



To: Planning Commission
From: Alison Van Gorp
Date: November 15, 2023
RE: 2024 Annual Docket – Proposed Amendment 18

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. This memo outlines the process for evaluating Proposed Amendment 18, which was applied for by the Stroum Jewish Community Center and concerns redesignating/rezoning their property to Commercial Office.

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 7, 2023 and September 6, 2023, as well as on August 9 and September 6, 2023 in the Mercer Island Reporter. Only Proposed Amendment 18 will be considered as a part of this staff memo and the docket application submitted by the Stroum Jewish Community Center for this proposed amendment is included in Attachment 1. Public comment on the proposal is 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 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, 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 2024, summarized below. Any work items added to the docket will need to be additive to the items already on the work plan:.

1. **Periodic Update of the Comprehensive Plan:** work on the periodic update will continue through 2024, including significant work on the Parks Zone and Housing Element (due for completion by December 2024).
2. **Legislatively Mandated Residential Amendments (HB 1110, HB 1337):** the City must undertake several substantial code amendments to comply with recent housing-related legislation. The City will also undertake additional amendments related to the previously panned Residential Development Standards (RDS) code update. This work will begin as the periodic update of the Comprehensive Plan concludes in late 2024 and must be completed by June 30, 2025.

The existing work plan items represent a 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 periodic update of the Comprehensive Plan will require all of the time available at the Planning Commission's monthly meetings through mid-2024 and will likely also require additional special meetings. The City Council will then begin their review, which will also require several meetings. The Planning Commission will need to begin review of the legislatively-mandated residential code amendments in the last quarter of 2024.

As such, time available for review and consideration of additional docket items will be extremely 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 2024, it is very likely that they would need to be carried over into 2025 or beyond.

ISSUE/DISCUSSION

REVIEW AND RECOMMENDATION

Proposed Amendment 18 is quasi-judicial in nature (i.e. it pertains to rezoning a specific property), and will need to be reviewed separately from the other docket proposals, utilizing special procedures as recommended by the City Attorney's Office (more details provided below). Thus, the review process will be bifurcated to enable Proposed Amendment 18 to be reviewed via this separate/special process, followed by review of the remaining proposed amendments through the more typical process.

The Planning Commission will need to review the Proposed Amendment 18 and make a recommendation to the City Council on whether it 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 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 in light of existing work plan items already planned for 2024 (discussed above).

Quasi-Judicial Proceedings

As outlined in the meeting agenda, a "special business" item has been placed at the start of the meeting. During this time, the Commission will review Proposed Amendment 18 following a quasi-judicial process. This process is intended to create a separate and distinct record for this matter so that the Planning Commission can consider the proposal in a fair and unbiased fashion. The decision being made is whether to docket the proposed amendments for further consideration and legislative review in the future. The Commission should limit their consideration of this matter to the information that is on the record, including the written public comments attached to this memo and those received during the public comment period during the November 15 meeting and to the criteria for docketing proposals.

These proceedings will begin with a series of questions on the appearance of fairness directed to each commissioner. After the appearance of fairness questions are completed, the public will have the opportunity to challenge any of the responses from Commissioners in regards to the appearance of fairness. Commissioners may respond to any challenges and then would need to make their own decision as to whether or not to recuse themselves from these proceedings.

After the appearance of fairness process concludes, public comment on the proposal will be heard. In addition to the live comments, any written comments received after the publication of the agenda packet will need to be read into the record by City staff. The proposal proponents will then have 3 minutes to speak to the proposal, followed by 3 minutes for a presentation by City staff. Each party may take an additional minute to rebut the remarks of the other party. After the remarks and any rebuttals, the Planning Commission will move into deliberations on the proposal. Motions will be needed to adopt findings on whether the proposal meets each of the docketing criteria in MICC 19.15.230(E). Finally, the Commission will need to make a motion on whether to recommend the City Council include Proposed Amendment 18 in the final docket.

PROPOSED AMENDMENT 18

Proposed By: Stroum Jewish Community Center

Comprehensive Plan or Code Section: Comprehensive Plan Land Use Map, Zoning Map

Proposal Summary: These amendments will redesignate the SJCC's property as Commercial-Office on the Comprehensive Plan Land Use Map and the Zoning Map.

Staff Comments: The property proposed to be redesignated/rezoned is adjacent to the existing Commercial-Office zone. Approving these amendments could allow more intense development on the subject property, under the development regulations that pertain to commercial development in MICC 19.04 and 19.12.

Docketing Criteria:

- 1. The proposed amendment presents a matter appropriately addressed through the comprehensive plan or the code;**
The proposed amendment meets this criterion. A Land Use Map amendment and Zoning map amendment are appropriately addressed through amendments to the Comprehensive Plan and development code, respectively.
- 2. 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;**
The proposed amendment is a low priority for staff/budget resources. This is a large project and will require considerable time for review. Given the existing commitments of staff time in the CPD work plan, if this proposal is docketed, it is unlikely to be able to be completed in 2024 and it may need to be carried over to a future year for review.
- 3. 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;**
The proposed amendment does not raise policy or land use issues that are related to an ongoing work program approved by the city council.
- 4. 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;**
Relevant goals and policies from the current Comprehensive Plan include:
 - GOAL 17: With the exception of allowing residential development, commercial designations and permitted uses under current zoning will not change.

- Policy 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.

The Comprehensive Plan discourages changes to commercial land use designations. However, it also encourages development regulations that support retention of “viable and healthy social, recreational, educational and religious organizations” as an essential component of Mercer Island.

5. **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.**

The City Council has not considered the essential elements/proposed outcome of this proposal in the last three years.

NEXT STEPS

The City Council will review the Planning Commission and staff recommendations at the December 5, 2023 meeting. At that time the Council will set the final docket for 2024.

ATTACHMENTS

1. Docket Application filed by the Stroum Jewish Community Center
2. Written public comments (forthcoming)