



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

**AB 6389  
December 5, 2023  
Regular Business**

**AGENDA BILL INFORMATION**

<b>TITLE:</b>	AB 6389: Review Proposed Amendment No. 18 – Land Use Map Amendment and Rezone of the Stroum Jewish Community Center (SJCC) Property for 2024 Docket (Including Public Comment Period on Proposed Amendment No. 18).	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution
<b>RECOMMENDED ACTION:</b>	Consider approval of Resolution No. 1657 regarding Proposed Amendment No. 18’s inclusion on the 2024 docket.	

<b>DEPARTMENT:</b>	Community Planning and Development
<b>STAFF:</b>	Jeff Thomas, Community Planning and Development Director Alison Van Gorp, Community Planning and Development Deputy Director
<b>COUNCIL LIAISON:</b>	n/a
<b>EXHIBITS:</b>	1. Planning Commission Staff Memo, dated November 15, 2023 2. Planning Commission Recommendation 3. Resolution No. 1657 – Options (A), (B) and (C)
<b>CITY COUNCIL PRIORITY:</b>	n/a

<b>AMOUNT OF EXPENDITURE</b>	\$ n/a
<b>AMOUNT BUDGETED</b>	\$ n/a
<b>APPROPRIATION REQUIRED</b>	\$ n/a

**EXECUTIVE SUMMARY**

The purpose of this agenda bill is to make a determination on whether to add Proposed Amendment No. 18 to the docket of proposed Comprehensive Plan and development code amendments for 2024. The docket is the City’s process for soliciting proposals for Comprehensive Plan and development code amendments each year.

- The public had the opportunity to submit docket proposals during the month of September.
- The SJCC submitted a proposal (Proposed Amendment No. 18) to redesignate and rezone the SJCC property to Commercial-Office.
- The Planning Commission reviewed Proposed Amendment No. 18 and recommended it be included on the 2024 docket.
- The City Council will consider the City’s capacity to review docketed items in the coming year, among other criteria, in deciding on which, if any, proposals are placed on the docket.

- Items placed on the 2024 docket will be added to the Community Planning and Development (CPD) work program for legislative review and consideration by staff, the Planning Commission, and the City Council.
- Proposed Amendment No. 18 is a request for a site-specific rezone. Washington Courts have held that site-specific rezones are quasi-judicial.

## BACKGROUND

The City provides an annual opportunity to propose amendments to the Comprehensive Plan and development regulations. Amendment proposals are invited each year during the month of September as described in [MICC 19.15.230\(D\)\(1\)](#). The proposed amendments are compiled, along with the City’s proposed amendments, into a docket. The docket is preliminarily reviewed by the Planning Commission and City Council for a determination on which, if any, proposed amendments will be advanced for full review in the coming year. Amendments selected by the City Council for the 2024 docket are then added to the Community Planning and Development work program, typically for the next calendar year, or when time and resources permit.

### Docketing Process

Public notice of the opportunity to submit docket requests was provided in the permit bulletin and on the City website between August 7, 2023 and September 6, 2023, as well as on August 9 and September 6, 2023 in the Mercer Island Reporter. Only Proposed Amendment No. 18 will be considered as a part of this agenda bill given its quasi-judicial nature. The docket application submitted by the SJCC for Proposed Amendment No. 18 is included in Exhibit 1.

### Docketing Criteria

The City Council’s role in the docketing process is described as follows in [MICC 19.15.230\(D\)\(1\)\(d\)](#):

*“The city council shall review the preliminary docket at a public meeting. By December 31, the city council shall establish the final docket based on the criteria in subsection E of this section. Once approved, the final docket defines the work plan and resource needs for the following year’s comprehensive plan and code amendments.”*

The [MICC 19.15.230\(E\)](#) provides that Comprehensive Plan and code amendments shall only be placed on the final docket if the proposed amendment will meet the specified criteria:

- “E. Docketing Criteria. The following criteria shall be used to determine whether a proposed amendment is added to the final docket in subsection D of this section:*
- 1. The request has been filed in a timely manner, and either:*
    - a. State law requires, or a decision of a court or administrative agency has directed, such a change; or*
    - b. All of the following criteria are met:*
      - i. The proposed amendment presents a matter appropriately addressed through the comprehensive plan or the code;*
      - ii. The city can provide the resources, including staff and budget, necessary to review the proposal, or resources can be provided by an applicant for an amendment;*
      - iii. The proposal does not raise policy or land use issues that are more appropriately addressed by an ongoing work program item approved by the city council;*
      - iv. The proposal will serve the public interest by implementing specifically identified goals of the comprehensive plan or a new approach supporting the city’s vision; and*

- v. *The essential elements of the proposal and proposed outcome have not been considered by the city council in the last three years. This time limit may be waived by the city council if the proponent establishes that there exists a change in circumstances that justifies the need for the amendment.”*

### **Planning Commission Review & Recommendation**

On [November 15, 2023](#), the Planning Commission reviewed Proposed Amendment No. 18. Proposed Amendment No. 18 is quasi-judicial in nature (i.e., it pertains to rezoning a specific property), and was reviewed separately from the other docket proposals, utilizing special procedures required for quasi-judicial proceedings. These procedures included: taking the item separately, holding a public comment period separate from general public appearances, and asking the commissioners to limit their consideration of this matter to the information that was on the record and included in the agenda packet or provided during the public meeting. This process was intended to create a separate and distinct record for this matter so that the Planning Commission could consider the proposal in a fair and unbiased fashion. The public record included the staff memo dated November 15, 2023, including docket request form submitted by the SJCC (Exhibit 1). Over [300 written public comments](#) were also entered into the record in advance of the November 15, 2023 public meeting.

The review procedures also included asking each commissioner to respond to a series of questions related to the Appearance of Fairness. No commissioners identified any potential bias or conflict worthy of recusing themselves from this proceeding and all affirmed they could adjudge the proposal in a fair and unbiased manner. Commissioners [Battazzo](#) and [Raisys](#) provided written statements to disclose potential appearances of conflict under the City’s Code of Ethics. The public was provided with an opportunity to raise challenges to the participation of any Commissioner; none were raised.

The Planning Commission was directed to make their recommendation based solely upon the information in the record and the docketing criteria in MICC 19.15.230(E). After considerable discussion and deliberation, the Planning Commission made a motion related to each of the docketing criteria. The Planning Commission found that all the docketing criteria were satisfied (see Exhibit 2). The Commission voted 6-0-1 vote (Raisys abstaining) to recommend that the City Council include Proposed Amendment No. 18 in the 2024 docket.

## **ISSUE/DISCUSSION**

The threshold question for the City Council is whether Proposed Amendment No. 18 should be placed on the 2024 docket. The Proposal should be reviewed based solely upon the information in the public record and the criteria in MICC 19.15.230(E), provided above. If all the criteria are met, Proposed Amendment No. 18 will be added to the 2024 docket. Otherwise, it will not. The public record includes the following:

- Planning Commission [agenda packet](#) for November 15, 2023, including the [staff report](#), the [docket request](#) submitted by the SJCC, and the disclosures submitted by Commissioners [Battazzo](#) and [Raisys](#),
- The [minutes](#) and [video recording](#) of the Planning Commission November 15, 2023 public meeting,
- All of the public comments pertaining to this Proposal received both prior to the November 15 Planning Commission meeting and those received since (available on the [Let’s Talk Annual Docket](#) page, see the Document Library, comments received through December 5 at 5pm will be added to Let’s Talk), and
- The recommendation of the Planning Commission to the City Council (Exhibit 2).

After deliberations, the City Council should approve Resolution No. 1657 memorializing its decision (Exhibit 3). Three alternatives for Resolution No. 1657 have been provided to Council:

- A. Adopting the Planning Commission recommendation and its findings; or
- B. Not adding Proposed Amendment No. 18 on the 2024 docket and making findings in support of the decision; or
- C. Adding Proposed Amendment No. 18 to the 2024 docket with findings different from those of the Planning Commission in support of the decision.

Related to docketing criterion 19.15.230(E)(1)(b)(ii), the City Council should carefully consider the City's capacity to review docketed items in the coming year, including the workload generated by the items placed on the docket for staff, the Planning Commission, and the City Council itself. Each item that is docketed requires substantial staff work, including research and analysis, preparation of staff reports, public notice, SEPA analysis and documentation, and notification to state agencies. In addition, the Planning Commission typically discusses each item 2-3 times at a minimum, including a work session, a public hearing, and deliberations/decision. Then, the City Council holds a minimum of two readings for each proposed amendment.

To better understand the legislative review process and typical timelines, see AB 6382, Exhibit 5 for a progress report on items proposed for the docket since 2020. In recent years, the City has often not completed legislative review of all the docketed items during the year in which they were docketed. Typically, one or more items have been carried over to the following year's work program.

The Planning Commission schedule includes 11 regularly scheduled meetings each year. Thus, there is a limit to the number of items that the Planning Commission can review in a year, based on simple time constraints. Additionally, the City Council should consider its capacity for review of recommended amendments, as well as the community's capacity to digest the proposals.

The 2024 CPD work program includes following items; anything added to the docket for 2024 will need to be scheduled for review around these existing items:

1. **Periodic Update of the Comprehensive Plan:** Work on the periodic update will continue through 2024, including significant work on the Parks Zone and Housing Element (due for completion by December 2024).
2. **Legislatively Mandated Residential Amendments (HB 1110, HB 1337):** The City must undertake several substantial code amendments to comply with recent housing-related legislation. The City will also undertake additional amendments related to the previously planned Residential Development Standards (RDS) code update. This work will begin as the periodic update of the Comprehensive Plan concludes in late 2024 and must be completed by June 30, 2025.

	2024				2025			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1. Comprehensive Plan Periodic Update	[Yellow]		[Yellow]					
2. Residential Amendments (HB 1110, HB 1337)	[Blue: analysis, community engagement, scoping]			[Yellow]			[Yellow]	

[Yellow] Planning Commission Review      [Yellow] City Council Review

**NEXT STEPS**

Once the 2024 docket is approved, staff will schedule each of the docketed items for Planning Commission and City Council legislative review in 2024 or beyond.

**RECOMMENDED ACTION**

City Council has three options for addressing this agenda item:

- 1) Adopt the findings, conclusions, and recommendation of the Planning Commission without edit. This option corresponds to Resolution Option (A) in the agenda packet.
- 2) Decline to place the proposal on the 2024 docket, adopting supporting findings and conclusions. This option corresponds to Resolution Option (B) in the agenda packet.
- 3) Place the proposal on the 2024 docket but adopting separate findings and conclusions than Planning Commission. This option corresponds to Resolution Option (C) in the agenda packet.