
CITY OF MERCER ISLAND

COMMUNITY PLANNING & DEVELOPMENT

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PLANNING COMMISSION

To: City Council

From: Michael Murphy, Planning Commission Vice Chair

Date: June 7, 2023

RE: ZTR23-001 Amendments to Shoreline Master Program

ATTACHMENTS: A. Planning Commission Recommended Amendments to MICC 19.13 Shoreline Master Program and 19.16 Definitions

On behalf of the Planning Commission, I am pleased to present our recommendation on ZTR23-001, the amendments to the Shoreline Master Program to add marinas as a new use.

An amendment of the Shoreline Master Program (SMP) to allow expanded boating facilities to serve clubs and organizations was docketed in 2022. The docket request was submitted by the Mercer Island Beach Club (MIBC) to allow them to replace and improve their existing facility. Background on the original docket proposal submitted by MIBC and associated docketing procedures can be found in the previous [Staff Memo dated February 15, 2023](#).

This matter first came before the City of Mercer Island Planning Commission at their [meeting on February 22, 2023](#). The Planning Commission held an open record public hearing on [March 22, 2023](#). More information on the initial proposed amendments can be found in the [Staff Memo dated March 15, 2023](#). Based on feedback from the Planning Commission and the Department of Ecology during the first public hearing, the scope of work changed significantly, and the amendment went through another round of public meeting and public hearing with the Planning Commission. The second public meeting was held on May 10, 2023, and the second open record public hearing was held as a joint public hearing with the Department of Ecology on June 7, 2023. Thirteen public comments were submitted throughout the process. Three public comments were received during both public hearings on this amendment. The Planning Commission considered feedback from the Department of Ecology, the public comments, testimony from the public hearings, and the staff reports dated February 15, 2023, March 22, 2023, April 26, 2023, and May 26, 2023 in making its recommendation.

After deliberation, the Commission recommends the draft code amendment to MICC 19.13 Shoreline Master Program and MICC 19.16 Definitions as shown in Attachment A. The Planning Commission recommended code amendment would add “marinas” as a new use to the SMP subject to a Shoreline Conditional Use Permit, add associated marina’s standards to the shoreline development standards, add

clarity to the relationship between the SMP and Chapter 173-27 WAC for shoreline permitting processing procedures, and add a definition for “marinas” in the definitions section of the MICC.

Michael J. Murphy 6/26/23

Michael Murphy Date
Planning Commission Vice Chair
City of Mercer Island

MICC 19.16.010 – Definitions.

[...]

Marina: A private or public moorage facility providing the purchase, lease, and/or use of a slip for storing, berthing, and securing watercraft, including both long-term and transient moorage. Marinas may include accessory facilities for providing incidental services to users of the marina, such as swim structures, waste collection, boat sales, or rental activities, and retail establishments providing fuel service, repair, or service of watercraft. Marinas do not include moorage facilities serving four or fewer single-family residences.

[...]

MICC 19.13.010 – Authority and purpose.

[...]

- E. *Relationship with other federal and state law.* The provisions of this chapter shall not relieve any responsibility to comply with other federal and state laws or permits. The shoreline management permit and enforcement procedures contained within Chapter 173-27 WAC as presently constituted or hereinafter amended, are adopted by reference. All work at or waterward of the OHWM may require permits from one or all of the following: U.S. Army Corps of Engineers, Washington Department of Fish and Wildlife, Washington Department of Natural Resources or Washington Department of Ecology.

[...]

MICC 19.13.040 – Use regulations.

[...]

Table B — Shoreland Uses Waterward of the Ordinary High Water Mark		
SHORELAND USE WATERWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Moorage facilities and covered moorages 600 square feet or less	P	P
Covered moorage larger than 600 square feet	SCUP	SCUP
Floating platforms	P	P
Mooring piles, diving boards and diving platforms	P	P
Boat ramp	P	P

Table B — Shoreland Uses Waterward of the Ordinary High Water Mark		
SHORELAND USE WATERWARD OF THE OHWM	Urban Residential Environment	Urban Park Environment
Boat houses	NP	NP
Floating homes	NP	NP
Public access pier, dock, or boardwalk	P	P
<u>Marinas</u>	<u>SCUP</u>	<u>NP</u>
Utilities	P	P
Public transportation facilities including roads, bridges, and transit	P	P
Transit facilities including light rail transit facilities	P	NP
Dredging and dredge material disposal	P	P
Breakwaters, jetties, and groins (except those for restoration of ecological functions)	NP	NP
Restoration of ecological functions including shoreline habitat and natural systems enhancement	P	P
<p>Notes:</p> <p>A use not listed in this table is not permitted within shorelands.</p> <p>A use permitted by this table shall meet all other applicable regulations, including, but not limited to, being an allowed use in the applicable zone.</p>		

MICC 19.13.050 – Shorelands development standards.

[...]

- F. *Moorage facilities.* All permits for new and expanded moorage facility, other than marinas and public access piers or boardwalks, shall meet the following standards unless otherwise exempted. Moorage facilities have the option of meeting either the development standards prescribed in subsection (F)(1) or (F)(2) of this section, or the "alternative development standards" in subsection (F)(3) of this section.

[...]

L. *Marinas.* Marinas must comply with the following standards.

1. With the exception of the requirements for moorage facilities related to width and length, marinas shall comply with design standards required for moorage facilities listed in Table D, Requirements for Moorage Facilities and Development Located Waterward from OHWM.
2. Marinas are only allowed if they provide significant public access to the shoreline. A proposed marina provides significant public access by meeting one of the following conditions.
 - a. The marina is owned or operated by the City of Mercer Island;
 - b. The marina is owned or operated by an organization or corporation serving at least fifty (50) people; or
 - c. The marina is open to the general public and access is not limited to membership in an organization.
3. *Application Requirements.* Applications for marinas must include the following.
 - a. A no net loss plan, consistent with MICC 19.13.020(C), which demonstrates that the proposed project will not create a net loss in ecological function of the shorelands.
 - b. A demand analysis or master plan that projects future needs for pier or dock space during the life of the development.
 - i. The total amount of moorage spaces proposed;
 - ii. The total number of commercial moorage spaces in the City of Mercer Island within a one-mile radius of the proposed facility; and
 - iii. The expected population and vessel characteristics of the potential users of the facility and how these characteristics relate to specific facility design elements including slip sizes, pier and dock length, and necessary water depth.
4. *General Requirements.* The following standards apply to all marinas.
 - a. Marinas shall be designed and operated consistent with federal and state water quality laws and established best management practices (BMPs) for marina operators, such as BMPs for bilge water discharge, hazardous waste, waste oil and spills, sewer management, and spill prevention and response. Rules for spill prevention and response, including reporting requirements, shall be posted on site.

- b. Marinas shall be designed and sited to prevent the need for maintenance dredging during the life of the development. Moorage must be designed to avoid vessels resting on the lakebed.
- c. Marinas must not be larger than necessary to accommodate the expected need as determined by the required demand analysis, this includes:
 - i. Overwater structures must not be wider or longer than necessary to accommodate the expected need;
 - ii. The number of slips provided must not exceed the expected need; and
 - iii. The slip dimensions must not be larger than necessary to moor the expected vessels moored.
- d. Marinas shall be marked with reflectors, or otherwise identified to prevent unnecessarily hazardous conditions for water surface users during the day or night. All other exterior finishes above the waterline must be nonreflective.
- e. Marinas must not include materials treated with pentachlorophenol, creosote, chromated copper arsenate, or comparably toxic compounds. Any paint, stain or preservative applied to components of the marina must be leach resistant and completely dried or cured prior to installation.
- f. Marinas must not interfere with the public use and enjoyment of the water or create a hazard to navigation.
- g. At least one (1) restroom must be provided upland of the OHWM.
- h. At least one (1) covered and secured waste receptacle must be provided upland of the OHWM.
- i. Utility and service lines located waterward of the OHWM must be affixed below the pier deck and above the water. Utility and service lines located upland of the OHWM shall be underground, where feasible.
- j. Covered moorage is prohibited in marinas.
- k. Floating homes and live aboard vessels are prohibited.
- l. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings must occur prior to final approval of the building permit. Woody vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success.

m. Exterior lighting mounted on piers, docks or other overwater components of a marina shall be at ground or dock level, be directed away from adjacent properties and the water, be of the lowest intensity needed, and designed and located to prevent light from spilling onto the lake water. The following development activities are exempt from this requirement:

i. Emergency lighting required for public safety incidents;

ii. Lighting required by state or federal regulations;

iii. Lighting for public rights-of-way;

iv. Outdoor lighting for temporary or periodic events (e.g., community events at public parks); and

v. Seasonal decorative lighting beyond 30 feet of the ordinary high water mark.

n. The applicant must provide documentation of approval of the marina by both the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife.

o. Vessels shall be restricted from extended mooring on waters of the state, except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

5. Piles. Piles associated with a marina must comply with the following requirements.

a. Piles shall be placed at least eighteen (18) feet from the OHWM.

b. Piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate or comparably toxic compounds.

c. Piles must be spaced at least eighteen (18) feet apart. The code official may authorize alternate spacing of piles provided the applicant demonstrates that the alternate spacing reduces the total number of piles needed for the project.

d. Piles must not exceed twelve (12) inches in diameter. The code official may authorize larger piles provided the applicant demonstrates that the larger piles reduce the total number of piles needed for the project.

e. Piles must be fitted with devices to prevent perching by fish-eating birds.

6. Overwater structures. Overwater structures associated with a marina must comply with the following requirements.

- a. Overwater structures must be designed to minimize the lakebed shading to the greatest degree feasible.
 - i. Overwater structures within thirty (30) feet of the OHWM must not exceed six feet in width.
 - ii. Overwater structures more than thirty (30) feet from the OHWM may be wider than six (6) feet provided:
 - A. Overwater structures wider than six (6) feet must be approved by the Army Corps of Engineers and/or Washington Department of Fish and Wildlife;
 - B. Potential environmental impacts of overwater structures with a width greater than six (6) feet must addressed in the required no net loss plan; and
 - C. The code official may condition approval to require mitigation for any overwater structure exceeding six (6) feet in width.
 - iii. Overwater structures must be grated in compliance with state and federal law.
 - b. Length. Overwater structures that compose a marina must be designed to avoid adversely affecting navigability of waterways.
 - i. Overwater structures associated with the marina shall not exceed the minimum length necessary to accommodate facility needs as demonstrated in the required demand analysis or master plan.
 - ii. The code official may condition approval to reduce the maximum length to reduce the effects of overwater structures on navigability of the waterway.
 - c. Floats. Floats must comply with the following requirements.
 - i. All floats shall be designed to prevent the bottom of the float from resting on the lakebed.
 - ii. All floats must be fully enclosed and contained in a shell, tub, or wrap. The shell, tub, or wrap must prevent breakup or loss of the flotation material into the water. The shell or wrap must not be readily subject to damage by ultraviolet radiation and abrasion.
7. New Marinas. New marinas shall only be located at properties where there are existing marinas on the effective date of this ordinance.