



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 6036
March 15, 2022
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 6036: Development Code Amendment ZTR21-004 Town Center Retail Requirements – Ordinance No. 21C-28 (Third Reading)	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Receive the second Planning Commission recommendation, conduct third reading of the ordinance, and provide legislative direction to staff.	

DEPARTMENT:	Community Planning and Development		
STAFF:	Jeff Thomas, Interim Director Sarah Bluvas, Economic Development Coordinator		
COUNCIL LIAISON:	n/a		
EXHIBITS:	1. Ordinance No. 21C-28 2. February 22, 2022, Planning Commission Second Recommendation 3. Legislative Option 5 – September 2021 4. Legislative Timeline		
CITY COUNCIL PRIORITY:	n/a		

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

SUMMARY

EXECUTIVE SUMMARY

The purpose of this agenda bill is to provide direction related to proposed amendments to MICC 19.11.020(B), which outlines ground-floor commercial requirements in the Town Center zone (ZTR21-004).

- 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.
- The moratorium remains in place while the City evaluates potential updates and/or amendments to development regulations for commercial space requirements within the Town Center.
- At the end of 2021, the City Council conducted first and second readings of Ordinance No. 21C-28 (Exhibit 1), which proposes amendments to MICC 19.11.020(B) related to commercial space requirements in the TC zone.
- The ordinance proposed 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; and
- Add a limited no net loss requirement of space for eligible commercial use to be applied to specific parcels.
- On December 7, 2021, the City Council proposed additional amendments, including combining the FAR and no net loss requirements for a “greater of the two” requirement across specific parcels, and remanded the matter back to the Planning Commission for a new public hearing and recommendation.
- On Tuesday, the City Council will receive the Planning Commission’s second recommendation (Exhibit 2), conduct a third reading of Ordinance No. 21C-28, and provide legislative 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.

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 eleven City Council meetings, five Planning Commission meetings, and two Public Hearings (Exhibit 4).

The City Council remanded Ordinance No. 21C-28 (ZTR21-004) with proposed amendments (Exhibit 1) back to the Planning Commission on December 7, 2021, with the direction to hold a second Public Hearing, deliberate, and vote on a second recommendation for the City Council no later than March 15, 2022.

PLANNING COMMISSION DELIBERATION & RECOMMENDATION

On January 26, 2022, staff conducted a working session with the Planning Commission on the following matters:

- Revising 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);
- Adding visual and performing arts venues to the list of eligible uses adjacent to street frontage (proposed by City Council on November 16, 2021);

- Adding an evaluation trigger of five years after the date of adoption or at which time 75,000 sf of commercial space has been authorized through Building Permit issuance (proposed by City Council on November 16, 2021);
- Reconciling definitions for other eligible uses adjacent to street frontage using definitions from MICC 19.16.010 (directed by City Council on December 7, 2021);
- Exempting visual and performing arts venues from the 60' contiguous linear street frontage maximum (directed by City Council on December 7, 2021); and
- Establishing 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).

Staff completed the required noticing for two Public Hearings on ZTR21-004, including publishing information in the Permit Bulletin, *Mercer Island Reporter*, City website, and Planning Commission calendar, as well as mailing notices to 700+ stakeholders and posting on-site. Additionally, for the second Public Hearing that took place on February 16, 2022, staff conducted targeted outreach to Town Center commercial property owners and managers (eleven contacts) and general outreach to the City's business e-mail list (900+ contacts).

The Planning Commission conducted the required Public Hearing on February 16, 2022, at which time they received comments from four speakers. After a brief deliberation, the Commission voted 6-0 (one Commission position was vacant) to not approve the proposed amendments to MICC 19.11.020(B) as presented (Exhibit 2).

LEGISLATIVE OPTIONS

The following section summarizes the legislative options previously presented to the City Council over the course of 2021 to address the findings established in the moratorium. They are included here again for reference.

Option 1 Do nothing.

This option was presented to the City Council in summer 2021. There would be no change to current regulations. An ordinance adoption would not be required.

Option 2 Amend MICC 19.11.020 Figure 2 to complete surgical additions / deletions to the current map.

This option was presented to the City Council in summer 2021. It was also part of the original direction in September and the subsequent direction in December 2021 from the City Council to the Planning Commission.

Option 3 Amend MICC 19.11.020 to add a "no net loss" commercial retail square footage requirement throughout the TC for post 2005 developed parcels administered on a parcel-by-parcel basis.

This option developed from a blanket no net loss option. It was part of the original direction from the City Council to the Planning Commission in September 2021.

Option 4 Amend MICC 19.11.020 to add a "commercial floor area ratio" requirement for parcels subject to the requirement in Figure 2 and not otherwise excluded by some other means.

This option was previously presented to City Council in summer 2021. It was part of the original direction from the City Council to the Planning Commission in September 2021.

Option 5 Amend MICC 19.11.020 by combining Options 2, 3, and 4 (above).

Combining Options 2, 3, and 4 (above) was the original direction from the City Council to the Planning Commission in September 2021 (Exhibit 3). After receiving the Planning Commission recommendation in November to not proceed with this combination of options, the City Council provided subsequent direction to the Planning Commission in December 2021 (see Option 6 below).

Option 6 Amend MICC 19.11.020 by executing Ordinance No. 21C-28 with or without further amendments to combine Option 2 with a “greater than” requirement between “commercial floor area ratio” and “no net loss” for parcels subject to the requirement in Figure 2.

This combination of Option 2 with a “greater than” requirement has also received a Planning Commission recommendation to not proceed, which will be presented to City Council on March 15.

NEXT STEPS

At Tuesday’s meeting, Chair Daniel Hubbell will present the Planning Commission’s recommendation on this matter and answer questions from the City Council.

Staff seeks legislative direction from the City Council and, upon receiving the direction, anticipates a fourth reading of Ordinance No. 21C-28 will be scheduled approximately mid-year. This will allow time for the SEPA review to be amended as necessary and finalized. It also allows for re-noticing to the WA Department of Commerce (if necessary); a Planning Commission review and recommendation to remove Figure TC-1 from the Comprehensive Plan (if necessary); and Ordinance No. 21C-28 to be renumbered due to a new year, finalized, and reviewed.

RECOMMENDED ACTION

Receive the Planning Commission’s recommendation, conduct a third reading of Ordinance No. 21C-28, and provide legislative direction to staff.