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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

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## PLANNING COMMISSION

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**To:** Planning Commission  
**From:** Jeff Thomas, Interim Director  
Sarah Bluvas, Economic Development Coordinator  
**Date:** September 15, 2021  
**RE:** ZTR21-004 Town Center Retail Requirements

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### SUMMARY

In June 2020, the City Council placed a moratorium on major new construction in the southeast corner of the Town Center zoning designation. Over the last 6 months the Council has engaged in a discussion on how to retain and expand retail space in the Town Center. Staff anticipates that the City Council will direct the Planning Commission to develop a code amendment to revise the retail provisions in the Town Center development code. At the September 22 meeting staff will provide an overview of the work conducted with the City Council to-date, present the proposed mechanisms for preserving retail space, and seek feedback from the Planning Commission to inform the development of a code amendment. The proposed code amendment will revise the commercial and retail provisions in MICC 19.11.

### BACKGROUND

The current Town Center development regulations were established in June 2016. Per the current code, major new development located north of SE 29<sup>th</sup> Street in the Town Center must provide ground floor street frontage commercial space for use by retail, restaurant, or personal services (e.g. barber shop, nail salon, fitness center, etc.). Between 40 and 60 percent of the ground floor street frontage north of SE 29<sup>th</sup> 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 29<sup>th</sup> Street in the TC zoning designation.

In June 2020, the City Council enacted a moratorium on major new construction generally in the southeast quadrant of the Town Center zoning designation. This moratorium was intended to temporarily prevent submittal of development applications while the City considers potential updates and/or amendments to development regulations within the Mercer Island Town Center, including requirements for ground-floor retail use and for preserving existing retail square footage on the Town Center zone. The City Council cited the goal of protecting and expanding Mercer Island's retail sector to maintain and improve the

community's quality of life and emergency preparedness as the primary driver for enacting the moratorium. (See Attachment 1 for the current Ordinance.)

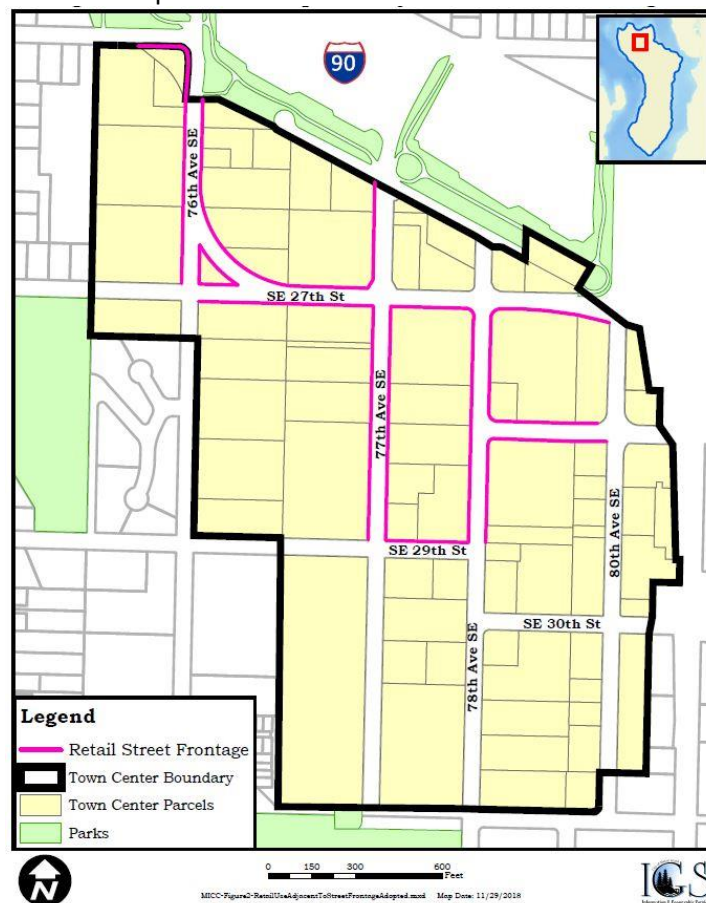
The City contracted with the firm Community Attributes, Inc. (CAI) to analyze the demand for additional ground floor commercial uses and the feasibility of requiring such uses in new buildings. Staff and the consultant presented the analysis to the City Council on April 6 and 20, 2021, at which time the City Council directed staff to complete additional analysis and research legislative options in addition to a “no net loss” option for preserving existing retail square footage.

On July 6, 2021, staff presented several legislative options that were evaluated for their potential to preserve existing quantities of commercial retail space and provide for projected future demand as identified in CAI's analysis. After reviewing the options, the City Council directed staff to review and propose:

- A. Updates to MICC 19.11.020(B)(4) Retail Use Required Adjacent to Street Frontages;
- B. A new Town Center Commercial Floor Area Ratio (FAR) requirement; and
- C. The applicability of a new Town Center “no net loss” requirement.

#### **Updates to MICC 19.11.020(B)(4) Retail Use Required Adjacent to Street Frontages**

MICC 19.11.020(B)(4) stipulates that retail, restaurant, or personal service uses are required along retail street frontages as shown in the map below.



This map (also referred to as the “pink lines map”) was added to the Town Center code as a part of the 2016 update with the intent of centralizing retail activity in the northern end of Town Center. During the July City Council discussion of legislative options for resolving the moratorium, staff proposed three options for updating this map, and the Council directed staff to move forward with the option of proposing surgical additions/deletions to the current map that meet the Council’s goals of preserving existing commercial retail space and providing for future demand.

Staff will present recommendations for amending the map during tonight’s discussion.

#### **Town Center Commercial Floor Area Ratio (FAR)**

In conjunction with amending the retail street frontage map, the City Council also directed staff to explore creating a Commercial Floor Area Ratio (FAR) requirement for future Town Center development. A FAR is a calculation often used in building regulations and is typically calculated as the ratio of a building’s total floor area to the size of the piece of land upon which it is built. Staff proposed adapting this concept to determine how much commercial retail space to require in new Town Center developments.

The commercial FAR would identify a current inventory of commercial retail space (and future demand if desired) and corresponding total land area to calculate a commercial FAR requirement for new development. The commercial FAR requirement would be the same for all parcels subject to this requirement. A simple example of this calculation follows:

Sample Commercial Floor Area Calculation		
A	Total Commercial Retail Space of Subject Parcels	50,000 square feet
B	Total Size of Subject Parcels	200,000 square feet
C	Commercial Floor Area Ratio (A/B)	0.25

Therefore, in applying this sample calculation, for every 1 acre (43,560 square feet) of Town Center redevelopment, 10,890 square feet ( $43,560 \times 0.25$ ) of commercial retail space would be required. Using a commercial FAR would result in some parcels experiencing a net gain of commercial retail space while others would experience a net loss, with the result being the achievement of the total commercial retail space desired over the long term. This option would make progress on the objectives of preserving existing commercial retail space and on adding such space to meet identified future demand.

The City Council directed staff to conduct additional analysis to develop a true commercial FAR for Town Center, which staff will present to the Council on September 21. During the Planning Commission meeting, staff will review the sources used to identify the current commercial retail space inventory, future demand for retail space, and other numbers required to calculate a true commercial FAR for Town Center. Staff will also seek feedback on incorporating this calculation into the Town Center code.

#### **“No Net Loss” Requirement**

Finally, the City Council also directed staff to explore a “no net loss” provision and return with a recommendation for incorporating this provision into the City code. This option would make progress on the objective of preserving existing commercial retail space but would not make progress on adding space to meet identified future demand. Additionally, as a stand-alone requirement, a “no net loss” provision could place more burden on some parcels than others. Considering this potential inequity, staff will discuss this requirement as being used in tandem with updates to the retail street frontage requirements and the development of a commercial FAR requirement.

## NEXT STEPS

Staff returned to the City Council on September 21 to present the three proposals related to the items outlined above and anticipate receiving additional direction to work with the Planning Commission to develop the applicable code amendments.

At the September 22 Planning Commission meeting, staff will provide an overview of the City Council and consultant work to-date as well as an update on the City Council's most recent discussion and direction. Staff will also recommend approaches for amending the code to fulfil the Council's direction. The Planning Commission will have opportunities for Q&A with the staff and to provide initial feedback and direction on the code amendment.

Staff will incorporate the Commission's input from the September 22 meeting into a draft code amendment. The draft amendment will need to be reviewed quickly, so that it can be adopted prior to the expiration of the moratorium on December 1, 2021. Staff will draft the code amendment as quickly as possible after the September 22 meeting and make it available for Planning Commission and public review in advance of the October 6 meeting and public hearing.

From there, the process for review and adoption of a code amendment will proceed as follows:

- October 6: Planning Commission Public Hearing and Recommendation to the City Council
- November 1: City Council conducts First Reading of the code-amending ordinance
- November 16: City Council conducts Second Reading and adopts the ordinance

## ATTACHMENTS

1. Ordinance No. 20C-18

## LEGISLATIVE HISTORY

- June 2, 2020: The City Council passed [Ordinance No. 20-12](#), which established a 6-month moratorium on major new construction south of SE 29<sup>th</sup> Street in the Town Center (TC) zoning designation. The City Council indicated that the City desires to possibly complete updates and/or amendments to development regulations within the 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 TC 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 directed staff to prepare a scope of work for a TC 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 TC to be responsive to the moratorium. The 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 Council received the preliminary findings of the commercial feasibility analysis conducted by Community Attributes, Inc., and directed staff to complete additional analysis as well as research legislative options for resolving the moratorium.
- May 4, 2021: The City Council passed [Ordinance No. 21-09](#), renewing the moratorium for six more months, effective June 1, 2021. The Council also completed the required Public Hearing.
- July 6, 2021: Staff presented several legislative solutions to achieve the goals of preserving existing commercial retail space and adding space to meet future demand to the City Council. The Council directed staff to develop proposals for: Updates to MICC 19.11.020(B)(4) Retail Use Required Adjacent to Street Frontages; a new Town Center Commercial Floor Area Ratio (FAR) requirement; and the applicability of a new Town Center “no net loss” requirement.
- September 21, 2021: Staff return to the City Council to present the aforementioned proposals and seek direction to work with the Planning Commission to develop the applicable code amendments.