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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

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## PLANNING COMMISSION

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**To:** City Council

**From:** Daniel Hubbell, Planning Commission Chair

**Date:** February 22, 2022

**RE:** ZTR21-004 Town Center Retail Requirements Code Amendment

**Attachments:** A. Proposed Amendment to 19.11.020(B) presented to Planning Commission  
B. Planning Commission Recommendation on ZTR21-004

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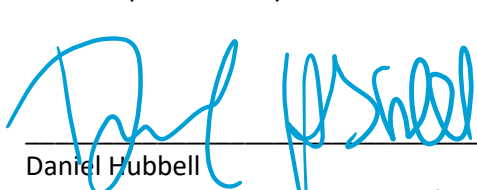

On behalf of the Planning Commission, I would like to present our second recommendation related to ZTR21-004, the proposed code amendment for MICC 19.11.020(B) related to ground floor commercial requirements for Town Center street frontages.

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. The Planning Commission took up this item in fall of 2021 and sent a recommendation to the City Council on November 16, 2021. The Council conducted first and second readings of the proposed amendment before remanding it back to the Planning Commission on December 7, 2021, to conduct a new public hearing and to review/recommend the following:

- Revise the proposed commercial floor area (FAR) and no net loss provisions to a “greater of the two” requirement for parcels identified in an updated Figure 3 in the proposal (proposed by City Council on November 16, 2021);
- Add visual and performing arts venues to the list of eligible uses adjacent to street frontage (proposed by City Council on November 16, 2021);
- Add an evaluation trigger of five years after the date of adoption or at which time 75,000 of commercial space has been authorized through Building Permit issuance (proposed by City Council on November 16, 2021);
- Reconcile definitions for other eligible uses adjacent to street frontage using definitions from MICC 19.16.010 (directed by City Council on December 7, 2021);
- Exempt visual and performing arts venues from the 60’ contiguous linear street frontage maximum (directed by City Council on December 7, 2021); and
- Establish a 5,000-square foot cap for visual and performing arts uses that can be applied to the commercial FAR or not net loss requirement (directed by City Council on December 7, 2021).

The Planning Commission reviewed and discussed the updated proposed amendment (Attachment A) on January 26, 2022, and held a second open record public hearing on February 16, 2022. Four speakers provided public comment on February 16, and the Commission also received written comments/questions from two commercial property owners, a commercial leasing agent, and a Mercer Island resident who specializes in economic development.

The feedback received by the Commission raised additional concern about the unintended impacts of the proposed "greater than" requirement as well as the need for more public outreach and engagement in this process. Following the public hearing, the Commission deliberated briefly and voted 6-0 (one Commission seat is vacant) to not approve the draft amendment to MICC 19.11.020(B) as presented. Instead, the Commission submits a recommendation (Attachment B) again suggesting continued work to address the issues represented by the moratorium.

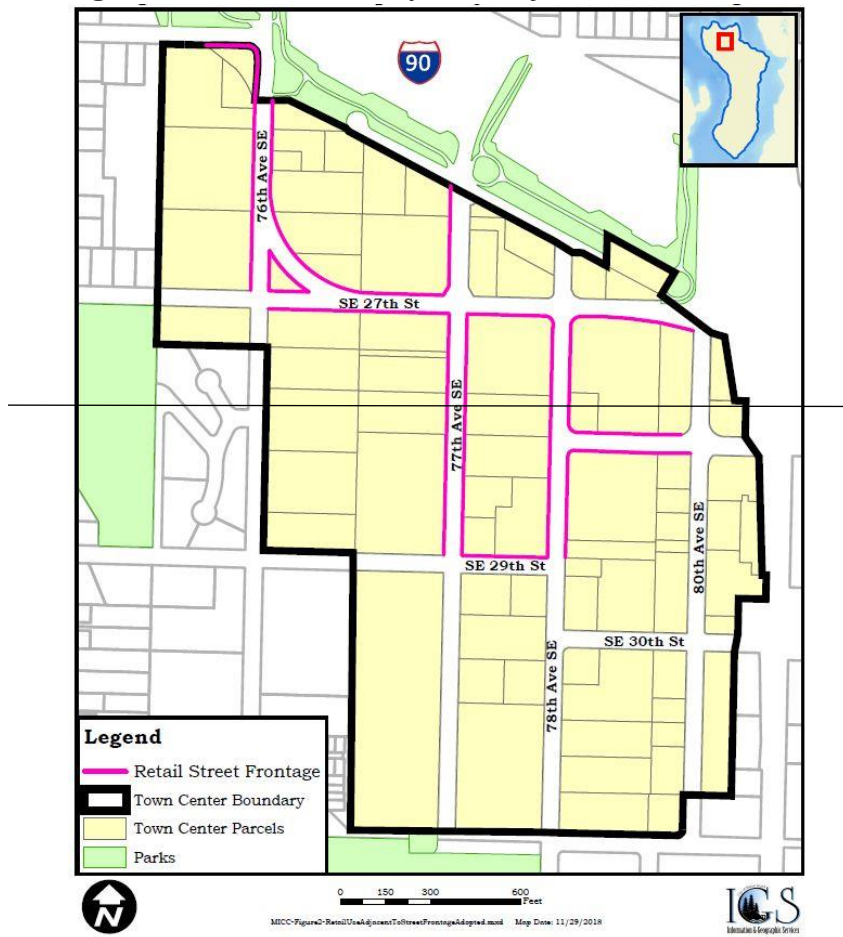
   
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Daniel Hubbell Date  
Planning Commission Chair, City of Mercer Island

**MICC 19.11.020(B) is proposed to be repealed in its entirety.**

~~B. *Required ground floor uses.* Retail, restaurant or personal service uses are required along retail street frontages as shown on Figure 2.~~

- ~~1. If public parking is provided pursuant to MICC [19.11.130](#)(B)(5), then the following applies:~~
  - ~~a. A minimum of 40 percent of the ground floor street frontage shall be occupied by one or more of the following permitted uses: retail, restaurant, and/or personal service use.~~
  - ~~b. A maximum of 60 percent of each ground floor street frontage can be occupied by the following uses: hotel/motel, personal service, public facility, or office.~~
  - ~~c. Driveways, service and truck loading areas, parking garage entrances and lobbies shall not be included in calculating the required percentages of ground floor use.~~
- ~~2. If public parking is not provided pursuant to MICC [19.11.130](#)(B)(5), then the following applies:~~
  - ~~a. A minimum of 60 percent of the ground floor street frontage shall be occupied by one or more of the following permitted uses: retail, restaurant, and/or personal service use.~~
  - ~~b. A maximum of 40 percent of each ground floor street frontage can be occupied by the following uses: hotel/motel, personal service, public facility, or office.~~
  - ~~c. Driveways, service and truck loading areas, parking garage entrances and lobbies shall not be included in calculating the required percentages of ground floor use.~~
- ~~3. No use shall occupy a continuous linear street frontage exceeding 60 feet in length. The design commission may approve up to an additional six feet in length if the use incorporates a feature to promote pedestrian activity, including but not limited to: an additional pedestrian entrance onto a sidewalk or through block connection, or additional ten percent transparency beyond the requirement of MICC [19.11.100](#)(B)(1)(b).~~
- ~~4. The minimum required depth of storefronts along retail street frontages is 16 feet.~~

**Figure 2 — Retail Use Required Adjacent To Street Frontages**



**A new MICC 19.11.020(B) is proposed as follows:**

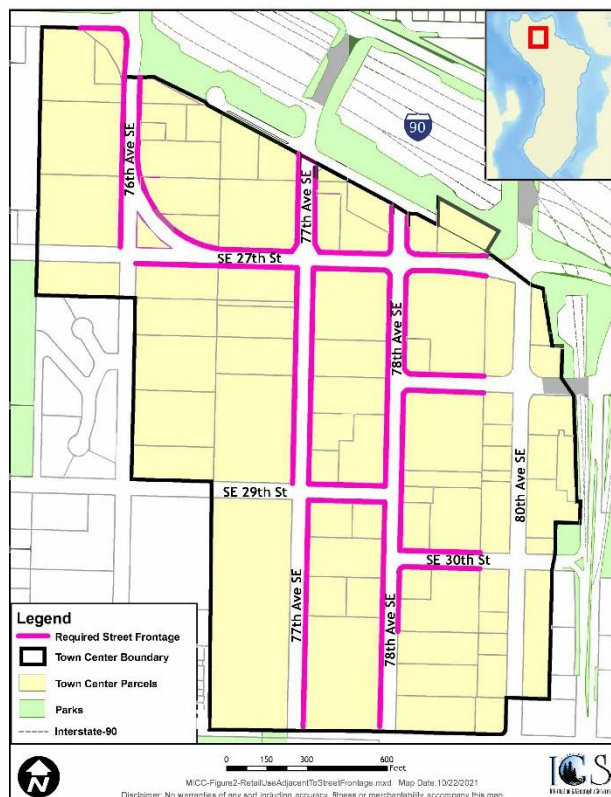
**B. Required Street Frontage Uses**

1. Retail, restaurant and/or personal service uses; museums and art exhibition uses; and/or theater uses as defined in MICC 19.16.010 and listed below are required adjacent to street frontages as shown on Figure 2.

**Definitions**

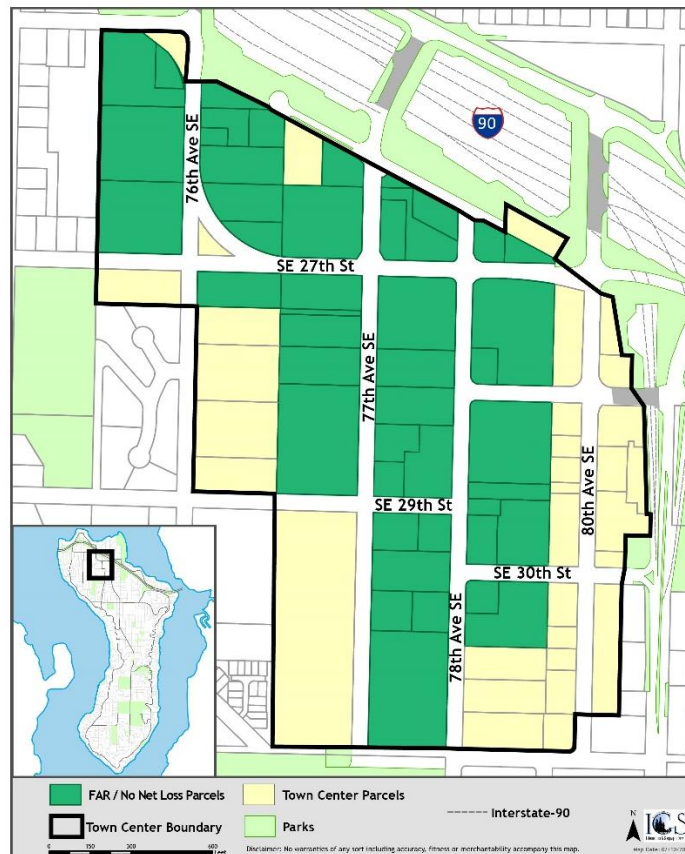
- a. *Museums and art exhibitions:* The exhibition of objects of historical, cultural, and/or educational value that are not offered for sale.
- b. *Personal services:* A business that provides services relating to personal grooming and health. Uses include barber shops, hair stylists, spas, fitness centers and nail salons.
- c. *Restaurant:* An establishment where food and drink are prepared and consumed. Such establishment may also provide catering services.
- d. *Retail use:* An establishment engaged in selling goods or merchandise and rendering services incidental to the sale of such goods.
- e. *Theaters:* Establishments primarily engaged in producing live presentations involving the performances of actors and actresses, singers, dancers, musical groups and artists, and other performing artists

**Figure 2 Uses Required Adjacent to Street Frontages**



- a. No use shall occupy a continuous linear street frontage exceeding 60 feet in length, with the exception of museum and art exhibition and/or theater uses. The design commission may approve up to an additional six feet in length if the use incorporates a feature to promote pedestrian activity, including but not limited to: an additional pedestrian entrance onto a sidewalk or through-block connection, or additional 10 percent transparency beyond the requirement of MICC [19.11.100\(B\)\(1\)\(b\)](#).
  - b. The minimum required depth of uses along street frontages is 16 feet.
2. The identified parcels as shown on Figure 3 are required to provide a minimum Floor Area Ratio (FAR) equivalent to 0.2623 of the gross lot area as provided by King County or a no net loss of existing floor area on the effective date of this Ordinance, whichever is greater, for retail, restaurant and/or personal service uses; museum and art exhibition uses; and/or theater uses adjacent to street frontages upon redevelopment. For the purposes of determining redevelopment, the value of redevelopment shall be an amount equal to or greater than 50% of the current total assessed improvement value as determined by King County.

**Figure 3 – Parcels Subject to FAR or No Net Loss Requirement for Required Street Frontage Uses**



- a. When a FAR calculation results in a fraction, the fraction shall be rounded to the nearest whole number as follows:
  - i. Fractions of 0.50 or above shall be rounded up to the closest whole number; and
  - ii. Fractions below 0.50 shall be rounded down to the closest whole number.
- b. Each individual museum and art exhibition use as well as theater use shall be limited to a contributing cap of 5,000 square feet towards the achievement of the total minimum FAR requirement for the corresponding site. For example, a site with a minimum FAR requirement of 20,000 square feet may only have one of these identified uses contribute a maximum of 5,000 square feet towards the necessary minimum through a 1:1 contribution. The remaining 15,000 square feet must come from retail, restaurant and/or personal service uses as defined in MICC 19.16.
- c. A review of this requirement shall occur five (5) years from the date of Ordinance adoption or after 75,000 square feet of floor area for retail, restaurant and/or personal service uses; museum and art exhibition uses; and/or theater uses adjacent to street frontages has been authorized through Building Permit issuance.

On February 16, 2022, the Planning Commission conducted a second open record public hearing on ZTR21-004 Town Center Retail Requirements. The Commission deliberated briefly and voted 6-0 to recommend that the City Council direct additional work on ZTR21-004 to address the legitimate concerns raised on February 16, including (but not limited to):

1. Articulation of a clear problem statement or goal
2. Public Participation - Requirements of RCW 36.70A.035 including outreach and full engagement of MI Town Center stakeholders including Town Center business owners
3. Potential SEPA compliance issues
4. Traffic impacts and parking requirements of the current proposal
5. Potential Impacts of recently proposed statewide zoning legislation which could alter how MI chooses to absorb its GMA growth allocations.
6. Treatment of non-conforming uses within the Town Center including impacts to existing tenants who no longer meet the definition of “services”
7. Potential Inconsistencies with the Comprehensive Plan
8. Commercial needs assessment with regard to street frontage, depth of commercial space and allowed uses
9. Impacts of the FAR and no net loss approaches on both property owners and business owners
10. Consider alternative legislative methods to encourage the retail uses most desired/needed by the community (eg. incentive programs, sub-area overlays, infrastructure investments, relaxing of regulations, etc.)
11. Consider professional input to address the issues above