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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

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## PLANNING COMMISSION

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**To:** Planning Commission

**From:** Jeff Thomas, Interim Director

Sarah Bluvus, Economic Development Coordinator

**Date:** February 16, 2022

**RE:** ZTR21-004 Town Center Commercial Requirements

**Exhibits:**

- Exhibit 1. MICC 19.11.020(B) Proposed Code Amendments v(6) – CLEAN version
- Exhibit 2. Presentation Slides – 02.16.22
- Exhibit 3. Outreach Feedback – UPDATED as of 02.10.22
- Exhibit 4. Planning Commissioner Comments Matrix – UPDATED as of 02.10.22

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### SUMMARY

In June 2020, the City Council placed a moratorium on major new construction in the southeast corner of the Town Center zoning designation. Over the last 12 months the City Council has engaged in a discussion on how to retain and expand commercial space in the Town Center.

On December 7, 2021, the City Council remanded this matter back to the Planning Commission and directed staff to work with the Commission to review additional amendments proposed for Mercer Island City Code (MICC) 19.11.020(B) as well as to make a recommendation on eligible use definitions and other Council requests related to visual and performing arts centers.

Tonight, the Planning Commission will conduct a public hearing on the proposed amendments to MICC 19.11.020(B) and then deliberate and vote on a recommendation to send to the City Council. The proposal would repeal and replace MICC 19.11.020(B) and modify one or more definitions contained in MICC 19.16.010.

### BACKGROUND

The current Town Center development regulations were established in June 2016. Per the current code, major new development located north of SE 29<sup>th</sup> 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, fitness center, etc.). Between 40 and 60 percent of the ground floor street frontage north of SE 29<sup>th</sup> 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 29<sup>th</sup> Street in the Town Center zoning designation ("TC zone").

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 retail 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 11 City Council meetings and four Planning Commission meetings. The Planning Commission held the required Public Hearing on the proposal on November 3, 2021, and ultimately recommended in a 5-1 vote to not approve the proposed amendments as presented. The City Council reviewed the proposed amendments on November 16 and December 7, 2021, amended the proposal, and voted 7-0 to remand the matter back to the Planning Commission. (See complete legislative history at the end of this memo.)

The revised proposal is attached as **Exhibit 1**. On January 26, 2022, staff conducted a working session with the Planning Commission to review and ask questions about the following:

- 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 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).

Additionally, Commissioners raised items that should be considered as part of the deliberation tonight, including:

- Clarifying that the proposed commercial FAR/no net loss requirement applies to ground floor uses adjacent to street frontage; and
- Expanding the list of eligible uses for satisfying the proposed commercial FAR/no net loss requirement.

Finally, staff recommend also considering adding code language related to allowing driveways, service and truck loading areas, parking garage entrances, and lobbies to the proposal; this language was unintentionally omitted from the drafting of the proposed code language.

### Process for Deliberation

Tonight, staff will conduct a thumbs up/thumbs down exercise of each item detailed above. Items that receive a majority thumbs up from the Planning Commission will then be deliberated before voting on a recommendation to send to the City Council. The presentation to guide the deliberation process is attached as **Exhibit 2**.

### Public Outreach on ZTR21-004

In preparation for the Public Hearing, City staff have conducted the following outreach:

- Bulletin Notice: January 10, 2022
- Published in *Mercer Island Reporter*: January 12, 2022
- Posted on City Website and Planning Commission Calendar: January 13, 2022
- Mailed (700+ addressees) and Posted On-Site: January 14, 2022
- Targeted outreach to Town Center commercial property owners and managers: Ongoing
- Business E-mail List: January 28, 2022

Staff have provided relevant feedback from this outreach in the comments matrix attached as **Exhibit 3** and e-mailed to the Commission on February 9, 2022.

### NEXT STEPS

The Planning Commission will conduct a Public Hearing on the proposed amendments to MICC 19.11.020(B) tonight and then deliberate and vote on a recommendation to send to the City Council. Options for a recommendation are as follows:

1. Recommend approval of the proposed amendments to MICC 19.11.020(B) as presented;
2. Recommend approval of the proposed amendments to MICC 19.11.020(B) as presented and amended by the Planning Commission;
3. Recommend denial of the proposed amendments to MICC 19.11.020 (B); or
4. Recommend no action on the proposed amendments to MICC 19.11.020(B) and remand back to staff for further work as specified.

The City Council is scheduled to receive and consider the recommendation(s) of the Planning Commission on the proposed amendments to MICC 19.11.020(B) at its regular meeting on March 15, 2022.

### EXHIBITS

1. MICC 19.11.020(B) Proposed Code Amendments v(6) – CLEAN version
2. Presentation Slides – 02.16.22
3. Outreach Feedback – UPDATED as of 02.11.22
4. Planning Commissioner Comments Matrix – UPDATED as of 02.11.22

### 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 29<sup>th</sup> Street in the 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](#) and [associated presentation](#)). 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](#) and [associated presentation](#)). Council provided further direction to review and propose:
  - Updates to [MICC 19.11.020\(B\)](#) Retail Use Required Adjacent to Street Frontages;
  - A new TC commercial Floor Area Ratio (FAR) requirement; and
  - 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](#) and [associated presentation](#)).
- September 22, and October 20, 2021: Staff presented the necessary code amendments to implement the City Council direction to the Planning Commission for review and comment. (Video recordings: [September 22](#) and [October 20](#))
- November 3, 2021: The Planning Commission completed the required Public Hearing, deliberated the proposed amendments, and voted 5-1 on a recommendation to send to the City Council to not adopt the proposed amendments on November 16. ([Video recording](#))
- November 16, 2021: The City Council adopted [Ordinance No. 21C-27](#), which renews the moratorium for an additional 6-month period with its current geographic area as previously amended ([AB 5976](#)), held the required Public Hearing, and conducted the first reading of Ordinance No. 21C-28 ([AB 5977](#)).
- December 7, 2021: The City Council conducted the second reading of Ordinance No. 21C-28 and remanded the ordinance back to the Planning Commission for a new public hearing and recommendation ([AB 5985](#)).

- January 26, 2022: Staff conducted a working session with the Planning Commission on amendments proposed by the City Council and additional work directed by the Council. ([Video recording](#))