

Log #	Received From	Question	Staff Response
1	Adam Ragheb	As regards the north part of Ellis Pond park, why does the north-south road at first appear to be fully within the proposed Park zone and then transition to only extending to the center of the road about 2/3 of the way through the first residential lot?	Zone boundaries can be imprecise when viewed on GIS maps because they are drawn from the GIS park layer information. Where a zone abuts a right of way, the adjacent zone is typically shown as extending to the middle of the right of way.
2	Adam Ragheb	Is it correct that the entire I-90 corridor will remain PI-zoned? Is there anything preventing us from considering the lidded part to be Park-zoned?	<p>The primary purpose of the property known as Aubrey Davis Park is transportation. The secondary purpose is a park facility. It is preferable that zoning be in alignment with the primary purpose of the property.</p> <p>The City must comply with the numerous prior agreements with WSDOT memorialized within the turnback and landscape maintenance agreements and airspace leases with WSDOT that permit the City to maintain the Aubrey Davis Park and other recreational facilities within WSDOT right of way. Considering the complex overlay of the various agreements between WSDOT and the City governing the use and maintenance of Aubrey Davis Park (which is airspace to the I-90 ROW owned by WSDOT), staff do not recommend including Aubrey Davis Park within the Parks Zone.</p>
3	Adam Ragheb	Looking at the south part of Mercedale Park, I understand the 7 residential lots on the west part between SE 34th and the south edge of the park - why is what appears to be most of the parking lot and the Thrift Shop not currently included in the Park zone?	The City owns the property that includes the Thrift Shop and a portion of the adjacent parking lot. The property is currently zoned R-8.4. The Thrift Shop is not operated as a park and recreation facility and not proposed to be included in the Parks Zone.

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4	Adam Ragheb	<p>[PRC Comment Matrix Log item #5] – I learned today about past attempts to site City Hall in Mercedale Park, and I was previously aware of thankfully scuttled plans to site MICA in Mercedale Park. The people I talked to today told me their understanding was this zone was meant to protect our parks. Why does govt offices/facilities even exist as a permitted use? To address MICEC and LBAB, why do we not just clarify that existing City operations are allowed? We could spell out MICEC and LBAB to remove any ambiguity. On the topic of MICEC, why would that not fall under the definition of Recreational facility?</p>	<p>Existing facilities are intended to continue to be used for City operations and will need to be addressed in the Parks Zone. The method for addressing the existing buildings has not yet been determined.</p>
5	Adam Ragheb	<p>[PRC Comment Matrix Log item #11] – Why should we even talk about building new buildings in the Park Zone that are 3 stories high? That is not preserving our parks in my opinion. To address concerns about existing structures being made nonconforming, can we exclude preexisting buildings, stacks which are excluded in 19.05.010 for the PI zone (is this for the Luther Burbank boilers down by the dock and/or the vent stacks for the I-90 tunnel?)</p>	<p>There are no plans to develop new buildings in parks. There are, however, existing buildings that should be reflected in the new Parks Zone to allow for repair and replacement (if/when needed). Note, if a building replacement is needed it is envisioned that the building would not exceed the current footprint of the existing building and language confirming these restrictions should be included in the Parks Zone language.</p> <p>The method for addressing the existing buildings in the Parks Zone has not yet been determined. Provisions will be considered to clarify that new buildings are not allowed.</p>
6	January 24 PC Meeting	<p>How much existing lighting conforms to the proposed standards? What would it take to make that lighting conforming?</p>	<p>There is currently no standard for lighting in the park system or related records, so staff cannot prepare this analysis. The lighting standard in the initial draft of the Parks Zone is adapted from the International Dark Sky Association recommended standards. This language will be reviewed in subsequent version of the Parks Zone draft.</p>

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7	January 24 PC Meeting	What are the pros and cons of including landings and street ends in the Parks Zone?	<p>The primary purpose of most street ends and landings is utilities – mainly sewer and stormwater. The secondary purpose is parks. Staff do not recommend including utility infrastructure in the Park Zone. Zoning should align with the primary purpose of the property. Staff propose using other tools such as the PROS Plan to guide operations and use of the parks component of these facilities.</p>
8	January 24 PC Meeting	Can the City Council remove the Open Space Conservancy Trust (OSCT)?	<p>The OSCT was established by <a href="#">Ordinance B-93</a> on February 10, 1992. Ordinance B-93 was amended by <a href="#">Ordinance 06-002</a> on May 6, 1996. Section 1, Article VIII of Ordinance 06-002 outlines the conditions under which the trust may be terminated or dissolved. This article states:</p> <p style="text-align: center;"><b>“ARTICLE VIII</b></p> <p style="text-align: center;"><b>Termination/Dissolution of the Trust</b></p> <p>This Trust shall continue in perpetuity, but, if for any reason, the Trust, or any portion of the Trust, becomes illegal, or impossible to enforce, or any of the Trust properties no longer qualify for inclusion in the Trust, this Trust may be terminated in whole, or in part, or any of the Trust properties reconveyed to the City, by a vote in favor of termination or reconveyance by at least five (5) of the Trustees and a vote in favor of termination or reconveyance by at least five (5) members of the City Council. Thereupon the Trust properties affected shall be reconveyed to the City. Upon final distribution of all trust properties the powers, duties, and authority of the Trustees shall cease. If the Trustees and Council do not effect termination by dissolution as provided above in the event of impossibility or illegality of enforcement in whole or in part, the Trustees shall take appropriate action to maintain the Trust in as similar a form as</p>

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			<p>possible. The Trustees shall make a proper and timely application, petition, or action at equity to a court of competent jurisdiction for the application of the doctrine of Cy Pres. The application, petition, or action shall seek to appropriately modify the purposes and terms of this Trust so as to continue management of the open space properties then held by the Trust in as similar a manner as stated herein as possible without offending the law. If the court fails to so suitably modify the Trust, the Trust shall terminate and the Trust corpus affected will be distributed to the City of Mercer Island.”</p>
9	January 24 PC Meeting	<p>Can City parks be rented for private events? Approximately how much revenue do those types of rentals generate?</p>	<p>Yes, City parks are frequently rented for private events and activities such as weddings, picnics, company parties, reunions, and a variety of private sporting events subject to City Code and Parks and Recreation policies. In 2023, rentals of park space generated approximately \$380k of which \$330k was tied to athletic fields.</p>

<p>10</p>	<p>January 24 PC Meeting</p>	<p>Please provide clarification of MICC 19.01.050(B)(1).</p>	<p>First, a couple of definitions will help with the understanding of <a href="#">MICC 19.01.050</a>. Legal nonconforming structures are defined in MICC 19.16.010 as, “A structure that lawfully existed prior to September 26, 1960, or conformed to the applicable code requirements in effect at the time it was constructed but no longer conforms to the current regulations of the zone in which it is situated due to subsequent changes in code requirements.” Legal nonconforming uses are defined as, “Nonconforming use, legal: The use of a structure, site or of land that lawfully existed prior to September 26, 1960, or conformed to the applicable code requirements in effect at the time it was commenced but no longer conforms to the current regulations of the zone in which it is situated due to subsequent changes in code requirements.”</p> <p><a href="#">MICC 19.01.050(B)(1)</a> states:</p> <p>“Ordinary repairs and maintenance. Ordinary repairs and maintenance of a legally nonconforming structure are permitted. In no event may any repair or maintenance result in the expansion of any existing nonconformity or the creation of any new nonconformity.”</p> <p>This section authorizes legally nonconforming structures to be maintained and repaired provided the maintenance and repair do not increase or generate new nonconformity. The full text of <a href="#">MICC 19.01.050</a> would apply to nonconforming uses and structures and should be considered. For example, though <a href="#">MICC 19.01.050(B)(1)</a> allows ordinary repair and maintenance, <a href="#">MICC 19.01.050(D)(3)(b)</a> states:</p> <p>“D. <i>Exterior alteration or enlargement of nonconforming structures.</i> [ ... ]</p> <p>3. <i>Nonconforming structures other than single-family or in Town Center.</i> [ ... ]</p>
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			<p>Nonconforming uses have different limitations established in <a href="#">MICC 19.01.050(H)</a>, which states:</p> <p><i>“H. Nonconforming uses.</i></p> <ol style="list-style-type: none"> <li><i>1. Change of use.</i> Any change from a legal nonconforming use shall be to a conforming use only; provided, the continuation of the same or similar use by the same or different owner will not result in loss of legal nonconforming status.</li> <li><i>2. Additional uses prohibited.</i> While a legal nonconforming use exists on any lot, no separate or new use may be established thereon, even though such additional use would be a conforming one.</li> <li><i>3. Expansion of legal nonconforming use.</i> Legal nonconforming uses shall not be expanded or enlarged; however, if the code official determines that expansion or enlargement of the use or an accessory use (including parking) or other site modifications would make the use more conforming to current code standards or is required by city ordinance, state law, or federal law and no new nonconformity is created it may be allowed. Expansion includes increasing the size of the structure in which the use occurs or enlarging the scope, volume, area or intensity of the use in a significant way.</li> <li><i>4. Nonconforming use associated with structure that suffers catastrophic loss.</i> In the event of catastrophic loss to a structure, the legal nonconforming status of any use contained in the structure shall not be lost, provided a complete building application to rebuild the structure and reestablish the nonconforming use is submitted within 12 months of the loss.</li> </ol>

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11	January 24 PC Meeting	<p>Where else is stormwater addressed?</p> <p>A.) How might the Planning Commission otherwise address stormwater runoff?</p> <p>B.) What data do we have on the amount of stormwater runoff generated in/by City parks?</p> <p>C.) What PROS Plan policies address stormwater and/or impervious surfaces?</p>	<p>Stormwater regulations are contained within MICC 15.09 and address on a City wide basis and would continue to apply to properties that would be included within a new Parks Zone. Any construction on a project or "land disturbing activity" requires a storm water permit from the City.</p> <p>The City does not have data related to the stormwater runoff generated by City Parks.</p> <p>The PROS Plan Chapter 4 (Goals) and Chapter 9 (Open Space/Future Initiatives) address stormwater in a general sense. Impervious surfaces are addressed in regards to specific facility planning/replacement planning (ie reducing when possible during improvements).</p>
12	Victor Raisys	<p>How are changes made to the Parks Zone or Park Zone uses. Given the fact that the Parks Zone proposal came out of an effort to better protect our parks, it seems like there should be a discussion of the mechanism necessary to make future changes to the Park Zone and/or Park Zone uses. What are those mechanisms? Why aren't they included?</p>	<p>Zoning code amendments are made through ordinances passed by the City Council. That process and its components are set forth in MICC Ch. 19.15.</p>
13	Victor Raisys	<p>Why is Aubrey Davis Park not included in the parks proposal? Seems that there should be a discussion as to why/why not one of our larger parks on the island is not included in the Park Zone proposal.</p>	<p>See response to Log Item #2 above.</p>