



PLANNING COMMISSION REGULAR HYBRID MEETING AGENDA

Wednesday, October 22, 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 24th Street | Mercer Island, WA 98040
(206) 275-7706 | 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.

Individuals wishing to speak live during Public Appearances (public comment period) or during a scheduled public hearing must register with the Deputy City Clerk at (206) 275-7791 or 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 **898 7251 9268**, Passcode **403600**.
- 2) **Zoom:** Click this [Link](#) (Webinar ID **898 7251 9268**, Passcode **403600**)
- 3) **In person:** Mercer Island Community & Event Center | 8236 SE 24th 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 October 8, 2025 Special Meeting minutes.

2. PCB25-19: 2026 Annual Docket

Recommended Action: Prepare a recommendation to the City Council on the docket proposals for the 2026 Annual Docket.

OTHER BUSINESS

3. Staff Report

ADJOURNMENT



PLANNING COMMISSION SPECIAL MEETING MINUTES

Wednesday, October 8, 2025

Item 1.

CALL TO ORDER

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

Chair Dan Thompson, Vice Chair JB Gibson (Remote), and Planning Commissioners Kate Akyuz, Nazim Nice and Anthony Perez were present.

Staff Participation:

Jeff Thomas, Director (Remote)

Alison Van Gorp, Deputy CPD Director

Raven Gillis, Recreation Specialist

Adam Zack, Principal Planner

Deb Estrada, Deputy City Clerk

David Linehan, Contract Legal Counsel (Remote)

PUBLIC APPEARANCES

There were no requests to speak during public appearances.

REGULAR BUSINESS

1. Planning Commission Meeting Minutes of September 24, 2025, Regular Meeting:

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

Approve the minutes.

Passed 5-0

2. PCB25-18: Public Hearing Cont. – Omnibus Ordinance Related to Permanent Regulations for Housing Production and Permit Streamlining

Chair Thompson continued the public hearing from the September 24 meeting at 6:04 PM.

There were no requests to speak.

Chair Thompson closed the public hearing at 6:05 PM

Motion by Akyuz; seconded by Nice to:

Recommend that the City Council adopt the proposed amendments to Title 19 of the Mercer Island City Code as provided in Exhibit 1 to PCB25-18 and amended to include PC Log number 6 as presented below:

3. Group parking areas shall be screened from view from streets and adjoining properties **at pedestrian eye level**. If screening consists of solid planting, it shall be of evergreen variety and shall constitute a solid planting within ~~two~~three years.

Main Motion Passed 5-0

OTHER BUSINESS

3. Staff Report

ADJOURNED - The meeting adjourned at 6:15 pm

Item 1.

Deborah Estrada, Deputy City Clerk

DRAFT



PLANNING COMMISSION CITY OF MERCER ISLAND

PCB 25-19
October 22, 2025
Regular Business

AGENDA BILL INFORMATION

TITLE:	PCB 25-19: 2026 Annual Docket	☐ Discussion Only ☒ Action Needed: ☐ Motion ☒ Recommendation
RECOMMENDED ACTION:	Review each docket proposal and prepare a recommendation to the City Council on the docket proposals that should be included in the final docket.	
STAFF:	Alison Van Gorp, CPD Deputy Director Molly McGuire, Senior Planner	
EXHIBITS:	1. 2026 Annual Docket Proposal Summary 2. Public Docket Applications 3. Docketing Criteria Analysis Matrix 4. Docket Progress Report	

EXECUTIVE SUMMARY

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

BACKGROUND

Docket Process

The Mercer Island City Code (MICC) describes the formal process for soliciting and reviewing docket proposals in section 19.15.230 MICC:

"D. Docketing of Proposed Amendments. For purpose of this section, docketing refers to compiling and maintaining a list of suggested changes to the comprehensive plan in a manner that will ensure such suggested changes will be considered by the city and will be available for review by the public. The following process will be used to create the docket:

1. Preliminary Docket Review. By September 1, the city will issue notice of the annual comprehensive plan amendment cycle for the following calendar year. The amendment request deadline is October 1. Proposed amendment requests received after October 1 will not be considered for the following year's comprehensive plan amendment process but will be held for the next eligible comprehensive plan amendment process.

a. The code official shall compile and maintain for public review a list of suggested amendments and identified deficiencies as received throughout the year.

b. The code official shall review all complete and timely filed applications proposing amendments to the comprehensive plan or code and place these applications and suggestions on the preliminary docket along with other

city-initiated amendments to the comprehensive plan or code.

c. The planning commission shall review the preliminary docket at a public meeting and make a recommendation on the preliminary docket to the city council each year.

d. The city council shall review the preliminary docket at a public meeting. By December 31, the city council shall establish the final docket based on the criteria in subsection E of this section. Once approved, the final docket defines the work plan and resource needs for the following year's comprehensive plan and code amendments."

Public notice of the opportunity to submit docket requests was provided in the permit bulletin and on the City website between August 4 and September 1, 2025, as well as on August 6 and September 3, 2025 in the Mercer Island Reporter. Nine code amendment suggestions were received from the public. The suggestions are summarized in Attachment 1 and described below. The original submissions from community members are included in Attachment 2.

Docketing Criteria

The City Code prescribes that proposed comprehensive plan and development code amendments should only be recommended for the final docket if the amendment meets the criteria in MICC 19.15.230(E):

"E. Docketing Criteria. The following criteria shall be used to determine whether a proposed amendment is added to the final docket in subsection D of this section:

1. The request has been filed in a timely manner, and either:

a. State law requires, or a decision of a court or administrative agency has directed, such a change; or

b. All of the following criteria are met:

i. The proposed amendment presents a matter appropriately addressed through the comprehensive plan or the code;

ii. The city can provide the resources, including staff and budget, necessary to review the proposal, or resources can be provided by an applicant for an amendment;

iii. The proposal does not raise policy or land use issues that are more appropriately addressed by an ongoing work program item approved by the city council;

iv. The proposal will serve the public interest by implementing specifically identified goals of the comprehensive plan or a new approach supporting the city's vision; and

v. The essential elements of the proposal and proposed outcome have not been considered by the city council in the last three years. This time limit may be waived by the city council if the proponent establishes that there exists a change in circumstances that justifies the need for the amendment."

CPD Work Plan

The docketing criteria, shown above, include a requirement that the City “can provide resources, including staff and budget, necessary to review the proposal”. As has been the case in the last several years, City staff capacity for legislative review is limited. In addition, the existing CPD work plan already includes several major work items that will continue in 2026, summarized below. The City does not currently have an “un-docketing” process, so these outstanding work items must receive some form of legislative review. Any work items added to the docket will need to be added to the items already on the work plan.

1. **Outstanding 2024 Annual Docket Items:** The City has several items that were included in the 2024 Annual Docket that have not yet received legislative review (see Exhibit 4). These items will remain in the CPD work plan and work is expected to commence as resources allow. The following items should be addressed prior to any new items added to the 2026 Annual Docket:
 - a. Docket Reference No. 23-7: Amend MICC 19.11 Town Center Development and Design Standards to add a “Government Services” use and the related development standards, initiated by the City of Mercer Island.
 - b. Docket Reference No. 23-9: Amend several chapters in Title 19 MICC in response to housing-related legislation including HB 1110, HB 1337 and HB 1042, initiated by the City of Mercer Island. Interim regulations have been adopted by City Council under [Ord No. 25C-02](#). These interim regulations will expire on June 30, 2026 and permanent regulations will need to be adopted or the interim regulations will need to be renewed prior to this date to avoid a lapse in compliance.
 - c. Docket Reference No. 23-14: Amend MICC 19.02.020(E) Building Height Limit and MICC 19.16.010 Definitions to add a provision related to the calculation of maximum downhill building façade height, initiated by both the City and Regan McClellan.
 - d. Docket Reference No. 23-18: Redesignate the Stroum Jewish Community Center and Mercer Island Country Club properties as Commercial Office on the Comprehensive Plan Land Use Map and rezone the JCC property to Commercial-Office, initiated by the Stroum Jewish Community Center.
2. **Outstanding 2025 Annual Docket Items:** The City has three items that were included in the 2025 Annual Docket that have not yet received legislative review (see Exhibit 4). These items will remain in the CPD work plan and work is expected to commence as resources allow. The following items should be addressed prior to any new items added to the 2026 Annual Docket.
 - a. Docket Reference No. 24-1: Amend MICC 19.01.050 Nonconforming structures, sites, lots, and uses and MICC 19.16.010 Definitions to exclude “exterior alteration” of non-single-family nonconforming structures outside of the Town Center from the determination of nonconforming status during a remodel and add the definition of “enlargement” to the definitions section.
 - b. Docket Reference No. 24-8: Add a new chapter to Title 19 MICC for a “Private Hedge Code”, which would provide a voluntary mechanism for the resolution of disputes involving the height of hedges, initiated by Jeff Haley. *See also Docket Reference No. 24-15.*
 - c. Docket Reference No. 24-15: Amend MICC 19.02.020(C)(3) Intrusions into required yards and MICC 19.02.050 Fences, retaining walls, and rockeries to limit the height of hedges to 12 feet within side yard setbacks unless mutually agreed upon by adjoining property owners. *See also Docket Reference No. 24-8.*
3. **Interim Regulations:** The City has several interim regulations that will expire in 2025. These interim regulations will need to be renewed or replaced with permanent regulations prior to expiration. The current interim regulations that will need to be addressed in 2025 are:
 - a. [Ordinance No. 24C-03](#) Interim Regulations Related to Emergency Shelters and Housing, Transitional Housing, and Permanent Supportive Housing in MICC 19.16.010. These interim

regulations were most recently renewed by [Ordinance No. 25-15](#) on September 2, 2025 with an effective date of October 1, 2025. These interim regulations will expire on April 1, 2026 and will need to be renewed or replaced with permanent regulations prior to March 31, 2026.

- b. [Ordinance No. 25C-02](#) Interim Regulations Related to Middle Housing and Accessory Dwelling Units. These interim regulations will expire on June 30, 2026 and will need to be renewed or replaced with permanent regulations prior to June 29, 2026.
 - c. [Ordinance No. 25C-06](#) Interim Regulations Related to Unit Lot Subdivisions. These interim regulations will expire on June 30, 2026 and will need to be renewed or replaced with permanent regulations prior to June 29, 2026.
4. **Other Outstanding Items:** The City has several items that will need to be addressed, beginning in 2026 and expected to continue into 2027 and beyond.
- a. Growth Management Hearings Board [Final Decision and Order](#): On November 19, 2024, the City adopted the 2044 Comprehensive Plan Periodic Update. An appeal of the Comprehensive Plan was subsequently filed, and the Growth Management Hearings Board issued a Final Decision and Order on August 1, 2025. Compliance with the Final Decision and Order must be completed by July 31, 2026 and will require significant updates to the Housing Element and development regulations.
 - b. State Legislative updates: Several bills passed the legislature in 2025 that will require Mercer Island to make development code amendments with due dates between 2026 and 2029. These include [HB 1757](#) (existing buildings used for residential purposes), [HB 1096](#) (lot splitting), [SB 5509](#) (childcare in all zones except industrial), [HB 1491](#) (transit oriented development).
 - c. Shoreline Master Program Periodic Update: The state Shoreline Management Act requires that counties, cities, and towns periodically review their comprehensively updated shoreline master program (SMP) every ten years. The Mercer Island SMP was adopted in 2015. Pursuant to Revised Code of Washington (RCW) [90.58.080](#), the City of Mercer Island is required to take action to review, and if necessary, revise the SMP on or before June 30, 2029 and every 10 years thereafter. Staff expect to start this review process at the end of 2026 following the Growth Management Hearings Board Final Decision compliance. Review is expected to continue through 2027 and beyond.

The existing work plan items represent a very significant amount of CPD staff time, as well as a significant portion of the available Planning Commission, City Council, and community bandwidth. Staff anticipate the existing work plan items will require the majority of the time available at the Planning Commission's monthly meetings in 2026.

As such, time available for review and consideration of additional docket items will be limited. Each item added to the final docket typically requires at least three touches by the Planning Commission and two by the City Council, a process that usually takes 6 months or more to complete. Thus, if new items are added to the docket and CPD work plan for consideration in 2026, it is very likely that they would need to be carried over into 2029 or beyond, due to the major items already on the work plan.

The City has provided staff comments on each of the proposed amendments. These comments are not intended to reflect on the quality or merits of the proposal. Rather, the comments are intended to evaluate the importance of reviewing the proposed amendment in the coming year relative to existing commitments and the staff resources that are available to do this work. Staff considered whether foregoing the amendment in 2026 would leave the city open to legal or financial risk, lost opportunities or other negative consequences. Staff also considered whether there were any other compelling reasons that an amendment should be considered in the coming year.

ISSUE/DISCUSSION

REVIEW AND RECOMMENDATION

The Planning Commission will need to review each docket proposal and prepare a recommendation to the City Council on the docket proposals that should be included in the final docket. The Planning Commission should consider the criteria from MICC 19.15.230 (E), provided above, to determine whether to recommend adding a project to the final docket. The decision here must be based on the docketing criteria – this is a decision on whether the proposal meets the criteria and can, therefore, be placed on the docket and advanced for future legislative review. It is not a decision on the merits of the proposal. Please carefully consider the workload for CPD staff and the Planning Commission related to the recommended items, especially considering existing work plan items already planned for 2026 and beyond, as discussed on page 4.

Review of Proposed Amendments

At the October 22 meeting, regular business will include public appearances, and adoption of the minutes from the October 8 meeting. Then, the Commission will proceed with review of the proposed amendments suggested for the docket. This will begin with the opportunity for the proponents of each of the proposals to speak to their proposals (up to 3 minutes per proposal), followed by a staff presentation on the proposed amendments (up to 3 minutes each). The Commission will then review each of the proposed amendments, considering the decision criteria. The Commission should make a motion and call a vote on each proposal, recommending whether or not it should be included in the final docket.

PROPOSED AMENDMENTS

The proposed amendments are summarized in Attachment 1 and are also described below. The docket request applications submitted by community members are included in Attachment 2. Attachment 3 provides an analysis of each proposed amendment in relation to the docketing criteria in MICC 19.15.230(E). It provides an assessment of whether each criterion *could* be met by each of the proposed amendments. That is to say, the matrix indicates whether the staff believe a case can be made that the criterion is met, and the Planning Commission will need to make a final determination on whether they find that the criterion has indeed been met.

Proposed Amendment 25-1

Proposed By: Sarah Fletcher

Comprehensive Plan or Code Section: MICC 19.11.015, Town Center subareas and Unified Land Development Appendices, Appendix D – Zoning Map

Proposal Summary: This amendment would rezone parcel 5315101235, the former “Tully’s Property” from Town Center (subarea TC-7) to Park or Public Institution (PI).

Staff Comments: This property is owned by the City and currently designated “Town Center” in the Comprehensive Plan. Rezoning this property would require a Comprehensive Plan amendment. Additionally, this property was recently rezoned to the current TC-7 zoning designation. Staff do not recommend the Planning Commission add this item to the 2026 Annual Docket, given the existing commitments of staff time in the current CPD work plan. If this proposal is docketed, it likely would not receive review until 2029 or later.

Proposed Amendment 25-2

Proposed By: Matthew Goldbach

Comprehensive Plan or Code Section: MICC 19.06.110(A)(5), Change after conditional use permit granted.

Proposal Summary: This amendment would add a section to the Conditional Use Permit criteria for a change after a CUP is granted that states that no CUP on a residential property shall be used for any use or purpose by a separate property zoned TC, CO, B, or PBZ. See the application in Attachment 2 for more details.

Staff Comments: This amendment seeks to constrain the City's ability to approve a CUP to allow uses on a residentially-zoned property to support an allowed use on an adjacent property zoned TC, CO, B, or PBZ (e.g. parking or playgrounds). If docketed, Staff recommends a study on the appropriate method for achieving the goals of this proposal. This proposal has been previously suggested for the docket. In 2024, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2025 Annual Docket. Staff do not recommend the Planning Commission add this item to the 2026 Annual Docket, given the existing commitments of staff time in the current CPD work plan. If this proposal is docketed, it likely would not receive review until 2029 or later.

Proposed Amendment 25-3

Proposed By: Matthew Goldbach

Comprehensive Plan or Code Section: MICC 19.15.240(C), Criteria for reclassification of properties (rezones).

Proposal Summary: This amendment would prohibit a non-residential structure or use in the single-family residential zones, including a Conditional Use Permit, from requesting or obtaining a rezone or reclassification of any single-family residentially zoned properties. See the application in Attachment 2 for more details.

Staff Comments: This amendment seeks to constrain the City's ability to rezone single-family residential properties with non-residential uses. If docketed, Staff recommends a study on the appropriate method for achieving the goals of this proposal. This proposal has been previously suggested for the docket. In 2023 and 2024, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 and 2025 Annual Docket. Staff do not recommend the Planning Commission add this item to the 2026 Annual Docket, given the existing commitments of staff time in the current CPD work plan. If this proposal is docketed, it likely would not receive review until 2029 or later.

Proposed Amendment 25-4

Proposed By: Matthew Goldbach

Comprehensive Plan or Code Section: MICC 19.04.040(A), (B)(9), and (E), Parking requirements for all uses in the C-O and B zones and all nonresidential uses in the PBZ zone.

Proposal Summary: This amendment would clarify that the parking standards for C-O, B, and non-residential uses in the PBZ zone do not apply to residentially zoned properties, eliminates the option for the code official to grant variances from the minimum parking requirements, and eliminates the option for the code official to authorize a 25 percent reduction in the minimum required parking if cooperative parking is used. See the application in Attachment 2 for more details.

Staff Comments: This amendment seeks to constrain the code official's ability to grant waivers or variances from the minimum required parking standards. The Planning Commission addressed a similar issue identified during the review of the "Omnibus" ordinance on September 24, 2025. If docketed, Staff recommends a study on the appropriate method for achieving the goals of this proposal. Staff do not recommend the Planning Commission add this item to the 2026 Annual Docket, given the existing commitments of staff time in the current CPD work plan. If this proposal is docketed, it likely would not receive review until 2029 or later.

Proposed Amendment 25-5

Proposed By: Daniel Thompson

Comprehensive Plan or Code Section: MICC 19.02.020(D)(2)(a), Gross Floor Area.

Proposal Summary: This amendment would reduce ceiling height from 12 feet to 10 feet before it is counted as clerestory space at 150% of gross floor area (GFA). See the application in Attachment 2 for more details.

Staff Comments: The applicant submitted this proposal during the 2020, 2021, 2022, 2023 and 2024 Annual Docket process. In 2022, the City Council directed staff to include consideration of this item in the Residential Development Standards (RDS) analysis. That work has been substantially delayed in response to recent action by the State Legislature to enact several pieces of legislation requiring amendments to the City's residential development standards. The City Council directed staff to develop and submit a docket proposal to address this matter at its May 2023 Planning Session. In 2023 and 2024, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 and 2025 Annual Docket. Staff do not recommend the Planning Commission add this item to the 2026 Annual Docket, given the existing commitments of staff time in the current CPD work plan. If this proposal is docketed, it likely would not receive review until 2029 or later.

Proposed Amendment 25-6

Proposed By: Daniel Thompson

Comprehensive Plan or Code Section: MICC 19.02.020(D)(2), Gross floor area calculation.

Proposal Summary: This amendment would include exterior covered decks in the definition of GFA and include covered porches on the first level in the calculation of GFA. See the application in Attachment 2 for more details.

Staff Comments: The applicant submitted this proposal during the 2020, 2021, 2022, 2023 and 2024 Annual Docket process. In 2022, the City Council directed staff to include consideration of this item in the Residential Development Standards (RDS) analysis. That work has been substantially delayed in response to recent action by the State Legislature to enact several pieces of legislation requiring amendments to the City's residential development standards. The City Council directed staff to develop and submit a docket proposal to address this matter at its May 2023 Planning Session. In 2023 and 2024, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 and 2025 Annual Docket. Staff do not recommend the Planning Commission add this item to the 2026 Annual Docket, given the existing commitments of staff time in the current CPD work plan. If this proposal is docketed, it likely would not receive review until 2029 or later.

Proposed Amendment 25-7

Proposed By: Daniel Thompson

Comprehensive Plan or Code Section: MICC 19.02.040(D)(1), Garages and carports.

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

Staff Comments: The applicant submitted this proposal during the 2020, 2021, 2022, 2023 and 2024 Annual Docket process. In 2022, the City Council directed staff to include consideration of this item in the Residential Development Standards (RDS) analysis. That work has been substantially delayed in response to recent action by the State Legislature to enact several pieces of legislation requiring amendments to the City's residential development standards. The City Council directed staff to develop and submit a docket proposal to address

this matter at its May 2023 Planning Session. In 2023 and 2024, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 and 2025 Annual Dockets. Staff do not recommend the Planning Commission add this item to the 2026 Annual Docket, given the existing staff time commitments in the current CPD work plan. If this proposal is docketed, it likely would not receive review until 2029 or later.

Proposed Amendment 25-8

Proposed By: Daniel Thompson

Comprehensive Plan or Code Section: MICC 19.02.020(D)(3)(b), Gross floor area incentives for ADUs.

Proposal Summary: This amendment would limit the GFA incentives for ADUs to lots 8,400 square feet or smaller. See the application in Attachment 2 for more details.

Staff Comments: The applicant submitted this proposal during the 2020, 2021, 2022, 2023 and 2024 Annual Docket process. In 2022, the City Council directed staff to include consideration of this item in the Residential Development Standards (RDS) analysis. That work has been substantially delayed in response to recent action by the State Legislature to enact several pieces of legislation requiring amendments to the City's residential development standards. The City Council directed staff to develop and submit a docket proposal to address this matter at its May 2023 Planning Session. In 2023 and 2024, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 and 2025 Annual Docket. Staff do not recommend the Planning Commission add this item to the 2026 Annual Docket, given the existing commitments of staff time in the current CPD work plan. If this proposal is docketed, it likely would not receive review until 2029 or later.

Proposed Amendment 25-9

Proposed By: Daniel Thompson

Comprehensive Plan or Code Section: MICC 19.02.020(G)(2)(a) and (b), Parking requirements.

Proposal Summary: This amendment would reduce the threshold for requiring only 2 parking spaces from 3,000 square feet to 2,000 square feet. See the application in Attachment 2 for more details.

Staff Comments: The applicant submitted this proposal during the 2020, 2021, 2022, 2023 and 2024 Annual Docket process. In 2022, the City Council directed staff to include consideration of this item in the Residential Development Standards (RDS) analysis. That work has been substantially delayed in response to recent action by the State Legislature to enact several pieces of legislation requiring amendments to the City's residential development standards. The City Council directed staff to develop and submit a docket proposal to address this matter at its May 2023 Planning Session. In 2023 and 2024, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 and 2025 Annual Docket. Staff do not recommend the Planning Commission add this item to the 2026 Annual Docket, given the existing commitments of staff time in the current CPD work plan. If this proposal is docketed, it likely would not receive review until 2029 or later.

NEXT STEPS

The City Council will review the Planning Commission and staff recommendations at the November 18, 2025 meeting. At that time, the Council will set the final docket for 2026.

RECOMMENDED ACTION

Prepare a recommendation to the City Council on the docket proposals for the 2026 Annual Docket.

2026 Annual Docket Proposal Summary

ITEM NO.	PROPOSED BY	POTENTIALLY AFFECTED SECTION, GOAL OR POLICY	SUMMARY OF PROPOSAL
25-1	Sarah Fletcher	MICC 19.11.015 & Appendix D (zoning map)	This amendment would rezone parcel 5315101235, the former “Tully’s Property” from Town Center (subarea TC-7) to Park or Public Institution (PI). <i>Note: This property is owned by the City.</i>
25-2	Matthew Goldbach	MICC 19.06.110(A)(5) Change after conditional use permit granted	This amendment would add a section to the Conditional Use Permit criteria for a change after a CUP is granted that states that no CUP on a residential property shall be used for any use or purpose by a separate property zoned TC, CO, B, or PBZ. <i>Note: This proposal has previously been suggested for the docket. In 2024, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2025 Annual Docket.</i>
25-3	Matthew Goldbach	MICC 19.15.240(C) Criteria for reclassification of properties (rezones)	This amendment would prohibit a non-residential structure or use in the single-family residential zones, including a Conditional Use Permit, from requesting or obtaining a rezone or reclassification of any single-family residentially zoned properties. <i>Note: This proposal has previously been suggested for the docket. In 2023 and 2024, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 and 2025 Annual Docket.</i>
25-4	Matthew Goldbach	MICC 19.04.040(A), (B)(9) & (E)	This amendment would clarify that the parking standards for C-O, B, and non-residential uses in the PBZ zone do not apply to residentially zoned properties, eliminates the option for the code official to grant variances from the minimum parking requirements, and eliminates the option for the code official to authorize a 25 percent reduction in the minimum required parking if cooperative parking is used.
25-5	Daniel Thompson	MICC 19.02.020(D)(2)(a) Gross floor area	This amendment would reduce ceiling height from 12 feet to 10 feet before it is counted as clerestory space at 150% of gross floor area (GFA). <i>Note: This proposal has previously been suggested for the docket five times. Most recently in 2024, the Planning Commission</i>

			<i>recommended not to docket this proposal, and the City Council elected not to add it to the 2025 Annual Docket.</i>
25-6	Daniel Thompson	MICC 19.02.020(D)(2) Gross floor area calculation & MICC 19.16.010 Definition of Gross floor area	This amendment would include exterior covered decks in the definition of GFA and include covered porches on the first level in the calculation of GFA. <i>Note: This proposal has previously been suggested for the docket five times. Most recently in 2024, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2025 Annual Docket.</i>
25-7	Daniel Thompson	MICC 19.02.040(D)(1) Garages and carports	This amendment would either eliminate the ability to build garages and carports within 10 feet of the property line of the front yard, or, alternatively, eliminate this option for waterfront lots that have flipped their front and back yards per MICC 19.02.020(c)(2)(a)(iii). <i>Note: This proposal has previously been suggested for the docket five times. Most recently in 2024, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2025 Annual Docket.</i>
25-8	Daniel Thompson	MICC 19.02.020(D)(3)(b) Gross floor area incentives for ADUs	This amendment would limit the GFA incentives for ADUs to lots 8,400 square feet or smaller. <i>Note: This proposal has previously been suggested for the docket five times. Most recently in 2024, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2025 Annual Docket.</i>
25-9	Daniel Thompson	MICC 19.02.020(G)(2)(a) and (b) Parking Requirements	This amendment would reduce the threshold for requiring only 2 parking spaces from 3,000 square feet to 2,000 square feet. <i>Note: This proposal has previously been suggested for the docket five times. Most recently in 2024, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2025 Annual Docket.</i>

Molly McGuire

From: Sarah Fletcher <fletchsa1@gmail.com>
Sent: Sunday, September 28, 2025 4:35 PM
To: Adam Zack; Molly McGuire; Jeff Thomas; Council
Subject: Fwd: Docket Requests
Attachments: Docket Request Tully's Property 09.26.2025.pdf

Hello, please find attached my proposed amendments to the Docket. What you have proposed at Tully's, like TC-5 or TC-7 **does not benefit the environment** which is in response to your no. 2 question. It was originally zoned for Park, but then when Mainstreet wanted to build their multifamily building, the city council amended the zone. It should be put back to Park and parking lot, possibly PI, but certainly not TC-5 or TC-7 and the map should match the layout of the parking which it doesn't.. If you are going to keep it TC-5 or TC-7, then that means that that property is never going to be safe from development as you have plans to develop it even though WSDOT had a provision that the main purpose had to be transportation.

Thanks.

DOCKET REQUEST FORM

The following information is required. Failure to complete this form may result in the application being incomplete. Incomplete applications will not be considered during the annual docket process.

APPLICANT INFORMATION

Name: Sarah Fletcher
 Address: 2500 81st AVE SE Mercer Island WA 98040
 Phone: 206 236 3028
 Email: fletchsa1@gmail.com

AGENT/CONSULTANT/ATTORNEY

Complete this section if the primary contact is different from the applicant.

Name: _____
 Address: _____
 Phone: _____
 Email: _____

REQUEST INFORMATION

Important: A separate Docket Request Form must be completed for each docket item requested.

Is this request related to a specific property or zone? Yes ☒ No ☐

If yes, please complete the following information:

Property Owner Name: Tully's Property
 Address: _____
 County Assessor's Parcel No.: _____
 Parcel Size (sq. ft.): _____

If the application is submitted by an agent/consultant/attorney, please attach a signed letter of consent from all owners of the affected property demonstrating that the application is submitted with consent.

Is this request for a Comprehensive Plan amendment or a development code amendment?

Comprehensive Plan Amendment ☒ Development code Amendment ☐

Is this submission a **suggestion** for a Comprehensive Plan or Development Code amendment, or is this an **application** for a specific amendment? (Check one box below.)

Note: Applications are subject to applicable permit fees.

Suggestion ☒ Application ☐

DOCKET REQUEST NARRATIVE – REQUIRED FOR ALL APPLICATIONS

Please attach a separate narrative responding to all five (5) questions outlined below. Attach additional sheets, supporting maps, or graphics as necessary. Answer each question separately and reference the question number in your answer.

The application will be considered incomplete without a narrative answering all five questions.

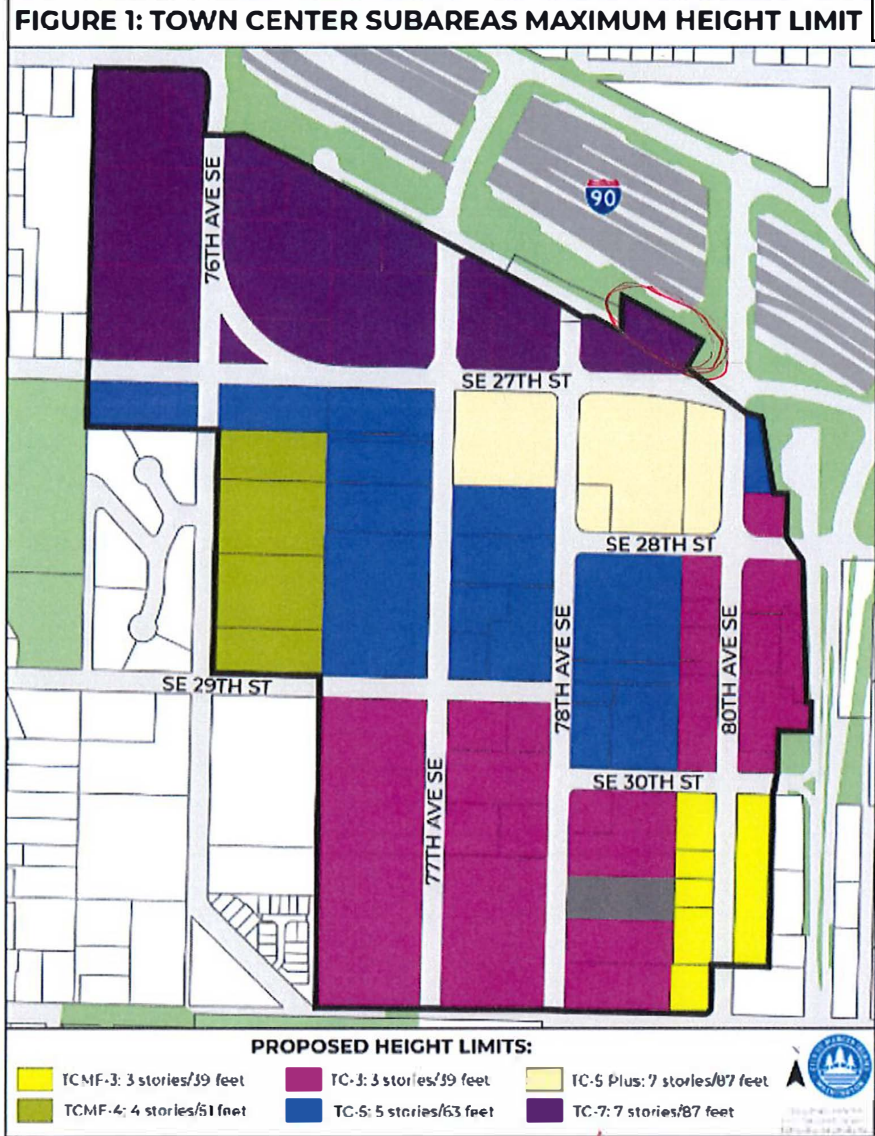
1. Please provide a detailed description of the proposed amendment and a clear statement of what the proposed amendment is intended to accomplish.
 - a. Indicate the specific Comprehensive Plan Elements, maps, goals or policies or the specific sections of the development code you propose to amend.
 - b. If the proposal would amend existing Comprehensive Plan or development code text, please provide the proposal in underline/strikeout format with text to be added indicated by underlining and text to be deleted indicated with ~~strikeouts~~.
 - c. If a map amendment is proposed, please provide a map that clearly outlines the areas proposed to be changed.
2. How does the proposal benefit the community or the environment?
3. Explain how the request relates to the applicable decision criteria (MICC 19.15.250(D) for code amendments, and MICC 19.15.230(F) for Comprehensive Plan amendments, see below).
4. For Comprehensive plan amendments: Is the proposal consistent the Growth Management Act and King County Countywide Planning Policies?
5. For development code amendments: How does the proposal align with the goals of the City's Comprehensive Plan?

Please sign and date below acknowledging application requirements.

Signature: Sarah of hkh Date: 9/26/2025

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Please attach a separate narrative
responding to the above questions.



(Ord. 18C-14 § 1 (Att. A); Ord. 16C-06 § 2 (Exh. A); Ord. No. [24C-18](#), § 2(Exh. A), 12-3-2024)

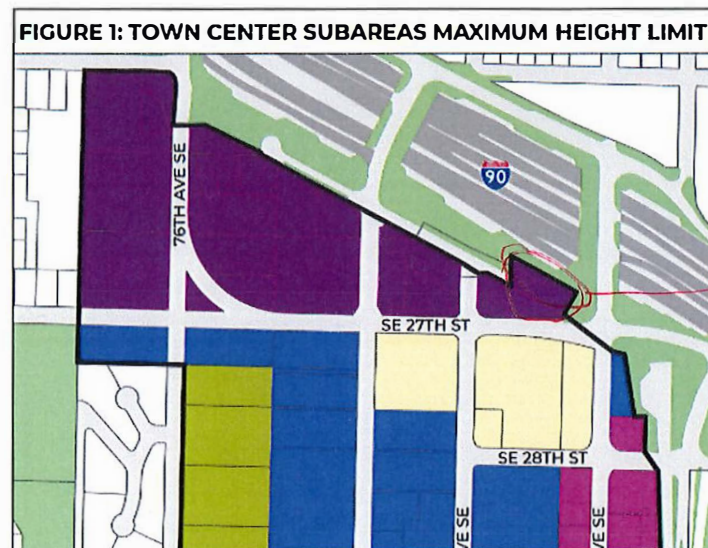
L single story parking lot & open space where Tully's used to be

B. *Subareas established.* The following subareas have been established and are depicted on Figure 1 below.

Item 2.

1. *TC-7 subarea.* The purpose of the TC-7 subarea is to create a focused mixed use core, oriented toward pedestrian connections and regional transit. A broad mix of land uses is allowed. Buildings may be up to seven stories in height.
2. *TC-5 subarea.* The purpose of the TC-5 subarea is to be a transition between the taller buildings in the TC-7 subarea and the lower structures in the TC-3 and TCMF-3 subareas. A broad mix of land uses is allowed. Buildings may be up to five stories in height.
3. *TC-5 plus subarea.* The purpose of the TC-5 Plus subarea is to be a transition between the taller buildings in the TC-7 subarea and the TC-5 subarea. A broad mix of land uses is allowed. Buildings may be up to seven stories in height with the provision of additional affordable housing units and public open space.
4. *TC-3 subarea.* The purpose of the TC-3 subarea is to create an area of transition between the Town Center and adjacent residential neighborhoods. A broad mix of land uses is allowed. Buildings may be up to three stories in height.
5. *TCMF-4 (Multifamily residential) subarea.* The purpose of the TCMF-4 subarea is to provide for primarily multifamily residential housing of up to four stories. Street-oriented housing, live/work units and limited retail uses are allowed at the street level.
6. *TCMF-3 (Multifamily residential) subarea.* The purpose of the TCMF-3 subarea is to provide for primarily multifamily residential housing of up to three stories. Street-oriented housing, live/work units and limited retail uses are allowed at the street level.

Figure 1: Town Center Subareas and Maximum Height Limit



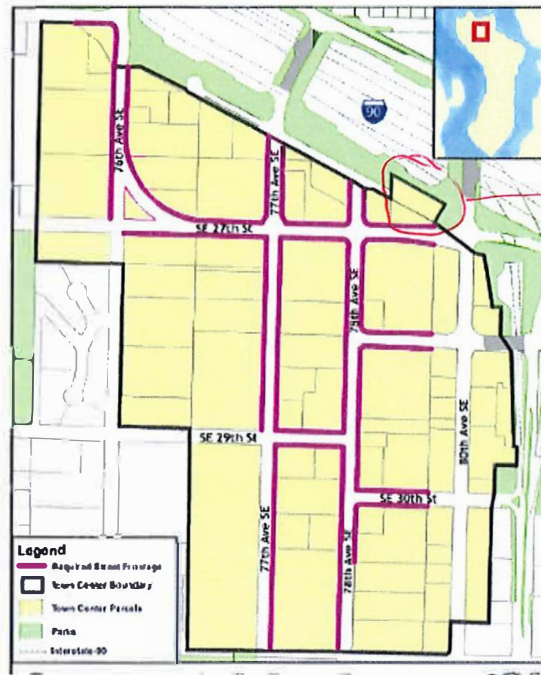
parking lot
definitely
not TC-7

B. Required ground floor street frontage uses.

1. Retail, restaurant, personal service, museum and art exhibition, theater, bar, financial and insurance service, recreation, and/or service uses as defined by Section [19.16.010](#), are required along ground floor street frontages as shown on Figure 2.

Item 2.

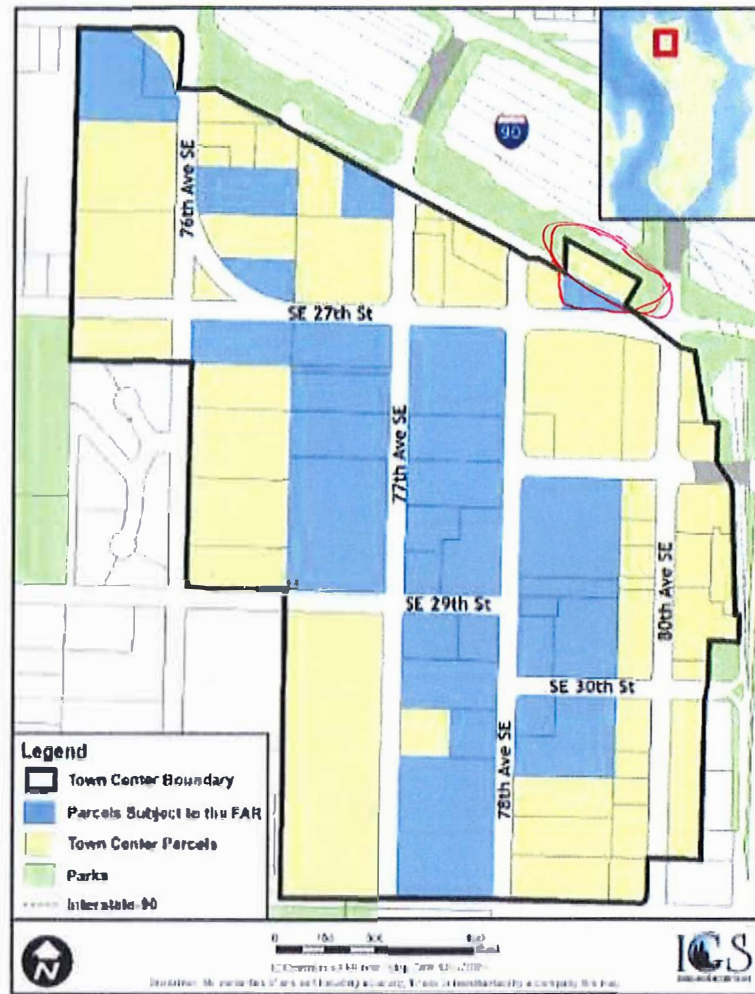
Figure 2 — Uses Required Adjacent to Ground Floor Street Frontages



Parking lot parking

Figure 3 — Parcels Subject to FAR Requirement for Ground Floor Uses

Item 2.



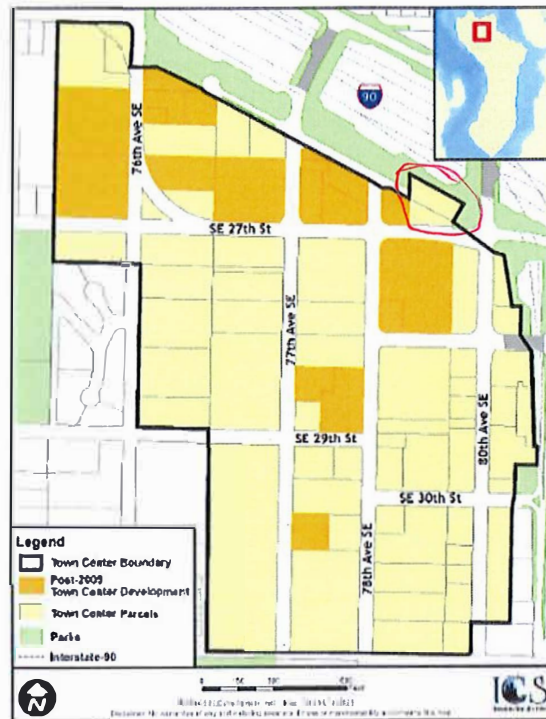
- parking lot ✓
NOT TC-5 or TC-7

When a FAR calculation results in a fraction, the fraction shall be rounded to the nearest whole number as follows:

Fractions of 0.50 or above shall be rounded up to the closest whole number; and

3. The identified parcels as shown on Figure 4 are required to provide a no net loss of existing floor area for ground floor street frontage for retail, personal service, museum and art exhibition, theater, bar, financial and insurance service, recreation, and/or service station uses, as defined by [Item 2.](#) [19.16.010](#). For the purposes of determining redevelopment, the value of redevelopment shall be an amount equal to or greater than 50 percent of the total assessed improvement value at the time of the application for redevelopment, as determined by King County.

Figure 4 — Parcels Subject No Net Loss Requirement for Ground Floor Uses



DOCKET REQUEST FORM

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APPLICANT INFORMATION

Name: Matthew Goldbach

Address: 9980 SE 40th St Mercer Island WA 98040

Phone: 954-806-2489

Email: blkship@yahoo.com

AGENT/CONSULTANT/ATTORNEY

Complete this section if the primary contact is different from the applicant.

Name: _____

Address: _____

Phone: _____

Email: _____

REQUEST INFORMATION

Important: A separate Docket Request Form must be completed for each docket item requested.

Is this request related to a specific property or zone?

Yes ☐

No ☒

If yes, please complete the following information:

Property Owner Name: _____

Address: _____

County Assessor's Parcel No.: _____

Parcel Size (sq. ft.): _____

If the application is submitted by an agent/consultant/attorney, please attach a signed letter of consent from all owners of the affected property demonstrating that the application is submitted with consent.

Is this request for a Comprehensive Plan amendment or a development code amendment?

Comprehensive Plan Amendment ☐

Development code Amendment ☒

Is this submission a suggestion for a Comprehensive Plan or Development Code amendment, or is this an application for a specific amendment? (Check one box below.)

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Suggestion ☒

Application ☐

DOCKET REQUEST NARRATIVE – REQUIRED FOR ALL APPLICATIONS

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Please sign and date below acknowledging application requirements.

Signature: _____

Date: _____

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Please attach a separate narrative
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SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.06.110 Criteria for Approval - Conditional Use Permits

MICC 19.06.110(A)(5) Change after conditional use permit granted.

Suggested Code Amendment:

I suggest that MICC 19.06.110(A)(5) be amended to add a section (d) that states that no conditional use permit on a residential property shall be used for any use or purpose by a separate property zoned TC, CO, B, or PBZ.

Analysis:

In 2021, the council amended MICC 19.06.110(A)(5) to add Section C that states:

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

Section (c) was designed to prevent a non-conforming conditional use permit in the residential zone from expanding its non-conforming uses to adjacent residential properties not part of the CUP and in effect expanding the boundaries of the CUP beyond its permit.

A new concern is properties not zoned residential using CUPs on adjacent residential properties to expand their non-residential uses onto the residentially-zoned property in order to transfer required amenities, such as parking, playgrounds or other uses, from the non-residentially-zoned property to the residentially-zoned property. This then allows a property zoned TC, CO, B, or PBZ to impermissibly expand its non-residentially zoned property into the residential zone.

As a result, MICC MICC 19.06.110(A)(5) should be amended to clarify that a property zoned TC, CO, B, or PBZ may not use a CUP on residentially-zoned property for uses for any uses or required amenities required under the zoning for TC, CO, B, or PBZ zoned properties.

DOCKET REQUEST FORM

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APPLICANT INFORMATION

Name: Matthew Goldbach

Address: 9980 SE 40th St Mercer Island WA 98040

Phone: 954-806-2489

Email: blkship@yahoo.com

AGENT/CONSULTANT/ATTORNEY

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Name: _____

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Is this request related to a specific property or zone?

Yes ☐

No ☒

If yes, please complete the following information:

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Suggestion ☒

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Please sign and date below acknowledging application requirements.

Signature: _____

Date: _____

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Please attach a separate narrative
responding to the above questions.

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.15.240 Reclassification of Properties (Rezones)

MICC 19.15.240(C) Criteria

Suggested Code Amendment:

I suggest MICC 19.15.240(C) be amended to prohibit a non-residential structure or use in the single-family residential zone, including a Conditional Use Permit, from requesting or obtaining a rezone or reclassification of any single-family residential zoned properties.

MICC 19.240(C) will then read with the suggested amendment **Subsection 8** as follows:

19.15.240 - Reclassification of property (rezones).

- A. Purpose. The purpose of this section is to establish the process and criteria for a rezone of property from one zoning designation to another.
- B. Process. A rezone shall be considered as provided in MICC 19.15.260.
- C. Criteria. The city council may approve a rezone only if all of the following criteria are met:
 - 1. The proposed reclassification is consistent with the policies and provisions of the Mercer Island comprehensive plan;
 - 2. The proposed reclassification is consistent with the purpose of the Mercer Island development code as set forth in MICC 19.01.010;
 - 3. The proposed reclassification is an extension of an existing zone, or a logical transition between zones;
 - 4. The proposed reclassification does not constitute an illegal site-specific rezone;
 - 5. The proposed reclassification is compatible with surrounding zones and land uses;
 - 6. The proposed reclassification does not adversely affect public health, safety and welfare; and
 - 7. If a comprehensive plan amendment is required in order to satisfy subsection (C)(1) of this section, approval of the comprehensive plan amendment is required prior to or concurrent with the granting of an approval of the rezone.
 - 8. **"A non-residential structure or use in the single-family residential zone, including a Conditional Use Permit (CUP), is prohibited from requesting or obtaining a rezone or reclassification of single-family residential zoned properties."**

D. Map change. Following approval of a rezone, the city shall amend the zoning map to reflect the change in zoning designation. The city shall also indicate on the zoning map the number of the ordinance adopting the rezone.

(Ord. 18C-08 § 1 (Att. A))

ANALYSIS:

A. The Mercer Island Comprehensive Plan Supports Preserving Single-Family Residential Zoned Properties.

Attached as Exhibit 1 to this suggested amendment is Appendix D – Zoning Map.

The following Comprehensive Policy directions provided by the Mercer Island Comprehensive Plan are from the City of Mercer Island Community Planning and Development Code Interpretation 22-004 dated November 21, 2022 regarding Variances for Non-Residential Structures in Residential Zones, which is attached as Exhibit 2:

E. (4) Policy direction provided by the Mercer Island comprehensive plan;

Analysis: Review of the Comprehensive Plan results in the following findings:

- (1) The Comprehensive Plan envisions Mercer Island as a residential community:**
 - (a) "Mercer Island prides itself on being a residential community. As such, most of the Island's approximately 6.2 square miles of land area is developed with single family homes." [Land Use Element, Introduction]**
 - (b) "Single family residential zoning accounts for 88 percent of the Island's land use. There are 3,534 acres zoned for single family residential development. This compares to 77 acres in the Town Center zones, 19 acres for Commercial Office zone, and 103 acres in multi-family zones (Table 2). City Hall is located in a Commercial Office zone, while other key civic buildings such as the Post Office and the Main Fire Station are located in the Town Center and City Hall. Many of the remaining public buildings, schools, recreational facilities and places of religious worship are located in residential or public zones." [Land Use Element, II Existing Conditions and Trends, Areas outside the Town Center]**

(c) "OUTSIDE THE TOWN CENTER (1) The community needs to accommodate two important planning values - maintaining the existing single family residential character of the Island, while at the same time planning for population and housing growth." [Land Use Element, IV. Land Use Issues, Outside the Town Center (1)]

(2) A primary component of the housing element is the City's desire to protect single-family residential neighborhoods through development regulations and other City codes which restrict the bulk and scale of buildings, control noise and nuisances, minimize the impact of non-residential uses and help preserve the natural environment. City code provisions were specifically designed to protect residential areas from incompatible uses and promote bulk and scale consistent with the existing neighborhood character. This includes limiting the size and scope of nonresidential uses to be consistent with existing neighborhood character.

(a) "Housing Element

III. Neighborhood Quality

Mercer Island single family neighborhoods pride themselves on their narrow, quiet streets and dense plantings. The City protects these neighborhoods through development regulations and other City codes which restrict the bulk and scale of buildings, control noise and nuisances, minimize the impact of non-residential uses and help preserve the natural environment. Parks, open spaces and trails also contribute to the neighborhood quality." [Housing Element, III. Neighborhood Quality]

b) "GOAL 1:

Ensure that single family and multi-family neighborhoods provide safe and attractive living environments, and are compatible in quality, design and intensity with surrounding land uses, traffic patterns, public facilities and sensitive environmental features.

1.1 Ensure that zoning and City code provisions protect residential areas from incompatible uses and promote bulk and scale consistent with the existing neighborhood character." [Housing Element, III. Neighborhood Quality, Goal 1.1]

- (3) The Comprehensive Plan evidences an intent to retain certain non-residential structures located in residential zones. However, the Comprehensive Plan is silent on whether such structures would be eligible for variances from otherwise applicable numerical standards.

(a) "GOAL 17:

With the exception of allowing residential development, commercial designations and permitted uses under current zoning will not change.

17.4 Social and recreation clubs, schools, and religious institutions are predominantly located in single family residential areas of the Island. Development regulation should reflect the desire to retain viable and healthy social, recreational, educational, and religious organizations as community assets which are essential for the mental, physical and spiritual health of Mercer Island." [Land Use Elements, IV Land Use Issues Outside the Town Center]

- (4) The Comprehensive Plan also evidences an intent to preserve existing conditions and to generally permit changes only through amendments to the development code, rather than through granting numerous of variances to that development code. At the same time, there is also recognition that some non-residential structures and uses are compatible with residential zones.

(a) "GOAL 15: -

Mercer Island should remain principally a low density, single family residential community.

15.1 Existing land use policies, which strongly support the preservation of existing conditions in the single family residential zones, will continue to apply. Changes to the zoning code or development standards will be accomplished through code amendments.

15.2 Residential densities in single family areas will generally continue to occur at three to five units per acre, commensurate with current zoning. However, some adjustments may be made to allow the development of innovative housing types, such as accessory dwelling units and compact courtyard homes at slightly higher densities as outlined in the Housing Element.

15.4 As a primarily single family residential community with a high percentage of developed land, the community cannot provide for all types of land uses. Certain activities will be considered incompatible with present uses. Incompatible uses include landfills, correctional facilities, zoos and airports. Compatible permitted uses such as education, recreation, open spaces, government social services and religious activities will be encouraged." [Land Use Elements, IV Land Use Issues Outside the Town Center].

Pages 4 – 6

B. The Region Is Facing A Housing Shortage.

Attached as Exhibit 3 are public announcements by Governor Inslee encouraging the Legislature to "go big" to meet the scale of the housing crisis, and the enormous investments the state and county are making to scale-up construction of housing.

Attached as Exhibit 4 are pages from the PSRC's 2050 Vision Statement on Housing noting:

"Housing is a basic need for every individual. Yet, residents in many communities in the region are facing an unprecedented challenge in finding and keeping a home that they can afford. The central Puget Sound region is expected to grow by an additional 1.8 million residents and 830,000 households by the year 2050. Simply put, the region needs more housing of varied types in all communities. Meeting the housing needs of all households at a range of income levels is integral to promoting health and well-being and creating a region that is livable for all residents, economically prosperous, and environmentally sustainable."

PSRC 2050 Vision Statement, p.182

Currently Mercer Island has a housing allocation of approximately 1,200 units left to permit pursuant to the GMPC's housing allocations. In 2023, the Legislature adopted HB 1110 that requires every residential lot on Mercer Island to allow two separate housing units, and four housing units per lot without parking mandates within a quarter of a mile of the light rail station, including the residential neighborhood to the north.

It would be contrary to state, county and city policies for Mercer Island to now allow single-family residential zoned properties to be rezoned to a different non-housing zone, and would shift Mercer Island's housing allocation burden to the other residential zones and property.

C. The Conditional Use Permit Process Allows A Fair And Equitable Non-Conforming Use In A Single-Family Residential Zone.

The Conditional Use Permit (CUP) process MICC 19.06.110 allows an organization to obtain a non-conforming use in the single-family home residential zone, and allows that non-conforming CUP to combine residential properties and eliminate the side-yard setbacks between the properties.

At the same time, the Conditional Use Permit process MICC 19.06.110(a) and (b) protects the surrounding single-family home residential zones and requires that the scale of the development, in consideration of the privilege of a non-conforming use, is consistent with all properties in the single-family home residential zone.

The mere existence of MICC 19.06.110 highlights that the restrictions on conditional uses in the single-family home residential zone is not consistent with a different zone with different regulatory limits in the single-family residential zone.

D. To Allow One Property Owner Or Conditional Use Permit To Rezone Single-Family Zoned Residential Properties To Another Zone Will Allow All Property Owners The Same Right.

MICC 19.15.240(C)(4) specifically states the "proposed reclassification does not constitute an illegal site-specific rezone." If the Council allows single-family residential zoned properties to be rezoned contrary to state, county and city policies preserving and expanding housing, that would require the Council to allow **any** single-family home residential property owner to request the same change in zoning or upzone. If the requested rezone is site specific, it violates MICC 19.15.240(4)(C). If it is not site specific, it effectively eliminates the single-family residential zone.

The Council cannot favor one property owner or CUP over another, otherwise it would be an illegal spot zone. Such a huge change in zoning and policy would effectively abrogate the policies towards preserving single-family home residential zoning on Mercer Island contrary to The Comprehensive Plan.

- E. Can A Specifically Enumerated Non-Residential Structure Listed in MICC.19.06.110(B)(2)(i) That Are Prohibited From Receiving a Variance Other Than From The Impervious Surface Standards Be Prohibited From Requesting A Rezone Or Reclassification Of The Single-Family Residential Zone Property Included In The CUP?

HISTORY OF THE CUP'S EFFORTS TO OBTAIN INCREASED REGULATORY LIMITS.

1) COMMUNITY FACILITIES ZONE

In 2018, the JCC applied to amend the City's Comprehensive Plan to create a Community Facilities Zone with different regulatory limits for CUPs in a single-family home residential zone without concurrent development regulations. Various citizens and groups appealed the lack of concurrent development regulations to the Growth Management Hearings Board which agreed with the Appellants and remanded the matter back to the City with directions to draft and adopt the concurrent development regulations. This holding was later codified in MICC. 19.15.240(C)(7).

Upon remand, the Council determined that allowing CUPs' different regulatory limits in a different zone in a single-family home residential zone was unwise and unworkable, and instead repealed the Community Facilities Zone.

2) THE HILL AMENDMENTS

Subsequently, the Applicant, JCC filed a series of proposed site specific development code amendments to allow regulatory limits for the JCC greater than those allowed a CUP in the single-family home residential zone. These Amendments were then voluntarily withdrawn by the Applicant when it became apparent:

- 1) They were a spot zone in violation of MICC 19.15.240(C)(4);
- 2) The Council would not approve the Hill Amendments because they were contrary to The Comprehensive Plan, City Policies, MICC, and citizen opinion.

3) APPLICATION FOR VARIANCES

Subsequently, the JCC applied for various variances to the regulatory limits applicable to the single-family home residential properties in its CUP. In response, CPD Director Jeff Thomas issued Development Code Interpretation 22-004 that found that based on the City's Development Codes and Comprehensive Plan a CUP was prohibited from obtaining any variance other than impervious surface limits from the numerical standards pursuant to MICC 19.06.110(B)(2)(a).

The Applicant JCC then appealed Interpretation 22-004 to the Hearing Examiner. On the eve of the hearing, the Applicant JCC voluntarily withdrew its appeal, and conceded that Interpretation 22-004 was a correct interpretation of Mercer Island's Development Code that prohibits a CUP from requesting or obtaining variances from the single-family home residential development regulatory limits.

Based on the history and Administrative Interpretation 22-004, it would be inconsistent for the Council to allow single-family residential zoned properties in a CUP to be rezoned, especially to CO (Commercial Office), when these same CUPs are prohibited from obtaining variances for regulatory limits other than impervious surface limits.

Furthermore, pursuant to MICC 19.15.240(C)(4), the Council would have to allow **ALL** CUPs throughout the island the same right to rezone single-family residential zoned properties in their CUPs to CO or another zone, which is directly contrary to the Mercer Island Comprehensive Plan, AI 22-004, the provisions in MICC 19.06.110(a) and (b) regulating CUPs in the single-family residential zone, and the history of the JCC property and its attempts to obtain preferential regulatory limits for its single-family residentially zoned properties.

Therefore, MICC 19.15.240(C) should be amended to clarify that a non-residential structure or CUP in the single-family residential zone may not rezone its single-family residential zoned properties in the CUP.

Exhibit 1

Appendix D - ZONING MAP

View city of Mercer Island Zoning Map.

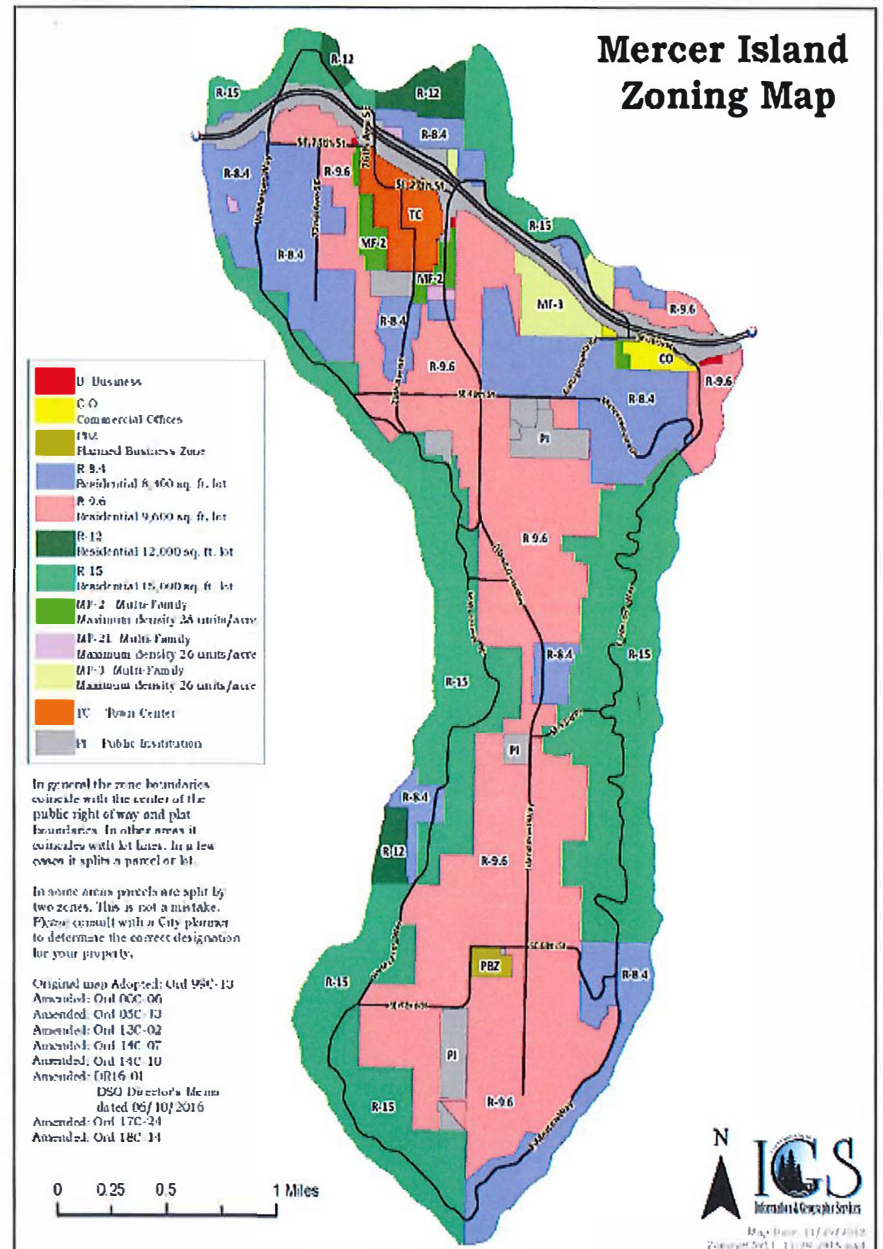


Exhibit 2

Development Code Interpretation 22-004

CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

9611 SE 36TH STREET | MERCER ISLAND, WA 98040

PHONE: 206.275.7605 | www.mercerisland.gov



TO: CPD Staff

FROM: Jeff Thomas, Interim CPD Director

DATE: November 21, 2022

RE: Variances for Non-Residential Structures in Residential Zones

A. MICC SECTION(S) INTERPRETED

MICC 19.06.110(B)

B. AUTHORITY

This development code interpretation is issued under the authority of sections 19.15.030 and 19.15.160 of the Mercer Island City Code (MICC).

C. ISSUE

MICC 19.06.110(B), *Variances*, imposes a hardship criterion that requires applicants requesting variances in residential zones to demonstrate that strict enforcement of Title 19 MICC will prevent the construction of a single-family dwelling on a legally created residentially zoned lot. MICC 19.06.110(B)(2)(a).

Can the City grant a variance from numeric standards for a non-residential structure sited in a residential zone, if under MICC 19.06.110(B)(1), all criteria in subsection(B)(2)(a) through (B)(2)(h) must be met, and that for a variance to lot coverage standards, the criteria in subsection (B)(2)(a) through (B)(2)(i) must be met?

D. BACKGROUND

The hardship criterion contained in MICC 19.06.110(B)(2)(a) was adopted by Ordinance No. 17C-15 on September 19, 2017. The criterion contained in MICC 19.06.110(B)(2)(i), relating to variances as to lot coverage for specific non-residential structures, existed in the MICC prior to the adoption of Ordinance No. 17C-15. However, that language was moved to MICC 19.06.110(B)(2)(i) within Ordinance No. 17C-15 to consolidate criteria relating to variances.

E. FINDINGS

1. Per MICC 19.15.160, the Code Official may issue a written interpretation of the meaning or application of provisions of the development code.¹
2. This written interpretation is intended to interpret the scope of the hardship criteria as applied to non-residential structures in residential zones.
3. MICC 19.06.110(B)(1)(a) could be read to foreclose variances from numeric standards for non-residential structures in residential zones because the hardship criterion limits the application of variances to instances where strict application of Title 19 would prohibit construction of one single family residence on a legally created residential lot. The applicant or property owner of a non-residential structure would not be able to demonstrate an unnecessary hardship because there are no circumstances where the adopted standards of Title 19 MICC are preventing construction of a single-family dwelling; rather the applicant or property owner is seeking a variance for a non-residential structure. It is not Title 19 that would preclude the construction of a residential structure, but rather the choice of the applicant or property owner. However, MICC 19.06.110(B)(2)(i) explicitly affords the applicant or property owner of a non-residential structure the opportunity for a variance from impervious surface standards for particular types of non-residential structures.
4. This apparent conflict within MICC 19.06.110(B) requires interpretation to administer.
5. A plain reading of MICC 19.06.110(B), giving meaning to all of the text within that section, results in the following conclusions:
 - a. Non-residential structures in residential zones are generally precluded from receiving variances from numeric standards of Title 19, because they cannot meet the hardship criterion—to wit, they cannot demonstrate that Title 19 prevents the construction of a single-family dwelling on a legally created residential lot.
 - b. The one exception is that certain enumerated non-residential structures (public and private schools, religious institutions, private clubs, and public facilities) within residential zones with slopes of less than 15 percent *can* receive a variance to increase impervious surface to a maximum of 60 percent if the Hearing Examiner determines the applicant has demonstrated satisfaction of the criteria contained within MICC 19.06.110(B)(2)(i)(i-iv).
 - c. Further, an applicant or property owner would also be required to demonstrate the other criteria outlined in subsection (B)(2)(a) through (B)(2)(i), with the exception of being able to demonstrate inability to construct a single-family residence on a legally created residential lot. The applicant or property owner would still have to demonstrate an unnecessary hardship to the property owner, because the first sentence of MICC 19.06.110(B)(2)(a) requires proof that “[t]he strict enforcement of the provisions of this title will create an unnecessary hardship to the property owner.”
6. As discussed further below, the legislative history relating to Ordinance No. 17C-15 supports this conclusion. During the process of adopting Ordinance No. 17C-15, discussion between the City Council and the City’s then Community Planning and Development (CPD) Director reflected an intent to greatly reduce the number of variances granted, which was the impetus behind adding the hardship criterion now contained in MICC 19.06.110(B)(2)(a).
7. In issuing an interpretation, the Code Official is directed to consider eight factors specified in MICC 19.15.160(A). These factors are:

(1.) The plain language of the code section in question;

Analysis: A reading of the plain language of MICC 19.06.110 results in the following findings:

¹ Under the MICC, variances are granted by the Hearing Examiner. MICC 19.15.030 and Tables A-B.

- i. MICC 19.06.110(B), *Variances*, imposes a hardship criterion; an applicant or owner applying for variance must show that strict enforcement of Title 19 will create an unnecessary hardship to the property owner. MICC 19.06.110(B)(2)(a). For properties in residential zones, "unnecessary hardship" is limited to those circumstances where the adopted standards of Title 19 MICC prevent the construction of a single-family dwelling on a legally created residential zoned lot. *Id.*
- ii. However, MICC 19.06.110(B)(2) also includes a criterion for variances to impervious surface standards for "[p]ublic and private schools, religious institutions, private clubs and public facilities in single-family zones with slopes of less than 15 percent." MICC 19.06.110(B)(2)(i).
- iii. MICC 19.06.110(B)(1) further provides: "[a] variance shall be granted by the city only if the applicant can meet all criteria in subsections (B)(2)(a) through (B)(2)(h) of this section. A variance for increased lot coverage for a regulated improvement pursuant to subsection (B)(2)(i) of this section shall be granted by the city only if the applicant can meet criteria in subsections (B)(2)(a) through (B)(2)(i) of this section."

(2.) Purpose and intent statement of the chapters in question;

Analysis: Chapter 19.06 MICC does not contain a general purpose statement; however, MICC 19.06.110(B)(1) provides a purpose statement for the MICC section in question: "**Purpose.** An applicant or property owner may request a variance from any numeric standard, except for the standards contained within chapter 19.07 MICC. A variance shall be granted by the city only if the applicant can meet all criteria in subsections (B)(2)(a) through (B)(2)(h) of this section. A variance for increased lot coverage for a regulated improvement pursuant to subsection (B)(2)(i) of this section shall be granted by the city only if the applicant can meet criteria in subsections (B)(2)(a) through (B)(2)(i) of this section."

(3.) Legislative intent of the city council provided with the adoption of the code sections in question;

Analysis: Review of the legislative history of MICC 19.06.110(B) results in the following findings:

- i. On September 19, 2017, the Mercer Island City Council adopted Ordinance No. 17C-15, adding the unnecessary hardship criterion currently contained in MICC 19.06.110(B)(2)(a).
- ii. The minutes from the relevant City Council meetings indicate the following:

The July 5, 2017 minutes contains the following discussion:

Variance Criteria:

- Planning Commission Recommendation: prohibit / limit variances to GFA, minimum lot size, height, fence height and staff does not recommend adopting this amendment
- Alternative: Limit variance approvals to those circumstances where a house could not otherwise be built on a legal, residential lot and remove ambiguous language regarding groundcover, trees, physical condition of the lot from "d."

Council Direction: Staff propose a solution for "flag lots." Support alternative to limit variance approvals to those circumstances where a house could not otherwise be built on a legal, residential lot and remove ambiguous language regarding groundcover, trees, physical condition of the lot from "d."

- iii. The packet from the July 5, 2017, reading of the later adopted ordinance included the following discussion of the options before City Council with respect to the hardship criterion ultimately added to MICC 19.06.110(B)(2)(a):

Variance Criteria				
17	Page 71 – Variances	Allow for an application for a variance to any numeric standard, except for the standards in Chapter 19.07.	Prohibit the application for a variance to minimum lot area requirements, gross floor area, building height, or lot coverage.	Dan Grausz
				Staff does not recommend adopting this amendment. There are some circumstances where allowing for a variance to these standards is appropriate to avoid a regulatory takings. The variance criteria have been revised to limit variances to only those circumstances where a variance is warranted.
Draft Page #	Planning Commission Recommendation	Proposed Amendment	Source	Staff Recommendation / Rationale
		Alternatively, limit variance approvals to those situations where a property owner cannot both comply with existing standards and build a home on a legally created residential lot.		Staff recommends further revising the criteria for approval. In particular, staff recommends limiting variances to situations where a property owner cannot comply with all of the development standards and build a new single family home. This item was discussed by the Planning Commission.

- iv. The discussion between the then CPD Director and City Council regarding the hardship criterion further indicates the intent of restricting variances in residential zones only to those instances where a variance is necessary to permit the construction of a single-family residence on a legally created residential lot.
- v. The Code Official is unaware of any discussion by City Council or other materials regarding the resulting conflict between the language in MICC 19.06.110(B)(2)(a) and the language in MICC 19.06.110(B)(2)(i).

(4.) Policy direction provided by the Mercer Island comprehensive plan;

Analysis: Review of the Comprehensive Plan results in the following findings:

- (1) The Comprehensive Plan envisions Mercer Island as a residential community:
- "Mercer Island prides itself on being a residential community. As such, most of the Island's approximately 6.2 square miles of land area is developed with single family homes." [Land Use Element, Introduction]
 - "Single family residential zoning accounts for 88 percent of the Island's land use. There are 3,534 acres zoned for single family residential development. This compares to 77 acres in the Town Center zones, 19 acres for Commercial Office zone, and 103 acres in multi-family zones (Table 2). City Hall is located in a Commercial Office zone, while other key civic buildings such as the Post Office and the Main Fire Station are located in the Town Center and City Hall. Many of the remaining public buildings, schools, recreational facilities and places of religious worship are located in residential or public zones." [Land Use Element, II Existing Conditions and Trends, Areas outside the Town Center]
 - "OUTSIDE THE TOWN CENTER (1) The community needs to accommodate two important planning values — maintaining the existing single family residential character of the Island, while at the same time planning for

population and housing growth.” [Land Use Element, IV. Land Use Issues, Outside the Town Center (1)]

- (2) A primary component of the housing element is the City’s desire to protect single-family residential neighborhoods through development regulations and other City codes which restrict the bulk and scale of buildings, control noise and nuisances, minimize the impact of non-residential uses and help preserve the natural environment. City code provisions were specifically designed to protect residential areas from incompatible uses and promote bulk and scale consistent with the existing neighborhood character. This includes limiting the size and scope of nonresidential uses to be consistent with existing neighborhood character.

(a) “Housing Element

III. Neighborhood Quality

Mercer Island single family neighborhoods pride themselves on their narrow, quiet streets and dense plantings. The City protects these neighborhoods through development regulations and other City codes which restrict the bulk and scale of buildings, control noise and nuisances, minimize the impact of non-residential uses and help preserve the natural environment. Parks, open spaces and trails also contribute to the neighborhood quality.” [Housing Element, III. Neighborhood Quality]

(b) “GOAL 1: -

Ensure that single family and multi-family neighborhoods provide safe and attractive living environments, and are compatible in quality, design and intensity with surrounding land uses, traffic patterns, public facilities and sensitive environmental features.

- 1.1 Ensure that zoning and City code provisions protect residential areas from incompatible uses and promote bulk and scale consistent with the existing neighborhood character.” [Housing Element, III. Neighborhood Quality, Goal 1.1]

- (3) The Comprehensive Plan evidences an intent to retain certain non-residential structures located in residential zones. However, the Comprehensive Plan is silent on whether such structures would be eligible for variances from otherwise applicable numerical standards.

(a) “GOAL 17: -

With the exception of allowing residential development, commercial designations and permitted uses under current zoning will not change.

17.4 Social and recreation clubs, schools, and religious institutions are predominantly located in single family residential areas of the Island. Development regulation should reflect the desire to retain viable and healthy social, recreational, educational, and religious organizations as community assets which are essential for the mental, physical and spiritual health of Mercer Island.” [Land Use Elements, IV Land Use Issues Outside the Town Center]

- (4) The Comprehensive Plan also evidences an intent to preserve existing conditions and to generally permit changes only through amendments to the development code, rather than through granting numerous of variances to that development code. At the same

time, there is also recognition that some non-residential structures and uses are compatible with residential zones.

(a) "GOAL 15: -

Mercer Island should remain principally a low density, single family residential community.

15.1 Existing land use policies, which strongly support the preservation of existing conditions in the single family residential zones, will continue to apply. Changes to the zoning code or development standards will be accomplished through code amendments.

15.2 Residential densities in single family areas will generally continue to occur at three to five units per acre, commensurate with current zoning. However, some adjustments may be made to allow the development of innovative housing types, such as accessory dwelling units and compact courtyard homes at slightly higher densities as outlined in the Housing Element.

15.4 As a primarily single family residential community with a high percentage of developed land, the community cannot provide for all types of land uses. Certain activities will be considered incompatible with present uses. Incompatible uses include landfills, correctional facilities, zoos and airports. Compatible permitted uses such as education, recreation, open spaces, government social services and religious activities will be encouraged." [Land Use Elements, IV Land Use Issues Outside the Town Center].

(5.) Relevant judicial decisions;

Analysis: The Code Official is unaware of any relevant judicial decisions related to this issue. However, the Code Official is aware of several cases regarding code interpretation. Municipal ordinances are subject to the same rules of statutory interpretation as are statutory enactments. *Hassan v. GCA Production Services, Inc.*, 17 Wn.App. 625, 637, 487 P.3d 203 (2021). Additionally, the goal of code interpretation is to give effect to the intentions of the drafters. *Jametsky v. Olsen*, 179 Wash. 2d 756, 762, 317 P.3d 1003, 1006 (2014). Absurd results are to be avoided in construing ambiguous language, although the principle is to be used sparingly. *Seattle Hous. Auth. v. City of Seattle*, 3 Wash. App. 2d 532, 538–39, 416 P.3d 1280, 1283 (2018); *Samish Indian Nation v. Wash. Dep't of Licensing*, 14 Wash.App.2d 437, 444, 471 P.3d 261 (2020). Further, when possible, legislation must be construed so that no clause, sentence, or word is rendered superfluous, void, or insignificant. *Coates v. City of Tacoma*, 11 Wash. App. 2d 688, 695, 457 P.3d 1160, 1164 (2019).

(6.) Consistency with other regulatory requirements governing the same or similar situation;

Analysis: The Code Official is unaware of other regulatory requirements governing the same or similar situations.

(7.) The expected result or effect of the interpretation; and

Analysis: The interpretation will result in clarifying the position of the Code Official in that the MICC prohibits variances from numerical standards for non-residential structures in residential zones, with the sole exception of the specific types of non-residential structures enumerated in MICC 19.06.110(B)(2)(i) from impervious surface standards.

(8.) Previous implementation of the regulatory requirements governing the situation.

Analysis: The Code Official is unaware of any previous implementation of regulatory requirements relating to variances for non-residential structures within residential zones since the addition of the hardship criterion in September 2017.

F. CONCLUSIONS

1. MICC 19.06.110(B) contains conflicting language as to variances for non-residential structures in residential zones. Reconciling this conflict, the Code Official makes the following interpretations:
 - a. The specifically enumerated non-residential structures listed in MICC 19.06.110 (B)(2)(i) are eligible to receive a variance from impervious surface standards if:
 - i. The Hearing Examiner finds that the criteria contained within MICC 19.06.110(B)(2)(i)(i-iv) have been satisfied, and
 - ii. The Hearing Examiner finds compliance with the other criteria enumerated in subsection (B)(2)(a) through (i), including demonstrating an unnecessary hardship, per subsection (B)(2)(a), but disregarding the second sentence of (B)(2)(a) due to the conflict with subsection (B)(2)(i).
 - b. The MICC prohibits other variances from numerical standards for non-residential structures in residential zones.
2. Both conclusions enumerated above are based upon the following:
 - a. It is apparent from the relevant legislative history that City Council's stated intent was to restrict variances in residential zones only to those circumstances in which construction of a single-family residence upon a legally created residential lot would be prohibited. The Code Official did not find any evidence that City Council was aware of the conflict between MICC 19.06.110(B)(2)(a) and (B)(2)(i).

Because the language regarding variances from impervious surface standards for certain specified non-residential structures in residential zones was also reorganized by City Council to MICC 19.06.110(B) contemporaneously with the creation of the hardship criterion, it is the position of the Code Official that the language in MICC 19.06.110(B)(2)(i) must be also given effect as a narrow exception to the prohibition against variances for non-residential structures in residential zones as put forth in MICC 19.06.110(B)(2)(a). This conclusion is necessary in order to give the fullest effect to the legislative enactment of the City Council.

- b. Utilizing statutory interpretation principles, the Code Official is required to construe the MICC to give the fullest effect to the legislative intent of the City Council, to utilize the principles of avoiding absurd results (but in a sparing manner), and to avoid making code language superfluous, void, or insignificant. Other than variances from impervious surface standards, no other variances for non-residential structures within residential zones are listed in MICC 19.06.110(B)(2).
- c. There is nothing in the City's Comprehensive Plan to contradict the conclusions of the Code Official. The Comprehensive Plan prioritizes residential uses while also recognizing certain non-residential uses within residential zones. The interpretation of the Code Official does not prohibit the siting of non-residential structures in residential zones where otherwise permitted, but it does limit the type of variances available for such structures.

G. INTERPRETATION

The specifically enumerated non-residential structures listed in MICC 19.06.110 (B)(2)(i) are eligible to receive a variance from impervious surface standards if the Hearing Examiner determines the application has demonstrated satisfaction of the criteria contained within MICC 19.06.110(B)(2)(i)(i-iv) and the applicant or property owner demonstrates compliance with the other criteria enumerated in subsection (B)(2)(a) through (i), including demonstrating an unnecessary hardship, per subsection (B)(2)(a), but disregarding the conflicting second sentence of (B)(2)(a).

Having not been expressly included in MICC 19.06.110(B)(2), the position of the Code Official is that all other variances from numerical standards for non-residential structures in residential zones are prohibited by MICC 19.06.110(B)(2)(a).

Exhibit 3

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/ Washington "goes big" on housing in 2023

Washington "goes big" on housing in 2023

May 08, 2023



Gov. Jay Inslee signs legislation to help overcome racist real estate covenants that pervaded until the 1960s and caused intergenerational harm.

From Vancouver to Bellingham and Pullman to La Push, the cost of housing has soared. In the last decade, one million new residents arrived while only one-quarter as many homes went up. When demand exceeds supply, prices rise. Rise they have.

Rents are up. Prices are up. Accordingly, homelessness is up. And too many families are just a paycheck away from trouble.

To begin the 2023 legislative session, Gov. Jay Inslee encouraged the Legislature to "go big" to meet the scale of the housing crisis. On Monday, the governor and lawmakers gathered to sign a slate of housing-related bills to clear obstacles to housing construction and right historic wrongs related to housing discrimination.

At a later date, the governor will sign a budget that allocates more than \$1 billion over the next biennium to address homelessness and affordable housing.

Read the rest of the story on Gov. Inslee's Medium page.

← Post

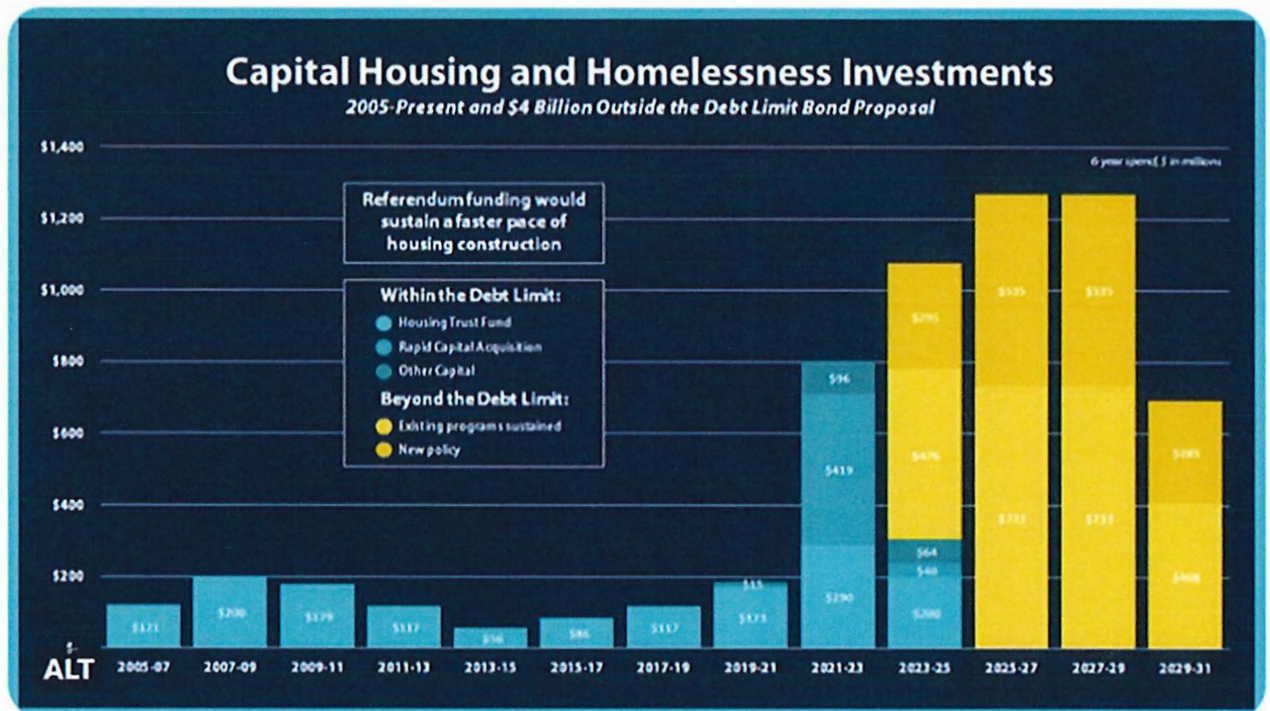


Governor Jay Inslee ✓

@GovInslee

...

In the past two years we were able to make historic investments to scale up and speed up construction of housing and shelters. The problem is growing, not shrinking, so our response must match the moment. (2/3)



5:26 PM · Mar 20, 2023 · 12.7K Views

Exhibit 4

Housing

GOAL: *The region preserves, improves, and expands its housing stock to provide a range of affordable, accessible, healthy, and safe housing choices to every resident. The region continues to promote fair and equal access to housing for all people.*

Housing is a basic need for every individual. Yet, residents in many communities in the region are facing an unprecedented challenge in finding and keeping a home that they can afford. The central Puget Sound region is expected to grow by an additional 1.8 million residents and 830,000 households by the year 2050. Simply put, the region needs more housing of varied types in all communities. Meeting the housing needs of all households at a range of income levels is integral to promoting health and well-being and creating a region that is livable for all residents, economically prosperous, and environmentally sustainable.

Housing affordability continues to be a major challenge for the region. The housing market has experienced great highs and lows that have benefitted some and created and exacerbated hardship and inequalities for others. Following the precipitous drop in housing prices and foreclosures of the recession, the region's economic upswing and strong job growth in the 2010s have fueled dramatic increases in rents and home prices. Despite job losses due to the COVID-19 pandemic and the resulting financial

impact on many households, home prices have continued to increase in the region. Some may have been able to take advantage of historically low mortgage interest rates or lower rents, while others are in a challenging position due to loss of income and face the potential of eviction or foreclosure. A potentially imbalanced recovery may further the threat of displacement of low-income households and people of color. As a result, housing costs are a greater burden for many households today than a decade ago, leaving less for other basic needs and amenities. Renters, and renters of color in particular, face a considerable shortage of affordable housing opportunities. And these households are often the most at risk of losing their housing and experiencing homelessness.

A primary goal of the Growth Management Act is to make housing affordable to "all economic segments of the population, providing a variety of residential densities and housing types and encouraging preservation of existing housing stock. Local governments are required to plan for housing that meets the varied needs of their diverse communities and residents and to ensure



they are providing sufficient residential zoned land capacity for housing to accommodate 20-year growth targets.

VISION 2050's housing policies respond to the urgency of changing demographics and the need to increase and diversify the region's housing supply. They identify coordinated strategies, policies, and actions to ensure that the region's housing needs are met.

A Regional Challenge

The complexity of addressing the full range of housing needs and challenges requires a coordinated regional-local approach. A coordinated, regionwide effort to build and preserve housing accessible to all residents is not just about housing. It is also about building healthy, complete, and welcoming communities where all families and people, regardless of income, race, family size or need, are able to live near good schools, transit, employment opportunities, and open space.

Through the Regional Growth Strategy, the region has articulated a preferred pattern of urbanization that will help direct new housing development to the urban growth area and designated growth centers while preserving industrial lands. Focusing housing in urban areas, specifically centers and station areas, supports and leverages the region's ongoing prioritization of infrastructure investment in central urban places. To assist counties and cities, PSRC serves as a forum for setting regional priorities and facilitating coordination among its member jurisdictions and housing interest groups.

Through data, guidance, and technical assistance, PSRC encourages jurisdictions to adopt best housing practices and establish coordinated local housing and affordable housing targets. PSRC supports jurisdictions in their development of effective local housing elements, strategies, and implementation plans. Housing data and information tracking the success of various housing efforts are monitored and reported regionally at PSRC.

The Need for Local Action

Local governments play a critical role in housing, including its production and preservation. Local governments possess regulatory control over land use and development. They are key players, both individually and in cooperation with other housing interests, in stimulating various types of development activity through zoning, incentives, and funding, streamlined development review and permitting processes.

Local Housing Responsibilities Under the Growth Management Act

Local housing elements should ensure the vitality and character of established residential neighborhoods and include the following components:

1. an inventory and analysis of existing and projected housing needs,
2. goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing,
3. identification of sufficient land for a range of housing types to match community needs, and
4. adequate provisions for the needs of all economic segments of the community. (RCW 36.70A.070)

There are numerous tools and strategies available to local governments to encourage housing diversity and promote affordable housing. Many of these tools can be applied in a manner that is tailored to and respectful of local market conditions, community characteristics, and the vision for growth embodied in local comprehensive plans. Since VISION 2040 was adopted in 2008, housing planning and implementation has advanced through the ongoing work of state, regional, and local agencies and organizations. These efforts have yielded new resources, promoted best practices, established community-based housing strategies, and coordinated efforts across multiple jurisdictions.

Housing Choices to Reflect Changing Demographics

The characteristics of the region's households have been changing over time and will continue to do so. The size of the average household has been decreasing. Fewer people are living in family households with two parents and children. More households are comprised of singles, couples without children, or single-parent families. Many households have two or more workers. The region's population is becoming far more racially and ethnically diverse. As the population ages and new generations enter the housing market, there will be demands and preferences for new and different types of housing. While the region has a changing population with a wide range of housing needs, the vast majority of owner-occupied homes are larger single-family homes. Moderate density housing, ranging from duplexes to townhomes to garden apartments, bridge a gap between single-family housing and more intense multifamily and commercial areas and provide opportunities for housing types that are inclusive to people of different ages, life stages, and income ranges. Regional and local tools can help to promote and incentivize the development and preservation of more moderate density housing to give people greater housing choices, and produce urban densities that support walkable communities, local retail and commercial services, and efficient public transit.

Affordability

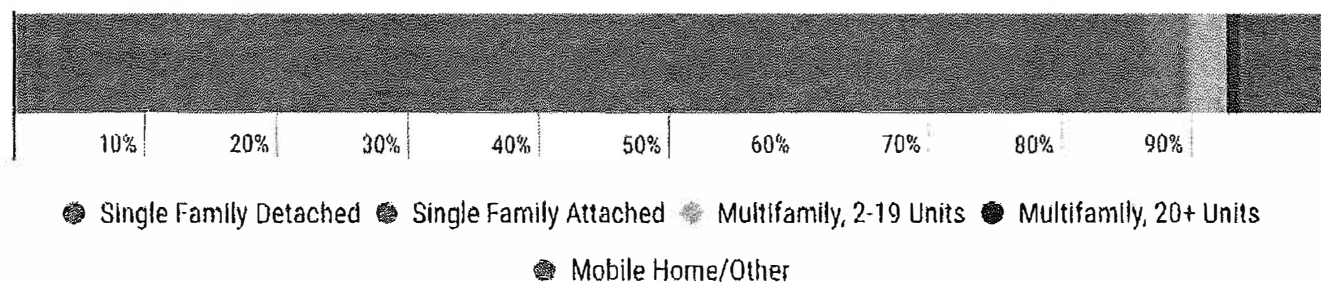
The region continues to experience an affordability crisis. Rising housing costs can be particularly devastating for low-income renters, particularly renters of color, many who

pay more than 50% of their income on housing. Many middle- and lower-income households struggle to find housing that fits their income in an increasingly competitive and expensive housing market due, in part, to zoning practices that have prevented the development of more affordable, smaller homes, and apartments. Home ownership may seem like less of a reality for potential first-time buyers as home prices continue to climb. This is especially true for people of color, who have been historically excluded from homeownership opportunities.

The central Puget Sound region's housing landscape reflects more than market forces and conditions. It is also the product of decades of public policies and private practices that, throughout the 20th century, often excluded lower income households and immigrant communities, and prevented people of color from accessing housing and living in certain areas. Past and current housing practices have perpetuated substantial inequities in wealth, ownership, and opportunity, and they continue to create barriers to rectifying these conditions. Regional housing work is approached with an awareness of this legacy and of the comprehensive work needed to redress it.

Low- to middle-wage workers – such as teachers, health care professionals, retail workers, administrative personnel, police officers, and firefighters – who are essential to the economic and social vitality of a community, often cannot afford to live in the places where they work. As affordable housing options become scarce, households are forced to move farther from their jobs and communities, resulting in increased traffic congestion and transportation costs and fragmentation of communities. This spatial mismatch also leads to an inability of certain segments of the labor market to fill positions.

Figure 27 – Ownership Housing Stock by Housing Type, Central Puget Sound Region



Source: 2017 American Community Survey

Common Housing Terms

Affordable Housing is commonly defined in terms of housing costs as a percentage of household income. Housing is considered unaffordable when a household's monthly housing costs exceed a certain threshold – most commonly 30% of gross income – thereby reducing the budget available for basic necessities.

Housing Affordability refers to the balance (or imbalance) between incomes and housing costs within a community or region. A common measurement compares the number of households in certain income categories to the number of units in the market that are affordable at 30% of gross income.

Providing housing affordable to households earning different incomes requires different approaches. To craft effective strategies, it is imperative to understand the types and cost of housing needed in a community relative to the supply of housing available to households at each income level. Over one-third of households in the region earn less than 80% area median income (AMI). Ideally, the supply of housing affordable to moderate and low-income households should mirror the number of households at those income levels. The current distribution of households in the region is:

- 15% of households earn 50-80% AMI (Moderate Income)
- 9% of households earn 30-50% AMI (Low Income)
- 11% of households earn less than 30% AMI (Very Low Income)

Providing affordable units for very low-income residents and providing housing options for residents experiencing homelessness cannot be fully addressed by the private market alone. Public intervention is necessary to ensure housing units

Figure 28 – Lower Housing Costs Require Greater Public Intervention

0–30% AMI Rental:	30–50% AMI Rental:	50–80% AMI Rental:	80–125% AMI Rental or Home Ownership:	Above 125% AMI Market Rent and Home Ownership
public support needed in all markets	public support needed in most markets	incentives needed in many markets Home Ownership: subsidy or incentives needed in many markets	incentives or zoning flexibility needed in some markets	

Anticipated Households in the Region in 2050

274,000 11%	222,000 9%	355,000 15%	558,000 23%	1,012,000 42%
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are affordable to households at the lowest income levels now and in the future.

While the current housing production rate in 2017 meets the average annual need in the region, the market has yet to make up for the slow growth in the years directly following the recession resulting in a supply and demand imbalance. Increasing the supply of housing throughout the region and providing a variety of housing types and densities for both renters and owners will help the region meet its housing goals. Special emphasis is placed on providing affordable housing for low-, moderate-, and middle-income households across the region, with a focus on promoting housing opportunities near transit, and appropriate housing for special needs populations. VISION 2050 also encourages more homeownership opportunities for low-income, moderate-income, and middle-income households and acknowledges historic and current inequities in access to homeownership opportunities for people of color and how this

long history of exclusion and discrimination has prevented communities of color from accessing housing, ownership, and opportunity.

Focusing Housing Near Transit Options

Within the central Puget Sound region, jurisdictions are planning for housing and job growth in places designated for higher densities, a mix of land uses, and transportation choices. Communities across the region are realizing these aims by encouraging infill, redevelopment, and more compact development, especially in designated regional growth centers and around transit stations. However, rents and home prices are rising quickly, making it often challenging to find affordable housing close to jobs.

The region's continuing expansion of high-capacity transit provides one of the best opportunities to expand accessible housing options to a wider range of incomes. Promoting or



requiring affordable housing in walking distance – about ¼ to ½ mile—from high-capacity transit stations and in regional growth centers can help to ensure all residents have opportunities to live in accessible and connected communities. Such housing will be particularly valuable to low-income households, who are the most dependent on transit and are at risk for displacement as housing costs rise.

Displacement and Community Stability

Displacement occurs when housing or neighborhood conditions force residents to move. Displacement can be physical, when building conditions deteriorate or are taken off the market for renovation or demolition, or economic, as costs rise. Many communities in the central Puget Sound region, like the Central District in Seattle and the Hilltop neighborhood in Tacoma, have documented displacement. Once physical and economic displacement occur, the social and cultural composition of the neighborhood will be disrupted, thus affecting the cohesion and stability of a community and the well-being of local residents and businesses.

Several key factors can drive displacement: proximity to rail stations, proximity to job centers, historic housing stock, and location in a strong real estate market. Displacement is a regional concern as it is inherently linked to shifts in the regional housing and job market. Many of these factors put communities of color and neighborhoods with high concentrations of renters at a higher risk of displacement.

Regional growth centers and communities near transit are home to more people of color and higher concentrations of poverty than the region as a whole. As these central places connected by transit continue to grow and develop, residents and businesses who contribute to these communities should have the option to stay and take advantage of services.

Jobs-Housing Balance

Jobs-housing balance is a planning concept which advocates that housing and employment be close together, with an emphasis on matching housing options with nearby jobs, to reduce the length of commute travel and number of vehicle trips. A lack of housing, especially affordable housing close to job centers, will continue to push demand for affordable homes to more distant areas, increasing commute times and the percentage of household income spent on transportation costs. Housing policies encourage adding housing opportunities to job-rich places. It is imperative that there are a variety of housing choices available to a variety of incomes in proximity to job centers to provide opportunities for residents to live close to where they work regardless of their income. Policies in the Economy chapter promote economic development to bring jobs to all four counties. Policies are also located in the Regional Growth Strategy chapter related to balancing jobs and housing growth.



Housing POLICIES

MPP-H-1

Plan for housing supply, forms, and densities to meet the region's current and projected needs consistent with the Regional Growth Strategy and to make significant progress towards jobs/housing balance.

MPP-H-2

Provide a range of housing types and choices to meet the housing needs of all income levels and demographic groups within the region.

MPP-H-3

Achieve and sustain – through preservation, rehabilitation, and new development – a sufficient supply of housing to meet the needs of low-income, moderate-income, middle-income, and special needs individuals and households that is equitably and rationally distributed throughout the region.

MPP-H-4

Address the need for housing affordable to low- and very low-income households, recognizing that these critical needs will require significant public intervention through funding, collaboration, and jurisdictional action.

MPP-H-5

Promote homeownership opportunities for low-income, moderate-income, and middle-income families and individuals while recognizing historic inequities in access to homeownership opportunities for communities of color.

MPP-H-6

Develop and provide a range of housing choices for workers at all income levels throughout the region that is accessible to job centers and attainable to workers at anticipated wages.

MPP-H-7

Expand the supply and range of housing at densities to maximize the benefits of transit investments, including affordable units, in growth centers and station areas throughout the region.

MPP-H-8

Promote the development and preservation of long-term affordable housing options in walking distance to transit by implementing zoning, regulations, and incentives.

MPP-H-9

Expand housing capacity for moderate density housing to bridge the gap between single-family and more intensive multifamily development and provide opportunities for more affordable ownership and rental housing that allows more people to live in neighborhoods across the region.

MPP-H-10

Encourage jurisdictions to review and streamline development standards and regulations to advance their public benefit, provide flexibility, and minimize additional costs to housing.

MPP-H-11

Encourage interjurisdictional cooperative efforts and public-private partnerships to advance the provision of affordable and special needs housing.

MPP-H-12

Identify potential physical, economic, and cultural displacement of low-income households and marginalized populations that may result from planning, public investments, private redevelopment, and market pressure. Use a range of strategies to mitigate displacement impacts to the extent feasible.

Housing ACTIONS

REGIONAL ACTIONS

H-Action-1

Regional Housing Strategy: PSRC, together with its member jurisdictions, state agencies, housing interest groups, housing professionals, advocacy and community groups, and other stakeholders will develop a comprehensive regional housing strategy to support the 2024 local comprehensive plan update. The housing strategy will provide the framework for regional housing assistance (see H-Action-2, below) and shall include the following components:

- In the near term, a regional housing needs assessment to identify current and future housing needs to support the regional vision and to make significant progress towards jobs/housing balance and quantify the need for affordable housing that will eliminate cost burden and racial disproportionality in cost burden for all economic segments of the population, including those earning at or below 80 percent of Area Median Income throughout the region. This will provide necessary structure and focus to regional affordable housing discussions
- Strategies and best practices to promote and accelerate: housing supply, the preservation and expansion of market rate and subsidized affordable housing, housing in centers and in proximity to transit, jobs-housing balance, and the development of moderate-density housing options
- Coordination with other regional and local housing efforts

H-Action-2

Regional Housing Assistance: PSRC, in coordination with subregional, county, and local housing efforts, will assist implementation of regional housing policy and local jurisdiction and agency work. Assistance shall include the following components:

- Guidance for developing local housing targets (including affordable housing targets), model housing policies, and best housing practices
- Technical assistance, including new and strengthened tools, to support local jurisdictions in developing effective housing strategies, action plans, and programs
- Collection and analysis of regional housing data, including types and uses of housing and effectiveness of zoning, regulations, and incentives to achieve desired outcomes

- Technical assistance in support of effective local actions to address displacement, including data on displacement risk and a toolbox of local policies and actions

H-Action-3

State Support and Coordination: PSRC will monitor and support as appropriate members' efforts to seek new funding and legislative support for housing; and will coordinate with state agencies to implement regional housing policy.

LOCAL ACTIONS

H-Action-4

Local Housing Needs: Counties and cities will conduct a housing needs analysis and evaluate the effectiveness of local housing policies and strategies to achieve housing targets and affordability goals to support updates to local comprehensive plans. Analysis of housing opportunities with access to jobs and transportation options will aid review of total household costs.

H-Action-5

Affordable Housing Incentives: As counties and cities plan for and create additional housing capacity consistent with the Regional Growth Strategy, evaluate and adopt techniques such as inclusionary or incentive zoning to provide affordability.

H-Action-6

Displacement: Metropolitan Cities, Core Cities, and High Capacity Transit Communities will develop and implement strategies to address displacement in conjunction with the populations identified of being at risk of displacement including residents and neighborhood-based small business owners.

H-Action-7

Housing Choice: Counties and cities will update regulations and strategies to reduce barriers to the development and preservation of moderate density housing to address the need for housing between single-family and more intensive multifamily development, consistent with the Regional Growth Strategy.

H-Action-8

Housing Production: Counties and cities will review and amend, where appropriate and consistent with the Regional Growth Strategy, development standards and regulations to reduce barriers to the development of housing by providing flexibility and minimizing additional costs.



DOCKET REQUEST FORM

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APPLICANT INFORMATION

Name: Matthew Goldbach

Address: 9980 SE 40th St Mercer Island WA 98040

Phone: 954-806-2489

Email: blkship@yahoo.com

AGENT/CONSULTANT/ATTORNEY

Complete this section if the primary contact is different from the applicant.

Name: _____

Address: _____

Phone: _____

Email: _____

REQUEST INFORMATION

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Is this request related to a specific property or zone?

Yes ☐

No ☒

If yes, please complete the following information:

Property Owner Name: _____

Address: _____

County Assessor's Parcel No.: _____

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Comprehensive Plan Amendment ☐

Development code Amendment ☒

Is this submission a suggestion for a Comprehensive Plan or Development Code amendment, or is this an application for a specific amendment? (Check one box below.)

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Suggestion ☒

Application ☐

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SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

PROPOSED AMENDMENTS: MICC 19.04.040 PARKING

- 1) Amendment to MICC 19.04.040 A. Applicability.
- 2) Amendment to MICC 19.04.040 B. (9) Parking Variances.
- 3) Amendment to MICC 19.040 E. Cooperative Minimum Parking Reductions. 25% reduction of necessary parking spaces.

SUGGESTED CODE AMENDMENTS

I suggest MICC 19.04.040 A. be amended to provide – or clarify -- that MICC 19.04.040 does not apply to residentially-zoned properties.

I suggest that MICC 19.040 B. (9) that grants the code official broad discretion to grant variances from any parking minimums be eliminated.

I suggest that MICC 19.04.040 E. that grants the code official discretion to reduce cooperative parking minimums 25% be eliminated.

ANALYSIS

1. MICC 19.04.040 A. states:

A. The following parking requirements apply to all uses in the C-O and B zones and to all nonresidential uses in the PBZ zone.

Despite the plain language of this Code Provision, the CPD interprets this Code provision to allow the CPD to reduce the necessary parking spaces on a residential property in the

residential zone, and furthermore, interprets this Code provision to allow a property zoned C-O, B or PBZ zones to shift its required parking to an adjacent residentially-zoned property and then reduce the necessary parking spaces by 25% or entirely.

This Code provision is to clarify for the CPD that the plain language of 19.04.040 A. does not apply to residential properties. To the extent the CPD argues that 19.04.040 A. is ambiguous, this Code provision is to clarify and remove any ambiguity that 19.04.040 A. does not apply to parking on a residential property, whether for use on the residential property or for a use on adjacent property zoned C-O, B, or PBZ.

2. MICC 19.04.040 B. (9) states:

B. 9. Variances. Notwithstanding any of the minimum parking requirements set out in subsection C of this section, the code official may grant variances from the minimum parking requirements with the approval of the city engineer and the design commission for projects reviewable by the design commission.

3. MICC 19.040 E. states:

E. Cooperative parking. Cooperative parking between two or more adjoining property owners is allowed; provided, the code official, with approval from the design commission and city engineer, may reduce the total required spaces by 25 percent of the total combined required spaces when the applicant has demonstrated that no adverse impact will occur due to the reduced number of stalls.

ANALYSIS:

MICC 19.040 B. (9) and E. violate HB 1220 that requires development codes to have objective criteria. In fact, under MICC 19.04.040 B. (9) the code official can eliminate any parking minimums.

Furthermore, with the sunseting of the Design Commision, there is no citizen review of the code official's broad discretion under MICC 19.04.040. Any review before the Hearing Examiner would be superfluous because of the broad discretion granted to the code official.

Parking minimums need to be parking minimums. The code official's broad discretion to reduce parking minimums 25% or completely is contrary to the intent of the MICC and HB 1220 especially if as the CPD interprets MICC 19.04.040 to apply to residentially-zoned properties.

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APPLICANT INFORMATION

Name: Daniel P. Thompson

Address: 7265 North Mercer Way, Mercer Island, WA 98040

Phone: 206-622-0670

Email: danielpthompson@hotmail.com

AGENT/CONSULTANT/ATTORNEY

Complete this section if the primary contact is different from the applicant.

Name:

Address:

Phone:

Email:

REQUEST INFORMATION

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Yes ☐

No ☒

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County Assessor's Parcel No.:

Parcel Size (sq. ft.):

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Comprehensive Plan Amendment ☐

Development code Amendment ☒

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Suggestion ☒

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I

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development
 Standards MICC 19.02.020(D)(2)(a)
 Gross Floor Area

Suggested Code Amendment:

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

Analysis:

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

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

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

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

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

12 Foot Ceiling Heights Are Inconsistent With The Climate Action Plan And Land Use Goal 27.6.4.

Land Use Goal 27.6.4 adopted by this Planning Commission reads:

"Reducing greenhouse gas emissions from the construction, heating, and cooling of residential structures by encouraging smaller single family residential housing units, including moderate density housing and the use of green building materials and techniques."

Twelve foot ceilings create an additional 20% of interior house volume to heat and cool with **no** increase in livable square footage for the homeowner. This 20% at the top of the ceiling is the most intensive to heat and cool without increasing usable house gross floor area on the Island one inch.

As a result, 12 ft high ceilings before counting as clevestory space is inconsistent with The Climate Action Plan and Land Use Goal 27.6.4.



MICC 19.02.020

Item 2.

3, *Intrusions Into required yards,*

a. *Minor building elements.*

- i. Except as provided in subsection (C)(3)(a)(ii) of this section, porches, chimney(s) and fireplace extensions, window wells, and unroofed, unenclosed outside stairways and decks shall not project more than three feet into any required yard. Eaves shall not protrude more than 18 inches into any required yard.
- ii. No penetration shall be allowed into the minimum side yard setback abutting an interior lot line except where an existing flat-roofed house has been built to within 18 inches of the interior side yard setback line and the roof is changed to a pitched roof with a pitch of 2:12 or steeper, eaves may penetrate up to 18 inches into the side yard setback.

b. *Hardscape and driveways.* Hardscape and driveways not more than 30 inches above existing grade or finished grade, whichever is lower, may be located in any required yard; provided, that driveways may exceed the 30-inch limit when a permit applicant demonstrates the proposed height is the minimum feasible to meet the standards in MICC9.09.040.

c. *Fences, retaining walls and rockeries* Fences, retaining walls and rockeries are allowed in required yards as provided in MICC 19.02.050.

d. *Garages and other accessory buildings.* Garages and other accessory buildings are not allowed in required yards, except as provided in MICC19.02.040.

e. *Heat pumps, air compressors, air conditioning units, and other similar mechanical equipment* heat pumps, air compressors, air conditioning units, and other similar mechanical equipment may be located within any required yard provided they will 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 three feet of any lot line.

f. *Architectural features.* Detached, freestanding architectural features such as columns or pedestals that designate an entrance to a walkway or driveway and do not exceed 42 inches in height are allowed in required yards.

g. *Other structures.* Except as otherwise allowed in this subsection ((3)), structures over 30 inches in height from existing grade or finished grade, whichever is lower, may not be constructed in or otherwise intrude into a required yard.

4. *Setback deviation.* The code official may approve a deviation to front, side, and rear setbacks pursuant to MICC9.15.040.

D. *Gross floor area.*

1. Except as provided in subsection (D){3} of this section, the gross floor area shall not exceed:

- a. R-8.4: 5,000 square feet or 40 percent of the lot area, whichever is less.
- b. R-9.6: 8,000 square feet or 40 percent of the lot area, whichever is less.
- c. R-12: 10,000 square feet or 40 percent of the lot area, whichever is less.
- d. R-15: 12,000 square feet or 40 percent of the lot area, whichever is less.

2. *Gross floor area calculation.* The gross floor area is the sum of the floor area(s) bounded by the exterior faces of each building on a residential lot, provided:

- a. The gross floor area shall be 150 percent of the floor area of that portion of a room(s) with a ceiling height of 12 feet to 16 feet, measured from the floor surface to the ceiling, 10 feet
- b. The gross floor area shall be 200 percent of the floor area of that portion of a room(s) with a ceiling height of more than 16 feet, measured from the floor surface to the ceiling.
- c. Staircases shall be counted as a single floor for the first two stories accessed by the staircase. For each additional story above two stories, the staircase shall count as a single floor area. For example, a staircase with a ten-foot by ten-foot dimension that accesses three stories shall be accounted as 200 square feet (100 square feet for the first two stories, and 100 square feet for the third story).
- d. For the purposes of calculating allowable gross floor area, lots created in a subdivision through MIC(9.08.03CXG), Optional standards for development, may apply the square footage from the open space tract to the lot area not to exceed the minimum square footage of the zone in which the lot is located,

3. *Allowances,*

- a. The gross floor area for lots with an area of 7,500 square feet or less may be the lesser of 3,000 square feet or 45 percent of the lot area; or
- b. If an attached accessory dwelling unit is proposed, the 40 percent allowed gross floor area may be increased by the lesser of five percentage points or the actual floor area of the proposed accessory dwelling unit, provided:

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Address: 7265 North Mercer Way, Mercer Island, WA 98040

Phone: 206-622-0670

Email: danielpthompson@hotmail.com

AGENT/CONSULTANT/ATTORNEY

Complete this section if the primary contact is different from the applicant.

Name: _____

Address: _____

Phone: _____

Email: _____

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No ☒

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Comprehensive Plan Amendment ☐

Development code Amendment ☒

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Suggestion ☒

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II

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

MICC 19.02.020(D)(2) Gross Floor Area

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

Suggested Code Amendment:

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

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

Analysis:

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

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

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

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

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

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

G

Garage: An accessory building or an accessory portion of the main building designed and/or used customarily for parking or storage of vehicles, trailers, and boats by the occupants of the main building, which does not meet the definition of a carport.

Geologically hazardous areas: Areas susceptible to erosion, sliding, earthquake, or other geological events based on a combination of slope (gradient or aspect), soils, geologic material, hydrology, vegetation, or alterations, including landslide hazard areas, erosion hazard areas and seismic hazard areas.

Geotechnical professional: A practicing, geotechnical/civil engineer licensed as a professional civil engineer with the state of Washington, or a licensed engineering geologist with sufficient relevant training and experience as approved by the city.

Geotechnical report or geotechnical analysis (SMP): A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

Government services: Services provided by the city, King County, the state of Washington, or the federal government including, but not limited to, fire protection, police and public safety activities, courts, administrative offices, and equipment maintenance facilities.

Groin: A structure used to interrupt sediment movement along the shore.

Gross floor area: The total square footage of floor area bounded by the exterior faces of the building.

1. The gross floor area of a single-family dwelling shall include:
 - a. The main building, including but not limited to attached accessory buildings.
 - b. All garages and covered parking areas, and detached accessory buildings with a gross floor area over 120 square feet.
 - c. That portion of a basement which projects above the lower of existing grade or finished grade as defined and calculated in appendix B of this development code.
 - d. Staircases.
 - e. Decks that are attached to the second or third level of a single-family dwelling and are covered by a roof. For the purposes of calculating the gross floor area of covered decks, the entire deck area covered by the roof shall be accounted for as floor area, provided an 18-inch eave extending beyond the edge of the deck shall not be included in the gross floor area.
 - f. Space under stairways or stairwells that is used, for example, as a closet or storage space if that space meets the definition of "floor."
2. The gross floor area of a single-family dwelling does not include:
 - a. Second- or third-level uncovered decks, or uncovered rooftop decks.
 - b. First level covered decks and/or patios.

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APPLICANT INFORMATION

Name: Daniel P. Thompson

Address: 7265 North Mercer Way, Mercer Island, WA 98040

Phone: 206-622-0670

Email: danielpthompson@hotmail.com

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III

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

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

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

Suggested Code Amendment:

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

Analysis:

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

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

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

19.02.040 Garages, other accessory buildings and accessory structures.

- A. Accessory buildings, including garages, are not allowed in required yards except as herein provided.
- B. *Attached accessory building.* An attached accessory building shall comply with the requirements of this Code applicable to the main building.
- C. *Detached accessory buildings and accessory structures.*
 - 1. *Gross floor area.*
 - a. The combined total gross floor area for one or more accessory building(s) shall not exceed 25 percent of the total gross floor area allowed on a lot within applicable zoning designations pursuant to MICC 19.02.020. For example, on a lot where the total allowed gross floor area is 4,000 square feet, the combined total gross floor area for all accessory buildings is 1,000 square feet.
 - b. The gross floor area for a detached accessory building that is entirely or partially used for an accessory dwelling unit may be increased by the additional floor area authorized pursuant to MICC 19.02.020(D)(3)(b).
 - 2. *Height.*
 - a. Detached accessory buildings, except for buildings that contain an accessory dwelling unit, are limited to a single story and shall not exceed 17 feet in height above the average building elevation computed from existing grade or finished grade, whichever is lower, to the highest point of the roof. Average building elevation is calculated using the methodology established in MICC 19.02.020(E)(4).
 - b. Detached accessory buildings that are entirely or partially used for an accessory dwelling unit shall meet the height limits established for the primary building.
 - 3. Detached accessory buildings are not allowed in required yard setbacks; provided, one detached accessory building with a gross floor area of 200 square feet or less and a height of 12 feet or less may be erected in the rear yard setback. If such an accessory building is to be located less than five feet from any property line, a joint agreement with the adjoining property owner(s) must be executed and recorded with the King County department of records and thereafter filed with the city.
 - 4. *Accessory structures.* The maximum height of an accessory structure that is not also an accessory building shall not exceed 17 feet. The height of an accessory structure is measured from the top of the structure to the existing grade or finished grade, whichever is lower, directly below the section of the structure being measured.
- D. ~~Garages and carports.~~ Garages and carports may be built to within ten feet of the property line in the front yard; provided:
 - 1. ~~There is greater than four vertical feet measured between the elevation at the bottom of the wall of the building and the ground elevation at the front yard property line where such property line is closest to the building. The elevations of both the intersection of the building and the ground, and the point of the property line closest to the wall of the building, shall be measured using the lower of the existing and finished grade; and~~
 - 2. ~~The height of such garage or carport shall not exceed 12 feet from existing or finished grade, whichever is lower, for that portion built within the front yard.~~

DOCKET REQUEST FORM

The following information is required. Failure to complete this form may result in the application being incomplete. Incomplete applications will not be considered during the annual docket process.

APPLICANT INFORMATION

Name: Daniel P. Thompson

Address: 7265 North Mercer Way, Mercer Island, WA 98040

Phone: 206-622-0670

Email: danielphompson@hotmail.com

AGENT/CONSULTANT/ATTORNEY

Complete this section if the primary contact is different from the applicant.

Name: _____

Address: _____

Phone: _____

Email: _____

REQUEST INFORMATION

Important: A separate Docket Request Form must be completed for each docket item requested.

Is this request related to a specific property or zone?

Yes ☐

No ☒

If yes, please complete the following information:

Property Owner Name: _____

Address: _____

County Assessor's Parcel No.: _____

Parcel Size (sq. ft.): _____

If the application is submitted by an agent/consultant/attorney, please attach a signed letter of consent from all owners of the affected property demonstrating that the application is submitted with consent. Is this request for a Comprehensive Plan amendment or a development code amendment?

Comprehensive Plan Amendment ☐

Development code Amendment ☒

Is this submission a suggestion for a Comprehensive Plan or Development Code amendment, or is this an application for a specific amendment? (Check one box below.)

Note: Applications are subject to applicable permit fees.

Suggestion ☒

Application ☐

DOCKET REQUEST NARRATIVE – REQUIRED FOR ALL APPLICATIONS

Please attach a separate narrative responding to all five (5) questions outlined below. Attach additional sheets, supporting maps, or graphics as necessary. Answer each question separately and reference the question number in your answer.

The application will be considered incomplete without a narrative answering all five questions.

1. Please provide a detailed description of the proposed amendment and a clear statement of what the proposed amendment is intended to accomplish.
 - a. Indicate the specific Comprehensive Plan Elements, maps, goals or policies or the specific sections of the development code you propose to amend.
 - b. If the proposal would amend existing Comprehensive Plan or development code text, please provide the proposal in underline/strikeout format with text to be added indicated by underlining and text to be deleted indicated with ~~strikeouts~~.
 - c. If a map amendment is proposed, please provide a map that clearly outlines the areas proposed to be changed.
2. How does the proposal benefit the community or the environment?
3. Explain how the request relates to the applicable decision criteria (MICC 19.15.250(D) for code amendments, and MICC 19.15.230(F) for Comprehensive Plan amendments, see below).
4. For Comprehensive plan amendments: Is the proposal consistent the Growth Management Act and King County Countywide Planning Policies?
5. For development code amendments: How does the proposal align with the goals of the City's Comprehensive Plan?

Please sign and date below acknowledging application requirements.

Signature: _____

Date: _____

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Please attach a separate narrative
responding to the above questions.

IV

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

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

Suggested Code Amendment:

I suggest eliminating the Gross Floor Area Incentives for ADU's in MICC 19.02.020(D)(3)(b).

Analysis:

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

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

The provision is also contrary to the council's temporary regulations relating to middle housing MICC 19.02.030 (B)(2) that allows two ADUs per lot.

Finally, too many houses are taking advantage of MICC 19.02.020 (D) (3) but do not comply with (D)(3)(b)(i) that requires that the additional gross floor area be used for a rental ADU instead using this provision to simply increase the allowable gross floor area for the main house.

D. *Gross floor area.*

1. Except as provided in subsection (D)(3) of this section, the gross floor area shall not exceed:
 - a. R-8.4: 5,000 square feet or 40 percent of the lot area, whichever is less.
 - b. R-9.6: 8,000 square feet or 40 percent of the lot area, whichever is less.
 - c. R-12: 10,000 square feet or 40 percent of the lot area, whichever is less.
 - d. R-15: 12,000 square feet or 40 percent of the lot area, whichever is less.
2. *Gross floor area calculation.* The gross floor area is the sum of the floor area(s) bounded by the exterior faces of each building on a residential lot, provided:
 - a. The gross floor area shall be 150 percent of the floor area of that portion of a room(s) with a ceiling height of 12 feet to 16 feet, measured from the floor surface to the ceiling.
 - b. The gross floor area shall be 200 percent of the floor area of that portion of a room(s) with a ceiling height of more than 16 feet, measured from the floor surface to the ceiling.
 - c. Staircases shall be counted as a single floor for the first two stories accessed by the staircase. For each additional story above two stories, the staircase shall count as a single floor area. For example, a staircase with a ten-foot by ten-foot dimension that accesses three stories shall be accounted as 200 square feet (100 square feet for the first two stories, and 100 square feet for the third story).
 - d. For the purposes of calculating allowable gross floor area, lots created in a subdivision through MICC 19.08.030(G), Optional standards for development, may apply the square footage from the open space tract to the lot area not to exceed the minimum square footage of the zone in which the lot is located.
3. *Allowances.*
 - a. The gross floor area for lots with an area of 7,500 square feet or less may be the lesser of 3,000 square feet or 45 percent of the lot area; or
 - b. If an attached accessory dwelling unit is proposed, the 40 percent allowed gross floor area may be increased by the lesser of five percentage points or the actual floor area of the proposed accessory dwelling unit, provided:
 - i. The allowed gross floor area of accessory buildings that are not partially or entirely used for an accessory dwelling unit shall not be increased through the use of this provision;
 - ii. The lot will contain an attached accessory dwelling unit associated with the application for a new or remodeled single-family home;
 - iii. The total gross floor area shall not exceed 4,500 square feet or 45 percent of the lot area, whichever is less; and
 - iv. In exchange for the increase in gross floor area, one off-street parking space shall be provided for the accessory dwelling unit in addition to any parking required under MICC 19.02.025(G) and/or MICC 19.02.030(B).

E. *Building height limit.*

1. *Maximum building height.* No building shall exceed 30 feet in height above the average building elevation to the highest point of the roof.

DOCKET REQUEST FORM

The following information is required. Failure to complete this form may result in the application being incomplete. Incomplete applications will not be considered during the annual docket process.

APPLICANT INFORMATION

Name: Daniel P. Thompson

Address: 7265 North Mercer Way, Mercer Island, WA 98040

Phone: 206-622-0670

Email: danielpthompson@hotmail.com

AGENT/CONSULTANT/ATTORNEY

Complete this section if the primary contact is different from the applicant.

Name:

Address:

Phone:

Email:

REQUEST INFORMATION

Important: A separate Docket Request Form must be completed for each docket item requested.

Is this request related to a specific property or zone?

Yes ☐

No ☒

If yes, please complete the following information:

Property Owner Name:

Address:

County Assessor's Parcel No.:

Parcel Size (sq. ft.):

If the application is submitted by an agent/consultant/attorney, please attach a signed letter of consent from all owners of the affected property demonstrating that the application is submitted with consent. Is this request for a Comprehensive Plan amendment or a development code amendment?

Comprehensive Plan Amendment ☐

Development code Amendment ☒

Is this submission a suggestion for a Comprehensive Plan or Development Code amendment, or is this an application for a specific amendment? (Check one box below.)

Note: Applications are subject to applicable permit fees.

Suggestion ☒

Application ☐

DOCKET REQUEST NARRATIVE – REQUIRED FOR ALL APPLICATIONS

Please attach a separate narrative responding to all five (5) questions outlined below. Attach additional sheets, supporting maps, or graphics as necessary. Answer each question separately and reference the question number in your answer.

The application will be considered incomplete without a narrative answering all five questions.

1. Please provide a detailed description of the proposed amendment and a clear statement of what the proposed amendment is intended to accomplish.
 - a. Indicate the specific Comprehensive Plan Elements, maps, goals or policies or the specific sections of the development code you propose to amend.
 - b. If the proposal would amend existing Comprehensive Plan or development code text, please provide the proposal in underline/strikeout format with text to be added indicated by underlining and text to be deleted indicated with ~~strikeouts~~.
 - c. If a map amendment is proposed, please provide a map that clearly outlines the areas proposed to be changed.
2. How does the proposal benefit the community or the environment?
3. Explain how the request relates to the applicable decision criteria (MICC 19.15.250(D) for code amendments, and MICC 19.15.230(F) for Comprehensive Plan amendments, see below).
4. For Comprehensive plan amendments: Is the proposal consistent the Growth Management Act and King County Countywide Planning Policies?
5. For development code amendments: How does the proposal align with the goals of the City's Comprehensive Plan?

Please sign and date below acknowledging application requirements.

Signature: _____

Date: _____

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Please attach a separate narrative
responding to the above questions.

V

SUGGESTION FOR RESIDENTIAL CODE AMENDMENT

MICC 19.02.020 Residential Development Standards

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

Suggested Code Amendment:

I suggest that MICC 19.02.020(G)(2)(b) should be amended due to the adoption of Ordinance No. 24C-08. MICC 19.02.020(G)(2)(a) states: "Each single-family dwelling with a gross floor area of 3,000 square feet or more shall have at least three parking spaces sufficient in size to park a passenger automobile." MICC 19.02.020(G)(2)(b) states: "Each single-family dwelling with a gross floor area of less than 3,000 square feet shall have at least two parking spaces sufficient in size to park a passenger automobile." However, Ordinance No. 24C-08 eliminates requirements for covered parking spaces. MICC 19.02.020(G)(2)(b) should require three onsite parking spaces per lot, covered or uncovered for houses 2,000 sf or larger.

Analysis:

During the Residential Development Code rewrite, parking requirements for residential houses were reduced based upon the square footage of the house pursuant to MICC 19.02.020(G)(2)(a) and (b). This was a very contentious amendment. A house less than 3,000 sf was required to have only one covered parking space.

Recently, the council amended 19.02.020(G)(2)(a) and (b) to eliminate requirements for covered parking spaces in Ordinance No. 24C-08 to comply with changes to state law. A copy of Ordinance No. 24C-08 is attached to this suggested amendment.

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

Ancillary issues from reducing parking requirements for houses 3,000 sf and below include:

1. Mercer Island effectively has no Intra-Island transit. The 201 that circled the Mercers was eliminated because of low ridership, in part because it is very difficult for citizens to even get up their steep drives to the Mercers, and the 201 was very slow. Reducing onsite parking requirements moves these cars to the public streets.
2. The purpose of 19.02.020(G)(2)(b) was to allow more GFA for smaller houses by reducing covered parking spaces that count toward GFAR limits. Ordinance 24C-08 eliminates the requirement for covered parking spaces so 19.02.020(G)(2)(b) is no longer necessary or relevant.

- a. Each single-family dwelling with a gross floor area of 3,000 square feet or more shall have at least three parking spaces sufficient in size to park a passenger automobile.
 - b. Each single family dwelling with a gross floor area of less than 3,000 square feet shall have at least two parking spaces sufficient in size to park a passenger automobile.
3. No construction or remodel shall reduce the number of parking spaces on the lot below the number existing prior to the project unless the reduced parking still satisfies the requirements set out above.
 4. Except as otherwise provided in this chapter, each lot shall provide parking deemed sufficient by the code official for the use occurring on the lot; provided, any lot that contains ten or more parking spaces shall also meet the parking lot requirements set out in appendix A of this development code, except as provided below.
 5. Garages and carports are not required in order to meet minimum parking requirements for residential development.
 6. Parking spaces that count towards minimum parking requirements may be enclosed or unenclosed.
 7. Parking spaces in tandem shall count towards meeting minimum parking requirements at a rate of one space for every 20 linear feet with any necessary provisions for turning radius. For purposes of this subsection, "tandem" is defined as having two or more vehicles, one in front of or behind the others with a single means of ingress and egress.
 8. Existence of legally nonconforming gravel surfacing in existing designated parking areas may not be a reason for prohibiting utilization of existing space in the parking area to meet parking standards, up to a maximum of six parking spaces.
 9. Parking spaces are not required to exceed eight feet by 20 feet, except for required parking for people with disabilities.
 10. Required off-street parking shall not be a condition of permitting a residential project if compliance with tree retention pursuant to Chapter 19.10 MICC would otherwise make a proposed residential development or redevelopment infeasible.
 11. Parking spaces that consist of grass block pavers may count toward minimum parking requirements.
 12. Existing parking spaces that do not conform to the requirements of this section by June 6, 2024 are not required to be modified or resized, except for compliance with the Americans with Disabilities Act. Existing paved parking lots are not required to change the size of existing parking spaces during resurfacing if doing so will be more costly or require significant reconfiguration of the parking space locations.
- H. *Easements.* Easements shall remain unobstructed.
1. *Vehicular access easements.* No structures shall be constructed on or over any vehicular access easement. A minimum five-foot yard setback from the edge of any easement that affords or could afford vehicular access to a property is required for all structures; provided, that improvements such as gates, fences, rockeries, retaining walls and landscaping may be installed within the five-foot yard setback so long as such improvements do not interfere with emergency vehicle access or sight distance for vehicles and pedestrians.
 2. *Utility and other easements.* No structure shall be constructed on or over any easement for water, sewer, storm drainage, utilities, trail or other public purposes unless it is permitted within the language of the easement or is mutually agreed in writing between the grantee and grantor of the easement.
- I. *Large lots.* The intent of this section is to ensure that the construction of a single-family dwelling on a large lot does not preclude compliance with applicable standards related to subdivision or short subdivision of the

**CITY OF MERCER ISLAND
ORDINANCE NO. 24C-08**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,
ADOPTING INTERIM ZONING REGULATIONS FOR RESIDENTIAL PARKING
IN RESPONSE TO SENATE BILL 6015; ADOPTING A WORK PLAN;
DECLARING AN EMERGENCY; PROVIDING FOR SEVERABILITY, AND
ESTABLISHING AN IMMEDIATE EFFECTIVE DATE.**

WHEREAS, the Legislature of the State of Washington passed Substitute Senate Bill 6015, effective June 6, 2024, adopting minimum parking requirements for residential development by adding a new section to chapter 36.70A RCW; and

WHEREAS, the City of Mercer Island must amend several code sections to ensure that the Mercer Island City Code (MICC) is consistent with state requirements for residential parking configurations; and

WHEREAS, the City of Mercer Island must adopt regulations consistent with state requirements for residential parking configurations; and

WHEREAS, the City is authorized under RCW 35A.63.220 and 36.70A.390 to pass an interim zoning and official control ordinance for up to one year, provided a work plan is developed for related studies providing for such a longer period; and

WHEREAS, the City Council held a public hearing on June 4, 2024 which satisfies the requirements on RCW 35A.63.220 and RCW 36.70A.390; and

WHEREAS, to be compliant with Substitute Senate Bill 6015 and prevent the potential harm to public health, safety, property, and welfare resulting from the MICC being noncompliant with state requirements, the City Council finds that immediate action is necessary to adopt the interim zoning regulations in this ordinance; and

WHEREAS, this ordinance, as an interim zoning and official control ordinance, is not subject to referendum;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Whereas Clauses Adopted. The "Whereas Clauses" set forth in the recital of this ordinance are adopted as the findings of fact and/or conclusions of law of the City Council as support for passing this ordinance.

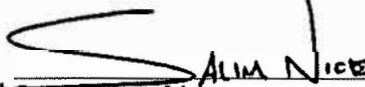
Section 2. MICC 19.02.020 Amended. MICC Subsection 19.02.020 is amended as shown on the attached Exhibit A.

Section 3. MICC 19.03.020 Amended. MICC Subsection 19.03.020 is amended as shown on the attached Exhibit B.

- Section 4. MICC 19.11.130 Amended.** MICC Subsection 19.11.130 is amended as shown on the attached Exhibit C.
- Section 5. MICC 19.12.050 Amended.** MICC Subsection 19.12.050 is amended as shown on the attached Exhibit D.
- Section 6. MICC Title 19, Appendix A, Amended.** MICC Title 19, Appendix A is amended as shown on the attached Exhibit E.
- Section 7. Work Plan adopted.** The Work Plan attached as Exhibit F is adopted pursuant to RCW 35A.63.220 and RCW 36.70A.390 and indicates the City's plans for considering permanent regulations during the pendency of the interim regulations.
- Section 8. Duration of Interim Zoning and Official Controls.** The interim zoning and official controls approved by this ordinance shall continue in effect for an initial period of one year from the effective date, unless repealed, extended or modified by the City Council pursuant to RCW 35A.63.220 and RCW 36.70A.390.
- Section 9. Severability.** If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property, or circumstance, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance or its application to any other person, property, or circumstance.
- Section 10. Effective Date.** The City Council hereby finds and declares that the effective date in SB 6015 causes an emergency which necessitates that this ordinance become effective immediately in order to preserve the public health, safety, and welfare. This ordinance shall take effect and be in full force and effect immediately upon passage, as set forth herein, so long as it is approved by a majority plus one of the entire membership of the Council, as required by RCW 35A.13.190.

PASSED BY AT LEAST A MAJORITY PLUS ONE OF THE WHOLE MEMBERSHIP OF THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS MEETING ON JUNE 4, 2024.

CITY OF MERCER ISLAND


Salim Nice, Mayor

APPROVED AS TO FORM:

s/Bio Park
Bio Park, City Attorney

ATTEST:


Andrea Larson, City Clerk

Date of Publication: June 12, 2024

single-family home shall not incorporate any weeds identified on the King County Noxious Weed list, as amended. Provided, that removal shall not be required if the removal will result in increased slope instability or risk of landslide or erosion.

- e. *Allowed adjustments.* A one-time reduction in required landscaping area and an increase in the maximum lot coverage are allowed, provided:
 - i. The total reduction in the required landscaping area shall not exceed five percentage points, and the total increase in the maximum lot coverage shall not exceed five percentage points; and
 - ii. The reduction in required landscaping area and increase in maximum lot coverage are associated with:
 - (a) A development proposal that will result in a single-story single-family dwelling with a wheelchair accessible entry path, and may also include a single-story accessory building; or
 - (b) A development proposal on a flag lot that, after optimizing driveway routing and minimizing driveway width, requires a driveway that occupies more than 25 percent of the otherwise allowed lot coverage area. The allowed reduction in the required landscaping area and increase in maximum lot coverage shall not exceed five percent, or the area of the driveway in excess of 25 percent of the lot coverage, whichever is less.

For example, a development proposal with a driveway that occupies 27 percent of the otherwise allowed lot coverage may increase the total lot coverage by two percent; and

- iii. A recorded notice on title, covenant, easement, or other documentation in a form approved by the city shall be required. The notice on title or other documentation shall describe the basis for the reduced landscaping area and increased lot coverage.

G. *Parking.*

1. *Applicability.* Subsection (G)(2) of this section shall apply to all new construction and remodels where more than 40 percent of the length of the structure's external walls have been intentionally structurally altered, except as provided below.
2. *Parking required.*
 - a. Each single-family dwelling with a gross floor area of 3,000 square feet or more shall have at least three parking spaces sufficient in size to park a passenger automobile; ~~provided, at least two of the stalls shall be covered stalls.~~
 - b. Each single-family dwelling with a gross floor area of less than 3,000 square feet shall have at least two parking spaces sufficient in size to park a passenger automobile; ~~provided, at least one of the stalls shall be a covered stall.~~
3. No construction or remodel shall reduce the number of parking spaces on the lot below the number existing prior to the project unless the reduced parking still satisfies the requirements set out above.
4. Except as otherwise provided in this chapter, each lot shall provide parking deemed sufficient by the code official for the use occurring on the lot; provided, any lot that contains ten or more parking spaces shall also meet the parking lot requirements set out in appendix A of this development code, except as provided below.
5. Garages and carports are not required in order to meet minimum parking requirements for residential development.
6. Parking spaces that count towards minimum parking requirements may be enclosed or unenclosed.

7. Parking spaces in tandem shall count towards meeting minimum parking requirements at a rate of one space for every 20 linear feet with any necessary provisions for turning radius. For purposes of this subsection, "tandem" is defined as having two or more vehicles, one in front of or behind the others with a single means of ingress and egress.
8. Existence of legally nonconforming gravel surfacing in existing designated parking areas may not be a reason for prohibiting utilization of existing space in the parking area to meet parking standards, up to a maximum of six parking spaces.
9. Parking spaces are not required to exceed eight feet by 20 feet, except for required parking for people with disabilities.
10. Required off-street parking shall not be a condition of permitting a residential project if compliance with tree retention pursuant to Chapter 19.10 MICC would otherwise make a proposed residential development or redevelopment infeasible.
11. Parking spaces that consist of grass block pavers may count toward minimum parking requirements.
12. Existing parking spaces that do not conform to the requirements of this section by June 6, 2024 are not required to be modified or resized, except for compliance with the Americans with Disabilities Act. Existing paved parking lots are not required to change the size of existing parking spaces during resurfacing if doing so will be more costly or require significant reconfiguration of the parking space locations.

H. *Easements.* Easements shall remain unobstructed.

1. *Vehicular access easements.* No structures shall be constructed on or over any vehicular access easement. A minimum five-foot yard setback from the edge of any easement that affords or could afford vehicular access to a property is required for all structures; provided, that improvements such as gates, fences, rockeries, retaining walls and landscaping may be installed within the five-foot yard setback so long as such improvements do not interfere with emergency vehicle access or sight distance for vehicles and pedestrians.
2. *Utility and other easements.* No structure shall be constructed on or over any easement for water, sewer, storm drainage, utilities, trail or other public purposes unless it is permitted within the language of the easement or is mutually agreed in writing between the grantee and grantor of the easement.

I. *Large lots.* The intent of this section is to ensure that the construction of a single-family dwelling on a large lot does not preclude compliance with applicable standards related to subdivision or short subdivision of the large lot. Prior to approval of a new single-family dwelling and associated site improvements, accessory buildings, and accessory structures on large lots, the applicant shall complete one of the following:

1. *Design for future subdivision.* The proposed site design that shall accommodate potential future subdivision of the lot as follows:
 - a. The proposed site design shall comply with the applicable design requirements of chapters 19.08, Subdivision, 19.09, Development, and 19.10, Trees, MICC.
 - b. The proposed site design shall not result in a circumstance that would require the removal of trees identified for retention, as part of a future subdivision.
 - c. The proposed site design shall not result in a circumstance that would require modifications to wetlands, watercourses, and associated buffers as part of a future subdivision.
 - d. Approval of a site design that could accommodate a potential future subdivision does not guarantee approval of such future subdivision, nor does it confer or vest any rights to a future subdivision.

Docketing Criteria Analysis

Item 2.

Item No.	Criterion 1: Appropriately Addressed by Comp Plan or Code	Criterion 2: Necessary Staff and Budget Resources can be Provided by City or Applicant	Criterion 3: Does Not Raise Issues Related to Ongoing Work Program Item	Criterion 4: Serves Public Interest by Implementing Comp Plan Goals or Supports City's Vision	Criterion 5: Has Not Been Considered by the City Council in the Last 3 Years			
25-1	✓	↓	? ¹	✗ ²	✓			
25-2	? ³	↓	✓	✓	✓			
25-3	? ³	↓	✓	✓	✓			
25-4	✓	↓	✓	✗ ⁴	✓			
25-5	✓	↓	✓	✓	✓			
25-6	✓	↓	✓	✓	✓			
25-7	✓	↓	✓	✓	✓			
25-8	✓	↓	✓	✓	✓			
25-9	✓	↓	✓	✓	✓			
✓	The proposal could meet this criterion		? ¹	It is unclear or debatable whether the proposal could meet this criterion		✗	The proposal does not meet this criterion	
↑	The proposal is a high priority for staff/budget resources		▬	The proposal is a moderate priority for staff/budget resources		↓	The proposal is a low priority for staff/budget resources	

¹ Potential issues may arise during implementation of the Growth Management Hearings Board Final Decision related to identifying housing capacity within the Transit Center area.

² This amendment is not consistent with the "Town Center" Comprehensive Plan designation for this property. A Comprehensive Plan amendment would be required.

³ These amendments seek to constrain the City's ability to approve a CUP on residentially zoned properties and grant reclassifications of any single-family residentially zoned property. Staff is unsure if a Comprehensive Plan amendment or development code amendment is the appropriate method for achieving the goals of this proposal.

Docket Progress Tracker

C	Consider adding to the Docket
Y	Yes, add to the Docket
N	No, do not add to the Docket

	Reference No.	Permit No.	Title	PC Rec.	CC Decision	AB	Ord No.	Notes
2020 Proposals (2021 Docket) – Adopted December 1, 2020	20-1	CPA21-001	Correct Comp Plan Land Use Map	Y	Y	5971	21-26	Complete, review of 20-1 and 20-8 was consolidated under CPA21-001
	20-2	ZTR21-004 CPA22-001	Town Center Commercial	Y	Y	6102 6172	22C-09 22C-17	Complete
	20-3	ZTR21-007	Transportation Impact Fee Rate Update	Y	Y	6092	22C-06	Complete
		ZTR21-008	Park Impact Fee Rate Update	Y	Y	6093	22C-07	Complete
	20-4	ZTR19-003	Sign Regulations	Y	Y	5952	21C-21	Complete
	20-5	ZTR19-004	Wireless/Small Cell Regulations	Y	Y	5929	21C-17	Complete
	20-6	ZTR21-001	Implementation of Comp Plan Amendments	N	Y	5866	21C-05	Complete
	20-7	ZTR21-002	Conditional Use Permit Regulations	N	Y	5867	21C-06	Complete
	20-8	CPA21-001	Correct Comp Plan Land Use Map	N	Y	5971	21-26	Complete, review of 20-1 and 20-8 was consolidated under CPA21-001
	20-9	ZTR21-005	Noise and Lighting	C	Y	6019	–	CC first reading completed, elected not to take further action
2021 Proposals (2022 Docket) – Adopted December 7, 2021	20-15	ZTR21-006	Land Use Review Type and Noticing	N	Y	6074	22C-05	Complete
	21-4	ZTR22-001	Amend Business Zone to Allow Schools	Y	Y	6270	23C-08	Complete
	21-14	ZTR21-003	Remove Occupancy Limitations	Y	Y	6146	22C-11	Complete
	21-15	ZTR21-003	Allow 8 People in Adult Family Homes	Y	Y	6146	22C-11	Complete
	21-16	ZTR22-003	Transitional and Permanent Supportive Housing	Y	Y	(TBD)	(TBD)	Interim regulations: Ordinances 23C-11 ; 24C-03 ; 25C-05 ; 25-15 EXPIRES APRIL 1, 2026

2022 Proposals (2023 Docket) – Adopted December 6, 2022	Reference No.	Permit No.	Title	PC Rec.	CC Decision	AB	Ord No.	Notes
	22-1	ZTR23-001	Allow SCUPs for Marina and Swim Facilities	Y	Y	6340	23C-15	Complete
2023 Proposals (2024 Docket) – Adopted December 5, 2023	23-7	TBD	Standards for Government Services Use in Town Center	Y	Y	6382		<i>Will be scheduled for review in 2027 or later</i>
	23-8	ZTR25-004	State Mandated Amendments Related to Permit Timelines (SB5290)	Y	Y			Omnibus – City Council expected adoption on November 18, 2025
		ZTR25-004	State Mandated Amendments Related to Design Review (HB1293)					Omnibus – City Council expected adoption on November 18, 2025
			State Mandated Amendments Related to SEPA (SB5412)					<i>Will be scheduled for review in 2027 or later</i>
	23-9		State Mandated Amendments Related to Middle Housing (HB1110)	Y	Y	6627	25C-02	Interim regulations effective on June 30, 2025
			State Mandated Amendments Related to ADUs (HB1337)			6627	25C-02	Interim regulations effective on June 30, 2025
		ZTR25-004	State Mandated Amendments Related to Conversion of Existing Buildings to Residential Units (HB1042)					Omnibus – City Council expected adoption on November 18, 2025
	23-10	ZTR25-001	Temporary Use Regulations (City proposal)	Y	Y			City Council expected adoption of permanent regulations on November 18, 2025
	23-14	TBD	Downhill Façade Height on Sloping Lot	Y	Y	6382		<i>Will be scheduled for review in 2027 or later</i>
	23-15	ZTR23-002 (Interim)	Temporary Use or Structure Permits (Mercer Island Country Club proposal)					City Council expected adoption on November 18, 2025
	23-18	TBD	Redesignate the SJCC and MICC properties as Commercial-Office on the Comprehensive Land Use Map;	Y	Y	6389		<i>Pending application submittals</i>

2024 Proposals (2025 Docket) – Adopted December 3, 2024	Reference No.	Permit No.	Title	PC Rec.	CC Decision	AB	Ord No.	Notes
			Rezone the JCC Property to Commercial-Office					
	24-1	TBD	Exterior Alterations of Non-Single-Family Nonconforming Structures Outside the Town Center	Y	Y	6577		Will be scheduled for review in 2027 or later
	24-8	TBD	Private Hedge Code in Title 19 MICC	Y	Y	6577		Will be scheduled for review in 2027 or later
	24-15	TBD	Limit Height of Hedges Within Side Yards	Y	Y	6577		Will be scheduled for review in 2027 or later

Item 2.

Items Proposed – Not Docketed

	Reference No.	Title	PC Rec.	CC Decision	Notes
2020	20-10	Prioritization of the Use of Public ROW	N	N	
	20-11	RDS: GFA for Clerestory Space	N	N	
	20-12	RDS: GFA for Covered Porches and Decks	N	N	
	20-13	RDS: Garages Within 10 ft of Front Property Line	N	N	
	20-14	RDS: GFA for ADUs on Small Lots	N	N	
	20-16	RDS: Parking Requirements for Smaller Homes	N	N	
2021	21-1	Increase Tree Retention to 50%	Y	N	
	21-2	New Impact Fee for Ped/Bike	N	N	
	21-3	Recategorize Intersections in Transportation Element	Y	N	
	21-5	Allow Additions to Nonconforming Homes in Critical Areas	C	N	
	21-6	Require Electric Heating	C	N	
	21-7	RDS: GFA for Clerestory Space	N	N	
	21-8	RDS: GFA for Covered Porches and Decks	N	N	
	21-9	RDS: Garages Within 10 ft of Front Property Line	N	N	
	21-10	RDS: GFA for ADUs on Small Lots	N	N	
	21-11	Land Use Review Types and Noticing	N	N	Docketed in 2020 – See 20-15 and ZTR21-006

						Item 2.
	Reference No.	Title	PC Rec.	CC Decision	Notes	
	21-12	RDS: Parking Requirements for Smaller Homes	N	N		
	21-13	Bike/Ped Update Schedule	Y	N		
2022	22-2	RDS: GFA for Clerestory Space	N	N		
	22-3	RDS: GFA for Covered Porches and Decks	N	N		
	22-4	RDS: Garages Within 10 ft of Front Property Line	N	N		
	22-5	RDS: GFA for ADUs on Small Lots	N	N		
	22-6	RDS: Parking Requirements for Smaller Homes	N	N		
	22-7	Repeal Piped Watercourse Regulations	Y	N		
	22-8	Amend Docketing Criteria	Y	N		
	22-9	Town Center Commercial Height Limit	–	–	Withdrawn prior to PC consideration	
	22-10	Administrative Code Interpretations	–	–	Withdrawn prior to PC consideration	
	22-11	Update Legal Lot Revisions	–	–	Withdrawn prior to PC consideration	
	22-12	Temporary Use Regulations	–	–	Withdrawn prior to PC consideration	
	23-1	RDS: GFA for Clerestory Space	N	N		
2023	23-2	RDS: GFA for Covered Porches and Decks	N	N		
	23-3	RDS: Garages Within 10 ft of Front Property Line	N	N		
	23-4	RDS: GFA for ADUs on Small Lots	N	N		
	23-5	RDS: Parking Requirements for Smaller Homes	N	N		
	23-6	Downhill Façade Height on Sloping Lot (City Proposed)	N	N		
	23-11	<i>proposal withdrawn</i>	–	–	Withdrawn prior to PC consideration	
	23-12	Prohibit Rezoning of Single-Family Property	N	N		
	23-13	Prohibit Non-Residential Structures/Uses from Obtaining a Rezone	N	N		
	23-16	Setbacks for Piped Watercourses	Y	N		
	23-17	Parking for Residential Units Outside Town Center	N	N		
2024	24-2	Comments on Open Space and Housing Elements of the Draft 2044 Comprehensive Plan	N	N		
	24-3	Prohibit Rezoning of Single-Family Property	N	N		
	24-4	Prohibit Non-Residential Structures/Uses from Obtaining a Rezone	N	N		
	24-5	Prohibit CUP on a Residential Property For Any Use on a Separate Property in Another Zone	N	N		
	24-6	Establish Criteria to Determine Illegal, Site-Specific Rezone	N	N		
	24-7	Downhill Façade on a Sloping Lot	N	N	Docketed in 2023 – See 23-6 and 23-14	
	24-9	Parking Requirements for Smaller Homes	N	N		
	24-10	RDS: GFA for Clerestory Space	N	N		

Item 2.

Reference No.	Title	PC Rec.	CC Decision	Notes
24-11	RDS: GFA for Covered Porches and Decks	N	N	
24-12	RDS: Garages Within 10 ft of Front Property Line	N	N	
24-13	RDS: GFA for ADUs on Small Lots	N	N	
24-14	RDS: Parking Requirements for Smaller Homes	N	N	