



DEVELOPMENT SERVICES GROUP

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TO: Planning Commission

FROM: Scott Greenberg, Development Services Group Director

DATE: June 7, 2017

**RE: Proposed Code Text Amendment: Transportation Concurrency
(ZTR17-002)**

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On February 13, 2017, the Mercer Island City Council adopted Ordinance No. 17-06, establishing an immediate, six-month moratorium on the acceptance, processing, and approval of applications for building permits, short subdivisions and subdivisions, development agreements, and other permits of any type associated with development, with the exception of design review, that: (1) as determined either by the Code Official or the developer, will cause any locally-owned intersection to decline below the Level Of Service (LOS) standards adopted by the City in the transportation element of its comprehensive plan; or (2) relate to the siting or development of any essential public facility.

This moratorium provides time for the City to review and ultimately adopt amendments to the City's existing zoning code related to transportation concurrency and essential public facilities.

The purpose of this memo is to introduce proposed code amendments addressing transportation concurrency in Mercer Island. The Planning Commission's public hearing on the proposed code amendments is scheduled for June 21, 2017 at 6:00 pm.

TRANSPORTATION CONCURRENCY-BACKGROUND

(Adapted from MRSC) Concurrency is one of the goals of the Growth Management Act (GMA) and refers to the timely provision of public facilities and services relative to the demand for them. To maintain concurrency means that adequate public facilities are in place to serve new development as it occurs or within a specified period. The GMA gives special attention to concurrency for transportation.

The GMA requires that transportation improvements or strategies to accommodate development impacts need to be made concurrently with land development. "Concurrent with the development" is defined by the GMA to mean that any needed "improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years."

RCW 36.70A.070(6)(b). Local governments have flexibility regarding how to apply concurrency within their plans, regulations, and permit systems.

As part of the requirement to develop a comprehensive plan, jurisdictions are required to establish level-of-service standards (LOS) for arterials, transit service, and other facilities. RCW 36.70A.070(6)(a). Once a jurisdiction sets an LOS, it is used to determine whether the impacts of a proposed development can be met through existing capacity and/or to decide what level of additional facilities will be required.

Transportation is the only area of concurrency that specifies denial of development if LOS standards cannot be met. However, local jurisdictions must have a program to correct existing deficiencies and bring existing transportation facilities and services up to locally adopted standards. A developer may not be required to pay for improvements to correct existing deficiencies.

Local jurisdictions may adopt a concurrency mechanism for other public facilities that are deemed necessary for development. WAC 365-196-840(2). These other facilities may include parks and recreational facilities, sanitary sewer systems, storm water facilities, and schools.

MERCER ISLAND COMPREHENSIVE PLAN

While the City does not yet have a concurrency ordinance, we do have policies in the Comprehensive Plan that address concurrency. These provide guidance for the proposed code amendments:

GOAL 10: Maintain acceptable levels of service for transportation facilities and services on Mercer Island.

10.1 The City of Mercer Island Level of Service (LOS) at arterial street intersections shall be a minimum of “C” within and adjacent to the Town Center and “D” for all other intersections.

10.2 Use the level of service standard to evaluate the performance of the transportation system and guide future system improvements and funding. Emphasize projects and programs that focus on the movement of people and provide alternatives to driving alone.

10.3 Implement the following strategy when vehicle capacity or funding is insufficient to maintain the LOS standard: (1) seek additional funding for capacity improvements, (2) explore alternative, lower-cost methods to meet level-of-service standards (e.g., transportation demand management program, bicycle corridor development or other strategies), (3) reduce the types or size of development, (4) restrict development approval, and (5) reevaluate the level of service standard to determine how it might be adjusted to meet land use objectives.

10.4 Ensure that the City’s level of service policies are linked to the land use vision and comply with concurrency requirements.

10.5 Revise the Transportation Element if the Land Use and/or Capital Facilities Element of the Comprehensive Plan are changed to maintain a balanced and consistent plan.

PROPOSED AMENDMENT

The proposed code text amendment creates a new MICC chapter 19.20 and is summarized below:

19.20.010 Purpose and Authority: Describes purpose of the chapter and authority to create a concurrency management system.

19.20.020 Definitions: Provides definitions for various terms in the chapter. These definitions may be moved to MICC 19.16, which contains definitions for all of Title 19.

19.20.030 Applicability and Exemptions: Describes when a concurrency test is required.

Concurrency applies only to “regulated improvements” which is defined in MICC 19.16 as:

Any development of any property within the city, except:

- 1. Property owned or controlled by the city; or*
- 2. Single-family dwellings and the buildings, structures and uses accessory thereto; or*
- 3. Wireless communications structures, including associated support structures and equipment cabinets.*

Based on the definition of regulated improvements, new single-family homes or additions to single-family homes would not be subject to a concurrency test; however, a short or long subdivision would be subject to concurrency.

Regulated improvements that generate less than 30 trips in the am peak hour and less than 30 trips in the pm peak hour would not require a concurrency test. Regulated improvements generating less than 100 trips per day would also not require a concurrency test.

19.02.040 Concurrency Test: Describes the requirements for preparing and submitting the concurrency test and process for its review.

A Traffic Impact Analysis (TIA) is required and its contents are listed here. If the TIA shows that LOS standards are met, the Code Official will issue a TIA acceptance letter which is valid for one year. The applicant would need to obtain a development permit or building permit within one year, or the impacts assigned to that project can be reassigned to another project.

If LOS standards are not met, the applicant can either agree to fund the improvements needed to meet LOS standards, or modify the application or determine and analyze mitigating measures so that LOS standards are met.

19.20.050 Certificate of Concurrency: A certificate of concurrency is issued at the same time a development permit or building permit is issued, if the permit has been issued a TIA acceptance letter. Certificates of concurrency are issued on a “first-come first-served” basis in the order of permit approval.

A certificate of concurrency applies to the specific land use, density and intensity described in the application for a development permit or building permit. It stays with the property and is not transferable to other land. Only one certificate of concurrency is required for the lifetime of each development, unless changes are proposed that would increase traffic impacts.

19.20.060 Provide Needed Concurrency Facilities: The City cannot require new development to correct LOS deficiencies caused by previously approved development. This section obligates the City to provide, or arrange for others to provide, adequate transportation facilities to achieve the desired LOS standard and to also repair or replace obsolete or worn out facilities. This can be achieved by constructing capital improvements and/or implementing strategies to achieve the desired LOS standard. The City must include in its budget financial commitments for all capital improvement projects required to meet adopted level of service standards for expenditure during the appropriate fiscal year.

19.20.070 Bonds: The City can require bonds to guarantee performance as needed.

19.20.080 Intergovernmental Coordination: The City can enter into agreements with other agencies related to LOS standards and mitigation to achieve concurrency.

19.20.090 Administrative Rules and Procedures: The Code Official can establish rules and procedures for implementing the concurrency system.

19.20.100 Requests for Reconsideration for TIA Acceptance Letter: Procedures and criteria for reconsideration of a decision on the TIA acceptance letter.

19.20.110 SEPA Exemption: Provides that a determination of concurrency is exempt from SEPA.

19.15.010: Adds “Determination of Concurrency” as a ministerial action, not subject to appeal.

PROPOSED SCHEDULE

The moratorium adopted by Ordinance 17-06 ends on August 11, 2017 unless extended or resolved. The following proposed schedule allows for adoption of the transportation concurrency code amendments prior to August 11, 2017:

| DATE | ACTION |
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| June 7, 2017 | Planning Commission review and discussion of proposed transportation concurrency code amendments |
| June 21, 2017 | Planning Commission public hearing on transportation concurrency code amendments |

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| July 5, 2017 | Planning Commission finalizes its recommendation to the City Council on proposed transportation concurrency code amendments |
| July 17, 2017 | City Council first reading of transportation concurrency ordinance |
| July 24, 2017 | City Council second reading and adoption of transportation concurrency ordinance |
| August 7, 2017 | Effective date of ordinance |
| August 11, 2017 | The six (6)-month moratorium ends unless extended or resolved |