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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 Bluvas, Economic Development Coordinator  
**Date:** October 20, 2021  
**RE:** ZTR21-004 Town Center Commercial Requirements

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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 six months the City Council has engaged in a discussion on how to retain and expand commercial space in the Town Center.

On September 21, 2021, the City Council provided direction for staff to draft and present to the Planning Commission the proposed necessary code amendments to institute (1) changes to where ground floor street frontage commercial space adjacent to streets in the Town Center are required; (2) a commercial floor area ratio ("commercial FAR") provision for certain parcels in the Town Center; and (3) a no net loss of commercial space for those parcels redeveloped during or after 2005.

At the September 22, 2021, Planning Commission meeting, staff provided an overview of the work conducted with the City Council to-date, presented the proposed mechanisms for preserving commercial space, and sought feedback from the Planning Commission to inform the proposed necessary code amendments to achieve the City Council direction.

This evening, staff will present a draft of the proposed necessary code amendments to achieve the direction provided by City Council as well as the general options for a Planning Commission recommendation on such. The proposed necessary code amendments would repeal and replace Mercer Island City Code (MICC) 19.11.020(B).

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### 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 the primary driver for enacting the moratorium.

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. Staff and the consultant presented the analysis to the City Council on April 6 and 20, 2021, at which time the City Council directed staff to complete additional analysis and research legislative options in addition to a "no net loss" option for preserving existing retail square footage.

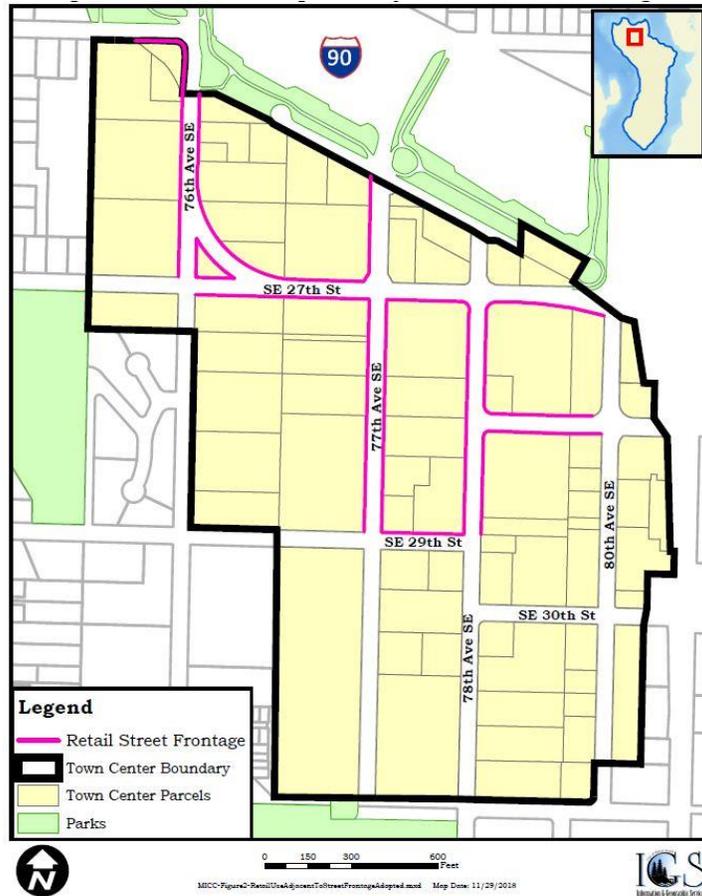
On July 6, 2021, staff presented several legislative options that were evaluated for their potential to preserve existing quantities of commercial retail space and provide for projected future demand as identified in CAI's analysis. After reviewing the options, the City Council directed staff to review and propose:

- A. Updates to MICC 19.11.020(B) Retail Use Required Adjacent to Street Frontages;
- B. A new Town Center Commercial Floor Area Ratio (FAR) requirement; and
- C. The applicability of a new Town Center "no net loss" requirement.

On September 21, 2021, the City Council provided direction for staff to draft and present to the Planning Commission the proposed necessary code amendments to institute (1) changes to where ground floor street frontage commercial space adjacent to streets in the Town Center are required; (2) a commercial space FAR provision for certain parcels in the Town Center; and (3) a no net loss of commercial space for those parcels redeveloped on or after 2005.

**Updates to MICC 19.11.020(B) Retail Use Required Adjacent to Street Frontages**

MICC 19.11.020(B)(4) stipulates that retail, restaurant, or personal service uses are required along retail street frontages as shown in the map below.



This map (also referred to as the “pink lines map”) was added to the Town Center code during the 2016 update with the intent of centralizing retail activity in the northern end of Town Center. During the July 6 City Council discussion of legislative options for resolving the moratorium, staff proposed three options for updating this map and received direction to move forward with the option of proposing surgical additions/deletions to the current map that meet the City Council’s goals of preserving existing commercial retail space and providing for future demand. The updated map to replace the above map in MICC 19.11.020(B) is included in Attachment 1, Figure 2.

### **Town Center Commercial Floor Area Ratio (FAR)**

In conjunction with amending the retail street frontage map, the City Council also directed staff to explore creating a Commercial Floor Area Ratio (FAR) requirement for future Town Center development. A FAR is a calculation often used in building regulations and is typically calculated as the ratio of a building’s total floor area to the size of the piece of land upon which it is built. Staff proposed adapting this concept to determine how much commercial retail space to require in new Town Center developments.

The commercial FAR would identify a current inventory of commercial retail space (and future demand if desired) and corresponding total land area to calculate a commercial FAR requirement for new development. The commercial FAR requirement would be the same for all parcels subject to this requirement. A simple example of this calculation follows:

Sample Commercial Floor Area Calculation		
A	Total Commercial Retail Space of Subject Parcels	50,000 square feet
B	Total Size of Subject Parcels	200,000 square feet
C	Commercial Floor Area Ratio (A/B)	0.25

Therefore, in applying this sample calculation, for every 1 acre (43,560 square feet) of Town Center redevelopment, 10,890 square feet (43,560 x 0.25) of commercial retail space would be required. Using a commercial FAR would result in some parcels experiencing a net gain of commercial retail space while others would experience a net loss, with the result being the achievement of the total commercial retail space desired over the long term. This option would make progress on the objectives of preserving existing commercial retail space and on adding such space to meet identified future demand.

The City Council directed staff to conduct additional analysis to develop a true commercial FAR for Town Center to account for the amount of existing commercial space as well as future demand through the duration of the upcoming growth targets. As presented at the September 22 meeting of the Planning Commission, the proposed commercial FAR requirement to be included in MICC 19.11.020(B) is 0.2623. The parcels for which this commercial FAR would be applicable are identified in Attachment 1, Figure 3.

**“No Net Loss” Requirement**

Finally, the City Council also directed staff to explore a “no net loss” provision and return with a recommendation for incorporating this provision into the City code. This option would make progress on the objective of preserving existing commercial retail space but would not make progress on adding space to meet identified future demand. Additionally, as a stand-alone requirement, a “no net loss” provision could place more burden on some parcels than others. Considering this potential inequity, staff considered this requirement as being used in tandem with updates to the retail street frontage requirements and the development of a commercial FAR requirement.

The commercial FAR calculation accounts for recent redevelopment activities in the Town Center, and these parcels are not expected to redevelop through the next growth target period. Given this, recent redevelopments (2005-on) only need to maintain their current commercial space levels to maintain the overall identified total of commercial space. Therefore, these select parcels are assigned a no net loss of commercial space requirement and are identified in Attachment 1, Figure 4.

**Eligible Commercial Uses**

A question related to identifying eligible commercial uses in the code arose at the September 22 Planning Commission meeting. To date, discussion regarding eligible commercial uses has been framed in three categories as restaurant, retail, and personal service uses. The Planning Commission may choose to discuss further to specifically identify uses in each of these categories to be included as examples in MICC 19.11.020(B).

**NEXT STEPS**

The Planning Commission is scheduled to conduct a Public Hearing on the proposed amendments to MICC 19.11.020(B) on November 3, 2021, after which it will deliberate a recommendation to send to the City Council. Planning Commission options for a recommendation on such include:

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.

Since the September meeting of the Planning Commission, there have been inquiries to staff in various forms about altering the methodologies for calculating the commercial FAR and/or applying a no net loss provision. Should this be the desire of a majority of the Planning Commission members, please note this would fall under option (4.) above.

The City Council is scheduled to receive and consider the recommendation of the Planning Commission on the proposed amendments to MICC 19.11.020(B) at its regular meeting on November 16, 2021.

## ATTACHMENTS

1. Proposed Amendments to MICC 19.11.020(B)

## LEGISLATIVE HISTORY

- June 2, 2020: The City Council passed [Ordinance No. 20-12](#), which established a six-month moratorium on major new construction south of SE 29<sup>th</sup> Street in the Town Center (TC) zoning designation. The City Council indicated that the City desires to possibly complete updates and/or amendments to development regulations within the 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 TC moratorium and directed staff to prepare an amended interim Ordinance reducing the size of the geographic area subject to the 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 directed staff to prepare a scope of work for a TC 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 TC to be responsive to the moratorium. The 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 Council received the preliminary findings of the commercial feasibility analysis conducted by Community Attributes, Inc., and directed to staff to complete additional analysis as well as research legislative options for resolving the moratorium.

- May 4, 2021: The City Council passed [Ordinance No. 21-09](#), renewing the moratorium for six more months, effective June 1, 2021. The Council also completed the required Public Hearing.
- July 6, 2021: Staff presented several legislative solutions to achieve the goals of preserving existing commercial retail space and adding space to meet future demand to the City Council. The Council directed staff to develop proposals for: Updates to MICC 19.11.020(B) Retail Use Required Adjacent to Street Frontages; a new Town Center Commercial Floor Area Ratio (FAR) requirement; and the applicability of a new Town Center “no net loss” requirement.
- September 21, 2021: The City Council provided direction for staff to draft and present to the Planning Commission the proposed necessary code amendments to institute (1) changes to where ground floor street frontage commercial space adjacent to streets in the Town Center are required; (2) a commercial space FAR provision for certain parcels in the Town Center; and (3) a no net loss of commercial space for those parcels redeveloped on or after 2005.
- September 22, 2021: The Planning Commission completed a work session to review moratorium and receive the direction provided by City Council.