



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 5977
November 16, 2021
Regular Business

AGENDA BILL INFORMATION

TITLE:	Development Code Amendment ZTR19-004 Town Center Retail Requirements (Ord. No. 21C-28 First Reading)	<input checked="" type="checkbox"/> Discussion Only
RECOMMENDED ACTION:	Review Ordinance No. 21C-28 and set for second reading.	<input type="checkbox"/> Action Needed: <input type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

DEPARTMENT:	Community Planning and Development
STAFF:	Jeff Thomas, Interim Director Alison Van Gorp, Deputy Director Sarah Bluvias, Economic Development Coordinator
COUNCIL LIAISON:	n/a Choose an item. Choose an item.
EXHIBITS:	1. Planning Commission Recommendation, dated November 10, 2021 2. Ordinance No. 21C-28 (Proposed)
CITY COUNCIL PRIORITY:	Choose an item.

AMOUNT OF EXPENDITURE	\$ Choose an item.
AMOUNT BUDGETED	\$ Choose an item.
APPROPRIATION REQUIRED	\$ Choose an item.

SUMMARY

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. On November 3, 2021, the Planning Commission voted on a recommendation to send to City Council related to Development Code Amendment ZTR21-004 Town Center Retail Requirements. Tonight, the City Council will receive the Planning Commission recommendation, complete a first Ordinance reading for ZTR21-004, and provide any desired 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 service (e.g. barber shop, nail salon, fitness center, etc.). 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 TC zoning designation.

LEGISLATIVE HISTORY

- June 2, 2020: The City Council passed [Ordinance No. 20-12](#), which established a 6-month moratorium on major new construction south of SE 29th Street in the Town Center (TC) zoning designation. The City Council indicated that the City desired to possibly complete updates and/or amendments to development regulations within the Mercer Island Town Center, including requirements for various types of commercial space.
- July 21, 2020: The City Council completed the required Public Hearing for Ordinance No. 20-12 on the Town Center Moratorium and directed staff to prepare an amended interim Ordinance reducing the size of the geographic area subject to moratorium and include additional findings of fact.
- September 1, 2020: The City Council adopted [Ordinance No. 20-18](#) with a reduced size of the geographic area subject to moratorium and included additional findings of fact. Additionally, the City Council provided direction to staff to prepare a scope of work for a Town Center commercial analysis to inform options for resolving the moratorium and a corresponding budget appropriation request.
- November 17, 2020: The City Council completed the required Public Hearing and adopted [Ordinance No. 20-26](#) renewing the moratorium for another 6-month period with its current geographic area as previously amended.
- December 1, 2020: The City Council adopted [Ordinance No. 20-29](#), the 2021-22 Biennial Budget. Included in the budget is a \$50,000 one-time appropriation for qualified professional services to perform a Town Center commercial analysis and support the completion of any necessary updates and/or amendments to development regulations within the Mercer Island Town Center to be responsive to the moratorium. The City Council also approved [Resolution No. 1594](#), establishing the 2021 docket for amendments to the Comprehensive Plan and development regulations. Included in the docket is a placeholder for amending the Town Center Sub-Area Plan and corresponding development regulations as necessary to be responsive to the moratorium.
- April 6 and 20, 2021: The City contracted with the firm Community Attributes, Inc. (CAI) to analyze the demand for additional ground floor commercial uses and the feasibility of requiring such uses in new buildings. On April 6, the City Council received a presentation on the findings of this analysis and commenced discussion ([AB 5841](#)). Further City Council discussion ensued on April 20, and the Council directed staff to complete additional analysis and to research legislative options in addition to a “no net loss” option.
- May 4, 2021: The City Council completed the required Public Hearing and adopted [Ordinance No. 21-09](#) renewing the moratorium for another 6-month period with its current geographic area as previously amended.
- July 6, 2021: Staff presented a number of legislative options to City Council ([AB 5910](#)). Council provided further direction to review and propose:
 - A. Updates to MICC 19.11.020(B) Retail Use Required Adjacent to Street Frontages;
 - B. A new TC commercial Floor Area Ratio (FAR) requirement; and

C. The applicability of a new TC “no net loss” requirement.

- September 21, 2021: The City Council directed staff to work with the Planning Commission to develop the necessary code amendments to MICC 19.11.020(B), including updating MICC 19.11.020(B) Figure 2 Retail Use Required Adjacent to Street Frontages; instituting a Town Center Commercial FAR requirement; and adding a selective “No Net Loss” provision ([AB 5933](#)).
- September 22, and October 6, 2021: The Planning Commission conducted two work sessions to review and comment on the proposed amendments to MICC 19.11.020(B).
- November 3, 2021: The Planning Commission completed the required Public Hearing, deliberated the proposed amendments, and voted on a recommendation to send to the City Council on November 16 (Exhibit 1).
- November 16, 2021: The City Council will hold the required Public Hearing and vote to adopt Ordinance No. 21C-27 renewing the moratorium for an another 6-month period with its current geographic area as previously amended (AB 5976). The current ordinance expires on December 2, 2021.

NEXT STEPS

Tonight, the City Council will receive the Planning Commission recommendation related to Development Code Amendment ZTR21-004 Town Center Retail Requirements and will complete a first reading of Ordinance No. 21C-28 (Exhibit 2). City Council will then need to provide any desired direction to staff, which may include one of the following next steps:

- Schedule a second reading and adoption of Ordinance No. 21C-28 for December 7, 2021, and the repeal of Ordinance No. 21C-27 to exit the moratorium; or
- Remand the matter back to staff for further work, which may require additional action from City Council related to work program priority/schedule as well as budget.

RECOMMENDED ACTION

Receive the Planning Commission recommendation for proposed Development Code Amendment ZTR21-004 Town Center Retail Requirements and complete a first reading of Ordinance No. 21C-28. Provide desired direction to staff on next steps, if any.