



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 5985
December 7, 2021
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB5985: Development Code Amendment ZTR19-004 Town Center Retail Requirements – Ordinance No. 21C-28 (Second Reading)	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed:
RECOMMENDED ACTION:	Conduct second reading and remand Ordinance No. 21C-28 back to the Planning Commission for a new public hearing and recommendation.	<input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

DEPARTMENT:	Community Planning and Development		
STAFF:	Jeff Thomas, Interim Director Sarah Bluvas, Economic Development Coordinator		
COUNCIL LIAISON:	n/a	Choose an item.	Choose an item.
EXHIBITS:	1. Ordinance No. 21C-28 Exhibit A: MICC 19.11.020 Proposed Amendments		
CITY COUNCIL PRIORITY:	Choose an item.		

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

SUMMARY

In June 2020, the City Council enacted a moratorium on major new construction generally in the southeast quadrant of the Town Center (TC) zoning designation while the City evaluated potential updates and/or amendments to development regulations within the Town Center, including requirements for various types of commercial space. Tonight, the City Council will conduct the second reading of Ordinance No. 21C-28, which proposes amendments to MICC 19.11.020(B) related to retail requirements in the TC zone.

BACKGROUND & LEGISLATIVE HISTORY

The current Town Center development regulations were established in June 2016 ([Ordinance No. 16C-06](#)). Per the current code, major new development located north of SE 29th Street in the Town Center must provide ground floor street frontage commercial space for use by retail, restaurant, or personal service (e.g. barber shop, nail salon, fitness center, etc.). Between 40 and 60 percent of the ground floor street frontage north of SE 29th Street must be designed for retail, restaurant, or personal services; 40 percent is required for those major new developments that provide public parking, while 60 percent is required for those developments that do not provide public parking. Commercial space is allowed, but not required, south of SE 29th Street in the TC zoning designation.

- June 2, 2020: The City Council passed [Ordinance No. 20-12](#), which established a 6-month moratorium on major new construction south of SE 29th Street in the Town Center (TC) zoning designation. The City Council indicated that the City desired to possibly complete updates and/or amendments to development regulations within the Mercer Island Town Center, including requirements for various types of commercial space.
- July 21, 2020: The City Council completed the required Public Hearing for Ordinance No. 20-12 on the Town Center Moratorium and directed staff to prepare an amended interim Ordinance reducing the size of the geographic area subject to moratorium and include additional findings of fact.
- September 1, 2020: The City Council adopted [Ordinance No. 20-18](#) with a reduced size of the geographic area subject to moratorium and included additional findings of fact. Additionally, the City Council provided direction to staff to prepare a scope of work for a Town Center commercial analysis to inform options for resolving the moratorium and a corresponding budget appropriation request.
- November 17, 2020: The City Council completed the required Public Hearing and adopted [Ordinance No. 20-26](#) renewing the moratorium for another 6-month period with its current geographic area as previously amended.
- December 1, 2020: The City Council adopted [Ordinance No. 20-29](#), the 2021-22 Biennial Budget. Included in the budget is a \$50,000 one-time appropriation for qualified professional services to perform a Town Center commercial analysis and support the completion of any necessary updates and/or amendments to development regulations within the Mercer Island Town Center to be responsive to the moratorium. The City Council also approved [Resolution No. 1594](#), establishing the 2021 docket for amendments to the Comprehensive Plan and development regulations. Included in the docket is a placeholder for amending the Town Center Sub-Area Plan and corresponding development regulations as necessary to be responsive to the moratorium.
- April 6 and 20, 2021: The City contracted with the firm Community Attributes, Inc. (CAI) to analyze the demand for additional ground floor commercial uses and the feasibility of requiring such uses in new buildings. On April 6, the City Council received a presentation on the findings of this analysis and commenced discussion ([AB 5841](#)). Further City Council discussion ensued on April 20, and the Council directed staff to complete additional analysis and to research legislative options in addition to a “no net loss” option.
- May 4, 2021: The City Council completed the required Public Hearing and adopted [Ordinance No. 21-09](#) renewing the moratorium for another 6-month period with its current geographic area as previously amended.
- July 6, 2021: Staff presented a number of legislative options to City Council ([AB 5910](#)). Council provided further direction to review and propose:
 - A. Updates to MICC 19.11.020(B) Retail Use Required Adjacent to Street Frontages;
 - B. A new TC commercial Floor Area Ratio (FAR) requirement; and
 - C. The applicability of a new TC “no net loss” requirement.
- September 21, 2021: The City Council directed staff to work with the Planning Commission to develop the necessary code amendments to MICC 19.11.020(B), including updating MICC 19.11.020(B) Figure

2 Retail Use Required Adjacent to Street Frontages; instituting a Town Center Commercial FAR requirement; and adding a selective “No Net Loss” provision ([AB 5933](#)).

- September 22, and October 20, 2021: Staff presented the necessary code amendments to implement the City Council direction to the Planning Commission for review and comment.
- November 3, 2021: The Planning Commission completed the required Public Hearing, deliberated the proposed amendments, and voted 5-1 on a recommendation to send to the City Council to not adopt the proposed amendments on November 16.
- November 16, 2021: The City Council adopted Ordinance No. 21C-27, which renews the moratorium for an additional 6-month period with its current geographic area as previously amended, held the required Public Hearing, and conducted the first reading of Ordinance No. 21C-28.

CITY COUNCIL FIRST ORDINANCE READING & DIRECTION TO STAFF

During the first reading of Ordinance No. 21C-28 on November 16, the City Council directed staff to incorporate proposed amendments to the Ordinance and return to City Council on December 7 for second reading. The proposed amendments to the Ordinance include:

1. Necessary changes to combine figures 3 and 4 and associated FAR and “No Net Loss” provisions into a “greater of the two” requirement.
2. Insert “and Visual or Performing Arts Centers” after “Commercial”.

These proposed amendments have been incorporated into Exhibit A of Ordinance No. 21C-28.

Additionally, the City Council directed staff to complete research related to if and how other jurisdictions address street level commercial depth of space requirements. The current TC requirement is 16 feet. A summary of this research follows:

- City of Bellingham [BMC 20.25.080(C)(2)(d)(ii)] – Waterfront District requires the front 20 feet of building space at sidewalk level along Granary Avenue and West Laurel Street shall be designed for commercial or public uses, including retail, service, office, government, or similar nonresidential uses. Lobbies for residential uses and hotels and parking garage entries are exempt from this provision.
- City of Covington [CMC 18.31.320(2)] – Downtown Development and Design Standards requires a minimum retail space depth of 30 feet for storefront block-frontage.
- City of Kirkland [KMC 50.10] – Central Business District zones requires the street level floor of all buildings to have a minimum depth of 20 feet and an average depth of at least 30 feet.
- City of Redmond [RMC 21.62.030(G)(2)(d)(ii)] – Overlake Village zones requires the areas on the ground floor of new buildings located along 152nd Avenue NE to have a minimum average depth of 25 feet and a minimum width of 20 feet for retail use.

The City Council may choose to make an additional proposed amendment to the current 16-foot street level commercial depth of space requirement.

OPTIONS

Tonight, the City Council will conduct the second reading of Ordinance No. 21C-28. City Council will then need to provide any additional desired direction to staff, which may include one of the following next steps:

- Schedule a third reading of Ordinance No. 21C-28 for January 4, 2022; or
- Remand Ordinance No. 21C-28 with proposed amendments back to the Planning Commission for a public hearing and recommendation.

RECOMMENDED ACTION

Move to remand Ordinance No. 21C-28 with proposed amendments back to the Planning Commission for a new public hearing and recommendation, which shall be presented to the City Council at a regular business meeting on or before March 15, 2022, during a third reading of this Ordinance.