks Zone. A new map layer would need to be developed, reviewed, and finalized prior to the final review of the Parks Zone, which will require additional staff work.

If Aubrey Davis Park is included in the Parks Zone in the PC’s final recommendation to the City Council, staff will need to advise the City Council that additional time will be needed to rewrite the development regulations and create updated versions of the Zoning Map and Land Use Map prior to adoption of the zone. Additional time will also be necessary to coordinate with WSDOT on this proposed zoning change.

### Additional PC Recommendations

At the May 28 meeting, the Planning Commission identified recommendations they would potentially like to share with the City Council:

- The City Council should write a letter to WSDOT to ask about including Aubrey Davis Park in the Parks Zone.
- The City Council should consider revising the recommendation process for public art installations in the Parks Zone to require approval by the Parks and Recreation Commission.

These recommendations should be fully considered at the June 10 meeting, and motions can be made to include them with the PC's other recommendations.

### NEXT STEPS

The PC will continue deliberations on the Parks Zone Development Code amendment and approve a recommendation to the City Council at the June 10 PC special meeting. The City Council is scheduled to review the PC's Parks Zone recommendations in July 2025.

### RECOMMENDED ACTION

Approve a recommendation regarding the Parks Zone Development Code amendment.

Staff recommend the following motions:

**Main Motion:** "Move to recommend that the City Council adopt the proposed new section MICC 19.05.050 – Parks Zone; new section MICC 19.05.060 – Parks Zone Development Standards; and proposed amendments to MICC 19.16.010 – Definitions and MICC 19.01.040 – Zone Establishment."

**Note:** once the main motion has been made and seconded, the PC can begin making amendments by motion as it sees fit.

**Secondary Motion – Amendments:** "Move to approve [amendment] alternative [insert preferred alternative] as presented."

**Note:** The phrase "as presented" can be changed to "as amended" if the PC would like to make further changes to the alternative such as proposing specific language. If changes to an alternative are proposed the tertiary motion below would need to be made to detail the proposed change prior to voting on the secondary motion.

**Tertiary Motion – Changes to an amendment alternative:** "Move to amend alternative [insert preferred alternative] as follows: [provide the proposed amendment]."

## DRAFT PARKS ZONE DEVELOPMENT REGULATIONS

### MICC 19.05.050 – Parks Zone. [New Subsection]

- A. *Purpose.* [The purpose of the Parks Zone is to preserve and maintain parks which provide green space, shoreline access, recreation and conservation opportunities, and social spaces for individuals and gatherings.](#)
- 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. **Multipurpose facilities**
  5. City government services in the Luther Burbank Administrative Building, Luther Burbank Boiler Building, and Luther Burbank Caretakers House.
  6. Public art.
  7. Trails.
  8. Habitat restoration and enhancement as authorized by [Chapter 19.07 MICC](#).
  9. Parking for park-related uses.
  10. Temporary uses and structures compatible with the purpose of the Parks Zone, as authorized by the City Manager or designee. Temporary uses shall conform to the development standards in MICC 19.05.060.
  11. 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).
  12. Utilities.

**Commented [CH1]:** Moved multipurpose facilities up on the list next to the other facilities.

**MICC 19.05.060 – 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, R-12, 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, except as follows:
  - a. Parking areas located adjacent to property that is zoned R-8.4; R-9.6; R-12; or R-15 require a 20-foot setback.

C. *Signs and Kiosks.*

1. Signs shall be governed by [MICC 19.12.080](#), except as follows:
  - a. Signs shall not exceed 16 square feet of surface area. Surface area shall be measured as the part of the sign used to display information.
  - b. Externally lit signs are prohibited except for park entry signs and signs required for public health, safety, or maintenance purposes.
2. Scoreboards shall not exceed 250 square feet of surface area. Surface area shall be measured as the side of the scoreboard that displays the score. Electronic and externally lit scoreboards are permitted.
3. Kiosks shall not exceed 22 square feet of surface area per side and 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 be constructed with a maximum width of 12 feet.
  - a. Trail width shall be inclusive of hardscape materials used to create a smooth surface for walking, biking or other recreational activities such as concrete, asphalt and crushed gravel.
  - b. Softscape materials such as grass, vegetation, and mulch will not be included in the trail width.
2. Shared use trails with a paved surface of concrete or asphalt shall be constructed with a minimum width of 10 feet, plus shoulders of at least 2 feet that are clear of obstructions.
  - a. Any obstruction placed in a shared use trail, such as islands or bollards must not reduce the clear width of any portion of the pedestrian path to less than 4 feet.

**Commented [AV2]:** With the addition of Aubrey Davis to the Parks Zone, this dimension would need to be increased to avoid making existing trails non-conforming.

## PCB 25-11 | Exhibit 1

- ~~2. Trails shall not exceed 12 feet in width including shoulders. Major Amendments Log 13:~~  
~~The minimal operational width of any shared use trail, excluding shoulders, is 10 feet.~~  
~~Shoulders are required for any shared use path.~~  
~~3. Any obstruction placed in a shared use trail, such as islands or bollards must not reduce the clear width of any portion of the pedestrian path to less than 4 feet. Major Amendments Log 2:~~

E. *Building Size.*

1. Unless exempted by subsection (E)(3), the following standards shall apply to buildings in the Parks Zone:

Building Type	Gross Floor Area Limit	Height Limit
Restrooms	500 square feet	20 feet
Park Maintenance Facilities	500 square feet	20 feet
Recreational Facilities	500 square feet	20 feet
Multipurpose Facilities	3,500 square feet	20 feet
Picnic Shelters	1,200 square feet	16 feet
Luther Burbank Pergola	2,000 square feet	16 feet

2. Flagpoles, antennas, chimneys, mechanical equipment, and rooftop appurtenances do not count toward building height in the Parks Zone.
3. The following buildings in the Parks Zone shall be exempt from the standards in subsection (E)(1):
- Luther Burbank Administrative Building.
  - Luther Burbank Boiler Building.
  - Luther Burbank Caretakers House.
  - Emergency well buildings.

F. *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.* 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.

### G. 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. If the City acquires new park land, a separate planning process will take place to determine the amenities and impervious surface coverage of the new park land. The following uses are exempt:
  - a. Emergency vehicle lanes not available for public use.
  - b. ADA parking and accessibility improvements.
  - c. Required surfaces for playground equipment.
  - d. Small park amenities 100 square feet or less in gross floor area, including but not limited to benches, picnic tables, signs, and trash cans.
  - e. Emergency maintenance and repairs.
  - f. Utilities.

**Commented [CH3]:** Add reference to PROS Plan and CIP?

**Commented [CH4]:** Add exemption for temporary uses/structures?

### H. Lighting.

1. General Requirements. 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. Lighting must be designed to maintain adequate illumination for pedestrian safety, visibility, and compliance with Crime Prevention Through Environmental Design (CPTED) principles.
2. Exemptions. The following lighting types are exempt from the requirements in subsection (H)(1) this requirement:
  - a. Lighting fixtures existing prior to the effective date of this section and the repair of the same.
  - b. Emergency lighting.
  - c. Pathway and landscaping lighting fixtures producing less than 200 lumens per fixture.
  - d. Temporary seasonal lighting.
  - e. Lighting required by state or federal law.
3. Ecological and Low-Impact Lighting Standards. New lighting shall adhere to ecological lighting principles, including Dark Sky and, where applicable, salmon-friendly design practices, to minimize environmental and wildlife disruption, while ensuring visibility and safety needs are met.
  - a. Eliminate lighting not required for wayfinding, operational use, or public safety to reduce ambient light pollution.
  - b. In addition to the general shielding requirements in subsection (H)(1), fixtures in or near environmentally sensitive areas (e.g., shorelines or riparian buffers) must be positioned to avoid direct illumination of water bodies, shoreline vegetation, or

adjacent properties. Compliance must be demonstrated through photometric plans and manufacturer cut sheets.

- c. Timers and motion sensors may be used outside of primary circulation areas or in low-traffic zones. In active-use areas, fixtures shall maintain continuous illumination during operational hours unless an alternate lighting plan is approved by the code official.
- d. Light levels should not exceed 3.0 foot-candles for walkways and 5.0 foot-candles for entrances, and high-traffic multi-use trail intersections, unless otherwise approved by the code official.
- e. Warm color temperature fixtures (3000K or less) should be used to minimize blue light impacts. Higher color temperatures may be used where needed for visibility or safety, provided all other shielding and glare control standards in this section are met.

I. *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.

J. Shoreline Recreation

1. Shoreline Parks include, Luther Burbank Park, Clarke Beach Park, Groveland Park, Slater Park, and Garfield Landing.
2. Planning and design for Shoreline Parks shall include all reasonable ingress and egress improvements and features to improve accessibility.
3. Up to one public pier and boathouse each will be allowed among all Shoreline Parks.
4. Lighting at Shoreline Parks will be turned off within one hour of dusk.
5. A maximum of one Concession Stand type building is allowed at each Shoreline Recreation Park. [Major Amendments - Log 6]

**Commented [AV5]:** Staff do not recommend making this amendment. Public Piers/docks are already allowed in the Shoreline Code. (MICC 19.13). The shoreline code also allows public facilities and noncommercial recreation areas. These use categories cover much of what was intended here. Lighting is now addressed in the lighting section. Concessions are already included in the definition of Recreational Facilities and are allowed.

**MICC 19.16.010 – Definitions**

[...]

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

[...]



City Government Services. Services provided by, or on behalf of, the City of Mercer Island including, but not limited to, fire protection, police and public safety activities, courts, administrative offices, and equipment maintenance facilities.

[...]

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.

[...]

Multipurpose Facilities. In the Parks Zone, facilities that serve two or more uses including, but not limited to, restrooms, maintenance facilities, recreation facilities, support facilities for recreational uses, storage, and concessions.

[...]

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. 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.

[...]

Park Maintenance Facilities. Structures that serve park maintenance or operations purposes, including but not limited to buildings and sheds.

[...]

Playground. An outdoor recreational facility provided as a play area for children.

[...]

**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. Public art can be implemented in standalone art installations or incorporated into other structures.

[...]

**Recreational Amenities.** Structures, furnishings, or developments that are provided to supplement recreational uses or enhance recreational facilities, including but not limited to picnic tables, benches, bleachers, barbecues, fencing, outdoor exercise equipment, lighting, scoreboards, and waste receptacles. Recreational Amenities 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, batting cages, bullpens, skateparks, bike skills areas, community gardens, spray parks, amphitheaters, swimming areas, docks, piers, boathouses 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.

[...]

**Restroom.** A public restroom facility that provides basic amenities including but not limited to toilets and sinks.

[...]

**Shoreline Park.** A park on the shoreline of Lake Washington that has public access for water-dependent recreation. [Major Amendments - Log 8]

[...]

**Commented [AG6]:** Boat Houses are prohibited as an overwater structure in the Shoreline code. Staff recommend using a different term to avoid confusion and to better align with Shoreline code. Boat or watercraft storage?

**Commented [AV7]:** Consider adding a recreational use such as “water based recreation” or “boating and fishing”.

**Commented [AG8]:** This definition is unnecessary with the staff recommendation to not include the proposed Shoreline Recreation amendment.

**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.

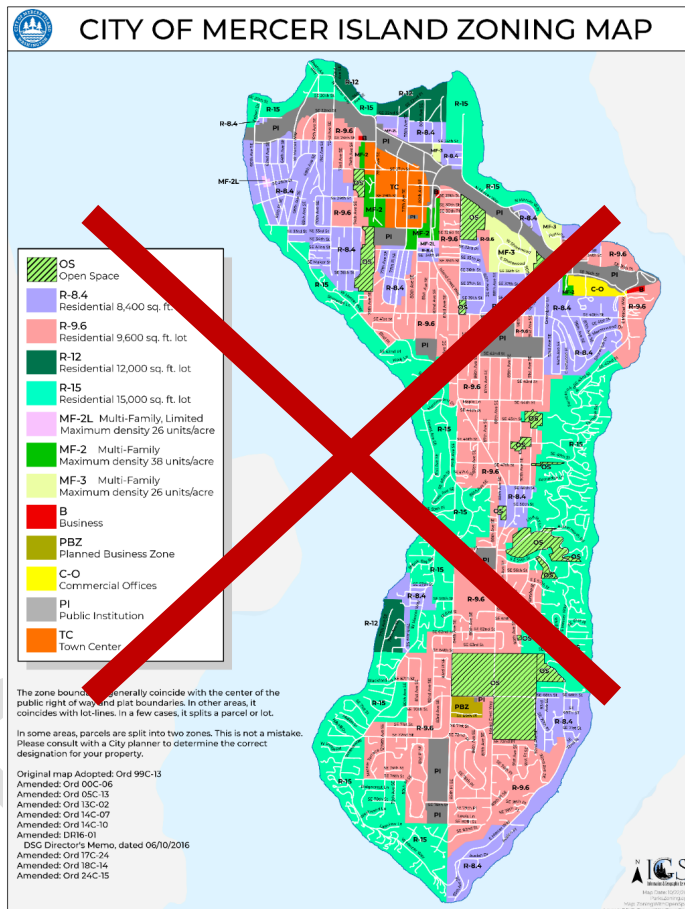
H. Except as hereinafter provided:

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.

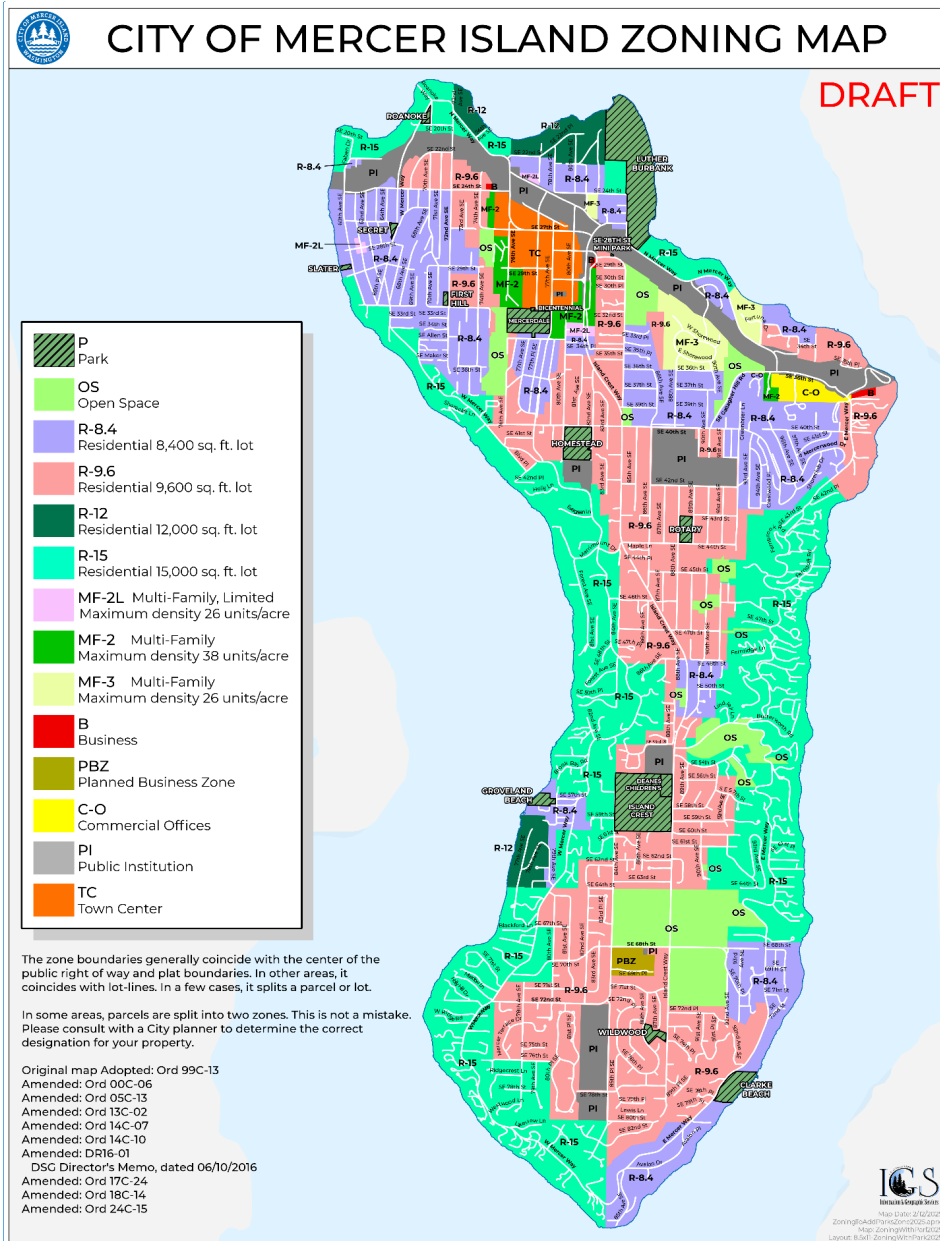
[...]

PCB\_25-11 | Exhibit 1

**MICC Title 19 – Appendix D – Zoning Map**  
View city of Mercer Island Zoning Map.



PCB\_25-11 | Exhibit 1



**Commented [AV9]:** Amend City of Mercer Island Zoning Map to change Aubrey Davis Park from "PI Zone" to "Parks Zone." [\[Major Amendments - Log 19\]](#)

**Commented [AV10]:** Map to be updated to reflect removal of C-O zone in ROW across from Gallagher Hill Open Space. [\[Minor Amendments - Log 4\]](#)