



## BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

**AB 5851**  
**April 20, 2021**  
**Regular Business**

### AGENDA BILL INFORMATION

<b>TITLE:</b>	AB 5851: Development Code Amendment ZTR21-001 Comprehensive Plan Implementation	<input type="checkbox"/> Discussion Only
<b>RECOMMENDED ACTION:</b>	Review Ordinance No. 21C-05 and set second reading for May 4, 2021.	<input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

<b>DEPARTMENT:</b>	Community Planning and Development
<b>STAFF:</b>	Jeff Thomas, Director and Alison Van Gorp, Deputy Director
<b>COUNCIL LIAISON:</b>	n/a
<b>EXHIBITS:</b>	1. Planning Commission Staff Reports, dated January 14 and February 11 2. Planning Commission Recommendation, dated March 17 3. Ordinance No. 21C-05
<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

### SUMMARY

The Planning Commission recommends approving the proposed code amendment to remove from the city code direction on how Comprehensive Plan amendments are to be implemented; instead, this will be dictated by state regulations. No amendment to the Comprehensive Plan is required prior to adoption of this proposed code amendment.

### BACKGROUND

This code amendment was suggested by an interested person as a part of the annual docket submittal process in the fall of 2020, and the City Council later added it to the final docket. The proposed code amendment repeals MICC 19.15.230(I), removing from the city code direction on how Comprehensive Plan amendments are to be implemented. The current code language in [MICC 19.15.230\(I\)](#) provides that when making amendments to adjust existing Comprehensive Plan goals or policies, implementing development regulations or programs should be prepared, reviewed and adopted concurrent to the amendment of the Comprehensive Plan. It also provides that when amendments represent new policy direction or a significant change to existing policy direction, the implementing development regulations or programs should be prepared, reviewed, and adopted "as soon as reasonably practicable following the adoption of the amendments to the comprehensive

plan". With the repeal of this code language, implementation of Comprehensive Plan amendments will be governed by state regulations, including the Growth Management Act (e.g., [Chapter 365-196 WAC](#)).

The adoption of MICC 19.15.230(I) was previously appealed to the Growth Management Hearings Board (Board) and the Board found that the adoption of this code section by the City Council was legal. The Board, however, cautioned that even though the code is legal, implementation of the code in certain circumstances *could* result in a GMA violation.

City staff believe that state statute and regulations provide sufficient guidance to properly implement Comprehensive Plan amendments and to adopt consistent development regulations. Consequently, there is no need to keep MICC 19.15.230(I) in the city code in light of the Board's caution.

City staff followed the procedures in MICC [19.15.230](#) and [19.15.260](#) related to the review of code amendment proposals that have been placed on the final docket by the City Council. On January 15, 2021, public notice was provided for the public hearing scheduled on February 17, 2021. Public notice was provided in the newspaper and the weekly permit bulletin. A SEPA determination of non-significance was issued by staff on February 12, 2021. City staff prepared staff reports in advance of each Planning Commission meeting summarizing the proposal and providing a staff recommendation (see Exhibit 1).

On January 20, 2021, the Planning Commission reviewed the proposed code amendment during a public meeting. The Commission did not request further revisions to the amendment. On February 17, 2021, the Planning Commission held a public hearing on the proposed amendment and recommended the City Council approve the proposed amendment by a unanimous vote. The Planning Commission's recommendation is Exhibit 2. The recommended code amendment is included in Ordinance No. 21C-05 (see Exhibit 3).

#### **NEXT STEPS**

The City Council should review the proposed code amendment at the April 20 meeting and schedule the second reading and adoption on May 4. If approved on May 4, the code amendment would take effect 5 days after publication by the City Clerk.

#### **RECOMMENDATION**

Review Ordinance No. 21C-05 and set second reading and adoption on May 4, 2021.