



PLANNING COMMISSION CITY OF MERCER ISLAND

PCB 24-18
October 23, 2024
Regular Business

AGENDA BILL INFORMATION

TITLE:	PCB 24-18: 2025 Annual Docket - Review Proposed Amendments 1 - 15	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Recommendation
RECOMMENDED ACTION:	Review each docket proposal and prepare a recommendation to the City Council on the docket proposals to include in the final docket.	

STAFF:	Alison Van Gorp, CPD Deputy Director Molly McGuire, Senior Planner	
EXHIBITS:	1. 2025 Docket Proposal Summary 2. Public Docket Applications 3. Comprehensive Plan and Development Code Docket Progress Report 4. Docketing Criteria Analysis Matrix	

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(D) MICC:

“D. Docketing of Proposed Amendments. For purposes 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 [Weekly Permit Bulletin](#) and on the City website between August 5 and September 2, 2024, as well as on August 7 and September 4, 2024 in the Mercer Island Reporter. Fifteen code amendment proposals were received from the public. The proposals are summarized in Exhibit 1 and described below. The original submissions from community members are included in Exhibit 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 will meet 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 outlined in [MICC 19.15.230\(E\)](#), includes a requirement that the City “can provide resources, including staff and budget, necessary to review the proposal”. As was 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 2025, which are summarized below. 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 3). 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 2025 Annual Docket:
 - a. **Docket Reference No. 23-6:** 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.
 - b. **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.
 - c. **Docket Reference No. 23-8:** Amend several chapters in Title 19 MICC in response to new requirements from the 2023 state legislative session. This includes amendments to the administrative code to implement new permit timelines (to comply with SB 5290), design standards and design review procedures to implement clear and objective review standards (to comply with HB 1293) and SEPA requirements will also be considered (per SB 5412), initiated by the City of Mercer Island.
 - d. **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. This work will begin as the periodic update of the Comprehensive Plan concludes in late 2024 and must be completed by June 30, 2025.
 - e. **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. **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. **Proposed Ordinance No. 24C-17** Interim Regulations Related to Permit Processing in Chapters 19.15 and 19.16 MICC: First reading is scheduled for November 19, 2024, and second reading is scheduled for December 3, 2024. If adopted at the December 3, 2024, City Council Meeting, permanent regulations to replace these interim regulations would need to be adopted prior to December 15, 2025.
 - b. [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 will expire on April 1, 2025, and will need to be renewed or replaced prior to March 31, 2025.
 - c. [Ordinance No. 24C-08](#) Emergency Ordinance to Adopt Interim Residential Parking Regulations Responsive to SB 6015: These interim regulations will expire on June 3, 2025, and will need to be renewed or replaced prior to June 2, 2025.

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- d. [Ordinance No. 24C-07](#) Interim Regulations in MICC Title 19 for Temporary Uses (Outdoor Dining) and Structures: These interim regulations will expire on June 3, 2025, and will need to be renewed or replaced prior to June 2, 2025.

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 2025.

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 six months or more to complete. Thus, if new items are added to the docket and the CPD work plan for consideration in 2025, it is very likely that they would need to be carried over into 2026 or beyond.

The City has provided staff comments and a rough prioritization on each of the proposed amendments. These prioritization ratings are not intended to reflect on the quality or merits of the proposal. Rather, the ratings 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. In determining this prioritization, staff considered whether foregoing the amendment in 2025 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 review each docket proposal and prepare a recommendation to the City Council on which proposals should be included in the final docket. The Planning Commission should consider the criteria in [MICC 19.15.230 \(E\)](#), provided on page 2, 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 CPD staff and Planning Commission workloads related to the recommended items, especially considering existing work plan items already planned for 2025 (outlined on page 3 and 4).

Each proponent will have up to three minutes per proposal to present. Staff will also have up to three minutes to present on the proposed amendments. The Commission will then review each of the proposed amendments, consider the decision criteria outlined in [MICC 19.15.230 \(E\)](#), and make a motion to recommend to City Council whether or not the proposal should be included in the final 2025 docket.

PROPOSED AMENDMENTS

The proposed amendments are summarized in Exhibit 1 and starting on page 5. The docket request applications submitted by community members are included in Exhibit 2. Exhibit 4 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 1 – Exhibit 2, Page 1](#)

Proposed By: Jessica Clawson

Comprehensive Plan or Code Section: [MICC 19.01.050\(D\)\(3\)\(b\)](#), Intentional exterior alteration of enlargement of nonconforming structures other than single-family or in Town Center and MICC 19.16.010, Definitions.

Proposal Summary: This amendment would 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.

Staff Comments: Under the current code, if there is an intentional exterior alteration or enlargement of a structure other than single-family outside of the Town Center over any three-year period that incurs construction costs in excess of 50 percent of the structure’s current King County assessed value as of the time of the initial application for such work is submitted, legal nonconforming status of the structure would be lost and the structure and site shall be required to come into conformance with all current code requirements, including design review. The proposed amendment would allow exterior alterations without enlargements to take place without contributing toward the 50 percent threshold of the structure’s King County assessed value, allowing existing nonconforming non-single-family structures to make necessary updates and remodel without losing their nonconforming status and being subject to the potentially restrictive standards in zones outside of the Town Center. The proposed amendment also adds a definition of “enlargement” to the definitions section, which currently does not exist.

Priority Level: Low priority.

Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

[Proposed Amendment 2 – Exhibit 2, Page 25](#)

Proposed By: Sarah Fletcher

Comprehensive Plan or Code Section: Open Space and Housing elements of the draft Mercer Island 2024-2044 Comprehensive Plan.

Proposal Summary: The proposal consists of various comments on the Open Space and Housing elements of the draft 2024-2044 Comprehensive Plan.

Staff Comments: Following review of the proposal, staff believe that a docket request is not the correct process for City Council to consider the submitted comments and concerns regarding the draft 2024-2044 Comprehensive Plan. The issues raised in the proposal are already under consideration by the City Council and the proposal is ineligible for the final docket per [MICC 19.15.230\(E\)\(1\)\(b\)](#) criterion three.

Priority Level: Low priority.

This proposal should be considered as a public comment on the draft 2024-2044 Comprehensive Plan, and will be included as such in the agenda packet for City Council review at the November 4, 2024 City Council meeting.

[Proposed Amendment 3 – Exhibit 2, Page 40](#)

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 single-family, residentially zoned property from being rezoned to any other zone.

Staff Comments: This amendment seeks to constrain the City’s ability to rezone residential property. 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, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 Annual Docket.

Priority Level: Low priority.

Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

[Proposed Amendment 4 – Exhibit 2, Page 73](#)

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.

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, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 Annual Docket.

Priority Level: Low priority.

Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

[Proposed Amendment 5 – Exhibit 2, Page 108](#)

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.

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.

Priority Level: Low priority.

Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

[Proposed Amendment 6 – Exhibit 2, Page 111](#)

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 provide more definition to what does and does not constitute an illegal, site-specific rezone.

Staff Comments: This amendment provides that a reclassification is not an illegal, site-specific rezone if the applicant demonstrates that conditions have substantially changed since original zone adoption and that the rezone bears a substantial relationship to the public health, safety, morals or welfare. Staff note that the proposal does not define an illegal, site-specific rezone. Rather, it provides some broad definitions of the

conditions under which a rezone is acceptable. If docketed, staff recommends a study on the appropriate method for achieving the goals of this proposal.

Priority Level: Low priority.

Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

[Proposed Amendment 7 – Exhibit 2, Page 122](#)

Proposed By: Daniel Grove

Comprehensive Plan or Code Section: [MICC 19.16.010](#), Definitions and [MICC 19.02.020\(E\)](#), Building height limit.

Proposal Summary: This amendment would define “façade” and amend the maximum downhill façade height to include the ability for a building face to be articulated or divided into multiple facades.

Staff Comments: Amendments to the maximum downhill façade height were included in the 2024 Annual Docket. These changes remain in the existing CPD work plan and work is expected to commence as resources allow. The issues raised in the proposal are already under consideration by the City and the proposal is ineligible for the final docket per [MICC 19.15.230\(E\)\(1\)\(b\)](#) criterion three.

Priority Level: Moderate priority.

This item, or similar, is included in the existing CPD work plan.

[Proposed Amendment 8 – Exhibit 2, Page 126](#)

Proposed By: Jeff Haley

Comprehensive Plan or Code Section: Title 19 MICC, Unified Land Development Code.

Proposal Summary: This amendment would add a new chapter to Title 19 MICC for a Private Hedge Code. The proposed amendment would provide a voluntary mechanism for the resolution of disputes involving the height of hedges.

Staff Comments: This amendment seeks to provide the City with standards for resolving disputes regarding private hedges. It is unclear whether the development code is the appropriate mechanism for regulating hedge height as a nuisance and establishing a process for resolving disputes between property owners. If docketed, staff recommends a study on the appropriate method for achieving the goals of this proposal.

Priority Level: Low priority.

Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

[Proposed Amendment 9 – Exhibit 2, Page 167](#)

Proposed By: Adam Ragheb

Comprehensive Plan or Code Section: MICC 19.02.020(G)(2), Parking required.

Proposal Summary: This amendment would require that each residential dwelling unit in a residential zone, with a GFA of less than 3,000 square feet, shall have at least two parking spaces. Any residential unit with a GFA of more than 3,000 square feet shall be treated the same as a single-family residence and subject to existing requirements in [MICC 19.02.020\(G\)\(2\)\(a\)](#).

Staff Comments: Recent state legislation will require the City to amend the residential development standards in [MICC 19.02](#) to allow middle housing types including duplexes, triplexes, townhomes, etc. by June 30, 2025. One of the provisions of this legislation limits the amount of parking jurisdictions may require for middle housing in certain locations and on certain lot sizes. This proposal is likely not in compliance with these

legislative requirements. If docketed, staff recommends a study on the appropriate method for achieving the goals of this proposal. A similar proposal has previously been suggested for the docket. In 2023, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 Annual Docket.

Priority Level: Low priority.

Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

[Proposed Amendment 10 – Exhibit 2, Page 174](#)

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).

Staff Comments: The applicant submitted this proposal during the 2020, 2021, 2022, and 2023 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, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 Annual Docket.

Priority Level: Moderate priority.

[Proposed Amendment 11 – Exhibit 2, Page 178](#)

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.

Staff Comments: The applicant submitted this proposal during the 2020, 2021, 2022, and 2023 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, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 Annual Docket.

Priority Level: Moderate priority.

[Proposed Amendment 12 – Exhibit 2, Page 182](#)

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\(C\)\(2\)\(a\)\(iii\)](#).

Staff Comments: The applicant submitted this proposal during the 2020, 2021, 2022, and 2023 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, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 Annual Docket.

Priority Level: Moderate priority.

[Proposed Amendment 13 – Exhibit 2, Page 185](#)

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.

Staff Comments: The applicant submitted this proposal during the 2020, 2021, 2022, and 2023 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, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 Annual Docket.

Priority Level: Moderate priority.

[Proposed Amendment 14 – Exhibit 2, Page 188](#)

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.

Staff Comments: The applicant submitted similar proposals during the 2020, 2021, 2022, and 2023 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, the Planning Commission recommended not to docket this proposal, and the City Council elected not to add it to the 2024 Annual Docket.

Priority Level: Moderate priority.

[Proposed Amendment 15 – Exhibit 2, Page 196](#)

Proposed By: Joe White

Comprehensive Plan or Code Section: [MICC 19.02.020\(3\)](#), Intrusions into required yards and [MICC 19.02.050](#), Fences, retaining walls, and rockeries.

Proposal Summary: This amendment would limit the height of hedges to 12 feet within side yard setbacks unless mutually agreed upon by adjoining property owners.

Staff Comments: This amendment is similar to Proposed Amendment 8; however, it would not be a voluntary mechanism and would not be used to resolve disputes between property owners. This amendment sets standards for hedge heights within side yard setbacks that may be exceeded when mutually agreed upon by

adjoining property owners. If docketed, staff recommends a study on the appropriate method for achieving the goals of this proposal.

Priority Level: Low priority.

Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it may need to be carried over to a future year for review.

NEXT STEPS

The City Council will review the Planning Commission and staff recommendations at its November 19, 2024, meeting and set the final docket for 2025.

RECOMMENDED ACTION

Review each docket proposal and prepare a recommendation to the City Council on the docket proposals to include in the final docket.