



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND**

**AB 6102
June 21, 2022
Regular Business**

AGENDA BILL INFORMATION

TITLE:	AB 6102: Development Code Amendment ZTR21-004 Town Center Retail Requirements (Fourth/Final Reading of Ordinance No. 22C-09)	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Conduct the fourth reading of and adopt Ordinance No. 22C-09.	

DEPARTMENT:	Community Planning and Development
STAFF:	Jeff Thomas, Interim Director Sarah Bluvas, Economic Development Coordinator
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Ordinance No. 22C-09 (formerly Ord. No. 21C-28) 2. Updated Legislative Timeline
CITY COUNCIL PRIORITY:	n/a

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

EXECUTIVE SUMMARY

The purpose of this agenda bill is to conduct a fourth reading and adopt Ordinance No. 22C-09 (formerly Ord. No. 21C-28), which proposes amendments to Town Center ground-floor commercial requirements as outlined in MICC 19.11.020(B).

- A moratorium on major new construction in the southeast quadrant of the Town Center (TC) zone has been in place since June 2020. The moratorium remains in effect while the City evaluated potential updates and/or amendments to regulations for commercial space requirements in the TC zone.
- Since enacting the moratorium, City staff, the City Council, the Planning Commission, and consulting firm Community Attributes, Inc., participated in several discussions to present findings and arrive at a proposal to amend MICC 19.11.020(B).
- To-date, the City Council has conducted three readings of Ordinance No. 22C-09 (formerly 21C-28) and directed staff to refine the proposal after each reading.
- The updated ordinance (Exhibit 1) proposes the following major amendments to MICC 19.11.020(B):
 - Update the eligible commercial uses required adjacent to street frontages as identified in Figure 2 (the “pink lines map”);
 - Add a commercial floor area ratio (FAR) requirement of space for eligible commercial use to be applied to specific parcels;

- Define a cap on the square footage of museum and art exhibition or theater use that may contribute to a site’s FAR requirement;
- Add a limited no net loss requirement of space for eligible commercial use to be applied to specific parcels; and
- Establish a review period for these requirements.
- On Tuesday, the City Council will conduct a fourth reading of Ordinance No. 22C-09 and may choose to adopt the ordinance or provide additional direction to staff.

BACKGROUND

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 services (e.g., barber shop, nail salon, and fitness center). 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 Town Center (TC) zoning designation.

In June 2020, the City Council enacted a moratorium on major new construction generally in the southeast quadrant of the TC zone. 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 Town Center, including requirements for ground-floor commercial use and for preserving existing commercial square footage in the TC 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 primary drivers for enacting the moratorium. (See [Ordinance No. 20-18](#))

DEVELOPMENT OF PROPOSAL TO AMEND MICC.19.11.020(B)

Since enacting the moratorium, City staff, the City Council, the Planning Commission, and consulting firm Community Attributes, Inc., participated in several discussions to present findings and arrive at a proposal to amend MICC 19.11.020(B), including twelve City Council meetings, five Planning Commission meetings, and seven Public Hearings (Exhibit 2). The primary components of the initial proposal included:

1. Update *Figure 2. Retail Use Required Adjacent to Street Frontages* (also called the “pink lines map”);
2. Institute a Town Center Commercial Floor Area Ratio (FAR) requirement; and
3. Add a selective “No Net Loss” provision for commercial space.

The Council began its review of the resulting proposal and Ordinance No. 22C-09 (formerly Ord. No. 21C-28) in November 2021; the matrix below summarizes the discussion and direction at each reading.

Reading	Discussion Summary	City Council Direction
1 st Reading: Nov. 16, 2021 (AB 5977)	<ul style="list-style-type: none"> ● Received Planning Commission’s recommendation ● Proposed combining the Commercial FAR and “No Net Loss” requirements into one “greater than the two” requirement ● Proposed adding visual and performing arts centers/facilities as eligible uses for the Commercial FAR/“No Net Loss” requirement 	<ul style="list-style-type: none"> ● Incorporate proposed amendments into updated draft ● Research how other jurisdictions address street-level commercial depth-of-space requirements ● Scheduled second reading for December 7, 2021

	<ul style="list-style-type: none"> Proposed adding a square footage cap to be applied to the Commercial FAR/"No Net Loss" requirement for visual and performing arts uses Proposed adding an evaluation trigger to review the effectiveness of the requirements 	
2 nd Reading: Dec. 7, 2021 (AB 5985)	<ul style="list-style-type: none"> Reviewed the updates made to incorporate the requested amendments Discussed examples of how other jurisdictions handle commercial depth-of-space requirements Proposed exempting visual and performing arts uses from 60' contiguous linear street frontage maximum Confirmed need to reconcile list of eligible uses 	<ul style="list-style-type: none"> Remanded ordinance with proposed amendments back to the Planning Commission to conduct a second public hearing and make a second recommendation Scheduled third reading for no later than March 15, 2022
3 rd Reading: March 15, 2022 (AB 6036)	<ul style="list-style-type: none"> Received Planning Commission's second recommendation Reviewed and discussed legislative options previously presented in 2021 	<ul style="list-style-type: none"> Abandon the option of combining the Commercial FAR and "No Net Loss" requirements into a single "greater of the two" requirement Amend the SEPA review Re-notice to the Department of Commerce Conduct necessary steps to remove existing "pink lines map" from the Comprehensive Plan Schedule a fourth reading for mid-2022

SEPA REVISION AND OTHER PUBLIC OUTREACH

In addition to updating the ordinance for a fourth reading, staff also revised and published the SEPA determination of non-significance (DNS). The DNS was published in the SEPA Register on Tuesday, May 31, and the public comment period closed on June 14. Staff completed the following noticing for the DNS issuance:

- Mailed notice to 700+ area stakeholders (May 27)
- Posted on-site in Town Center (May 31)
- Published in Land Use Planning Bulletin (May 31)
- General e-mail outreach to City's business e-mail list of 900+ contacts (May 31, June 14)
- Additional e-mail outreach to Town Center businesses and commercial property owners/managers (June 10)

ISSUE/DISCUSSION

On Tuesday, the City Council will conduct the fourth reading of Ordinance No. 22C-09 (formerly Ord. No. 21C-28). The updated proposal to repeal and replace MICC 19.11.020(B) includes five primary components:

- Amends Figure 2., or the "pink lines map," and updates the list of eligible commercial uses to include a total of nine eligible uses;

- Adds Figure 3., which identifies parcels in the TC zone that will be required to provide a minimum Commercial FAR of .2623 of the gross lot area for ground floor street frontage for eligible uses;
- Defines a cap on the square footage of museum and art exhibition or theater use that may contribute to the achievement of the total minimum FAR requirement of the corresponding site;
- Adds Figure 4., which identifies parcels in the TC zone that will be required to provide a “No Net Loss” of existing floor area for ground floor street frontage for eligible uses; and
- Establishes a review period of five years from the date of Ordinance adoption OR after 75,000 gross square feet of floor area for eligible commercial uses adjacent to street frontages has been authorized through Building Permit issuance.

Upon completing the fourth reading, the Council may choose to adopt the ordinance as presented; propose other amendments and adopt the ordinance; or direct staff to complete additional legislative work on this matter.

NEXT STEPS

After Ordinance No. 22C-09 is adopted, amendments to MICC 19.11.020(B) will take effect on December 1, 2022. This effective date allows time to amend the Comprehensive Plan by removing Figure TC-1, which will be rendered defunct once the new “pink lines map” is adopted. Additionally, the Town Center moratorium will lift on December 1, as the legislative work needed to end the moratorium will be complete.

RECOMMENDED ACTION

Conduct the fourth reading of and adopt Ordinance No. 22C-09 (formerly 21C-28) as presented.