
PLANNING COMMISSION

Regular Meeting Agenda

Council Chambers- Mercer Island City Hall
9611 SE 36TH STREET | MERCER ISLAND, WA 98040
PHONE: 206.275.7605 | www.mercergov.org



Wednesday, March 20, 2019

Planning Commissioners

Carolyn Boatsman

Tiffin Goodman, Vice Chair

Daniel Hubbell, Chair

Jennifer Mechem

Lucia Pirzio-Biroli

Craig Reynolds

Ted Weinberg

CALL TO ORDER & ROLL CALL

6:00 PM

APPROVAL OF MINUTES

February 25, 2019
March 6, 2019

PUBLIC HEARING

6:05 PM

Agenda Item #1: ZTR18-006 Code Clean Up Code Amendments
Public hearing on the draft Code Clean Up code amendments.

REGULAR BUSINESS

6:45 PM

Agenda Item #2: ZTR18-006 Code Clean Up Code Amendments
Deliberate and recommend action on the proposed amendments.

Agenda Item #3: ZTR18-002 Critical Areas and Shoreline Master Program Code Amendments

Continue deliberation on the proposed code amendments.

OTHER BUSINESS

Directors Report
Planned Absences for Future Meetings
Next Regularly Scheduled Meeting: April 3, 2019

ADJOURN

10:00 PM

PLANNING COMMISSION

MEETING MINUTES



Wednesday, February 25, 2019

CALL TO ORDER

The Planning Commission was called to order by Chair Daniel Hubbell at 6:05pm in the City Hall Council Chambers at 9611 SE 36th Street, Mercer Island, Washington.

ROLL CALL

Chair Daniel Hubbell, Vice Chair Tiffin Goodman, Commissioners, Carolyn Boatsman, Jenni Mechem, Lucia Pirzio-Biroli (arrived at 6:11pm), Craig Reynolds, and Ted Weinberg were present.

STAFF PRESENT

Evan Maxim, CPD Director, Kelsey Salvo, Administrative Assistant, Nicole Gaudette, Senior Planner, and Bio Park, Assistant City Attorney were present.

MEETING MINUTES APPROVAL

It was moved by Weinberg; seconded by Prizio-Biroli to:

Approved the January 30, 2019 minutes

It was moved by Weinberg; seconded by Commissioner Reynolds to:

Amend the January 30, 2019 minutes to include:

The planning commission reached consensus that there should be one set of dimensional standards which could incorporate "shall" "should" and "may"

Passed as amended 5-0-1, Chair Hubbell abstained

APPEARANCES

Michael Leahey 9852 Mercerwood Dr. He spoke to how he wants strict adherence that the rezone will protect the citizens

Rich Hill, 701 5th Ave, counsel for the JCC. Submitted to staff a redlined version with comments and questions to work with staff and make sure

Matthew Goldbach. He spoke to the fact that the minutes hardly reflect anything from the meetings. Wants to change how the minutes are taken. He had questions about guardrails. He stated that he made a records request for the word Equestrian group, and the City found no correspondence with those word in emails.

Ryan Rahlfs, 9703 SE 40th ST. Stated that he felt his comments at the last meeting were addressed. Amendment 8 not asking for bigger buildings, wanted to plan better and allow for the community. Organization set standards for future growth. His other concern was that status quo should be changed for the better and the community/neighborhood would be kept in mind. He stated that public benefit needed a definition. He does not want more public green spaces, wants to limit others from using public facilities. 40th traffic is not

sustainable, if traffic gets relocated. Brought up concerns and benefits about field lighting

Julie Garwood, 9772 SE 41st ST. She stated that neighbors have not had enough time to respond to the rezone. She said the process needs to involve the neighbors more than it has.

Ed Weinstein 1655 E Boston Terrace. He is the architect for the JCC. He stated that there are so many zones that each of these churches and schools need to conform to it makes more sense to have more appropriate standards within a new rezone of this area. He believes that the new code will be more reasonable and help the community and the businesses in this area.

Dave Cutler, 2206 E Crescent Dr. He stated that many terms lack definitions. He brought up his concerns about setbacks, parking, and the administration process for the master plan application.

Cheryl D'Ambrosio. 3712 E Mercer Way. She stated she is concerned for the resident's safety. She wants to make sure there is a safety standards committee for this area or project.

Amy Lavin, CEO JCC, 7835 SE 22nd PL. She stated her goal is to devise plan with neighbors to serve the community. She also stated that they want the ability to update their facility.

Hall wants to be included in the emails Nicole has been sending out

Nicole Kelly, 9821 SE 40th ST. She stated that she has sent lots of letters. She loves the neighborhood and wants to keep the feel. She does not want to see a monstrosity of a school. She wants to make sure safety, no excess traffic, and tall green fencing are priorities.

Eric Theaux. He stated that this new zone has been approved for a reason, because it makes a lot of sense. He wants to take the time to work on this code. He stated he wants to reassure the neighbors that they are working to collaborate with them, and to let them know safety is a big concern for them during this process.

REGULAR BUSINESS

Agenda Item #1: ZTR18-004 Community Facility Code Amendment Continue review of a preliminary draft of Community Facility code (materials in the January 30, 2019 packet).

Nicole Gaudette, Senior Planner, provided a presentation on continuing the introduction of a preliminary draft of the Community Facility code.

The Commission reviewed the draft code and provided feedback.

The Commission reached consensus that there should be one set of dimensional standards which could incorporate "shall", "should", and "may"

The Commission took a break until 8:41pm.

The Commission indicated that the subcommittee would further discuss green fencing, parking, and the possible use of volume rather than GFA.

The Commission stated that there need to be clearer definitions throughout this code amendment.

PLANNED ABSENCES FOR FUTURE MEETINGS

There are no planned absences.

OTHER BUSINESS

Evan Maxim, CPD Director, provided a review of the Planning Commissions Schedule for up coming meetings.

ANNOUNCEMENTS AND COMMUNICATIONS

The next Planning Commission meeting is on March 6, 2019 at 6:00PM.

ADJOURNMENT

The meeting was adjourned at 10:03pm

DRAFT

PLANNING COMMISSION

MEETING MINUTES



Wednesday, March 6, 2019

CALL TO ORDER

The Planning Commission was called to order by Chair Hubbell at 6:10pm in the City Hall Council Chambers at 9611 SE 36th Street, Mercer Island, Washington.

ROLL CALL

Chair Daniel Hubbell, Vice Chair Tiffin Goodman, Commissioners, Carolyn Boatsman, Lucia Pirzio-Biroli, Craig Reynolds, and Ted Weinberg were present. Commissioner Jennifer Mechem was absent.

STAFF PRESENT

Evan Maxim, CPD Director, Andrea Larson, Senior Administrative Assistant, Robin Proebsting, Senior Planner, and Bio Park, Assistant City Attorney were present.

MEETING MINUTES APPROVAL

There were no minutes for approval.

APPEARANCES

There were no public comments.

PUBLIC HEARING

Agenda Item #1:

ZTR18-002 Critical Areas and related Code Amendments

Joint public hearing with the Department of Ecology on the Critical Areas code amendment. Robin Proebsting provided a brief presentation.

Chair Hubbell opened the public hearing at 6:19pm.

Ira Appleman, 9039 E Shorewood Drive. He expressed his concern that the Planning Commission is not going to do their job to make the CAO stricter as required by law. He expressed that the public cannot see the changes due to how it is written. He expressed that the City is Violating the law because the updates should have been completed years earlier. He expressed his concerns regarding staff and the regulations.

Alexandra Boyle, 4150 Blvd PI. She spoke regarding building her home and that it has all been done under the current code and that they did not receive any notices regarding the CAO updates letting them know that the code would be changing. She expressed her concern regarding how the new code could change their ability to build on their property. She requested the PC to re-notice and hold another public hearing to provide further time for comments.

Daniel Thompson, 7265 N Mercer Wy. He spoke regarding concerns that citizens believe that Departem of

Ecology is overseeing this process. He asked that the PC consider how much discretion is given to the code official. He expressed his support of the changes.

Chair Hubbell closed the public hearing at 6:31pm.

ZTR18-003- Shoreline Master Program

Joint public hearing with the Department of Ecology on the Shoreline Master Program code amendments. Robin Proebsting provided a brief presentation on the Shoreline Master Program code amendments.

Chair Hubble opened at 6:32pm.

Ryan Thomas, 10885 NE 4th St Ste 700, Bellevue. He is here for citizens for reasonable shoreline use. He expressed his concern regarding non-conforming docks, and that it misses the mark of the intent of the Shoreline Master A. He stated that it should be incentivized for residents to be able to bring their docks into conformance.

Emmet Maloof, 4835 Forest Ave SE. He spoke to asking the commission to consider why do they want the dock to be narrow and why do they want the dock to be transparent. He stated that young fish do swim under residential docks. He requested that they look at the science behind this and the science behind bulkheads as well.

Daniel Thompson, 7265 N mercer Wy. He spoke to the commission regarding dock widths. He voiced his support of transparent decking on docks. He voiced his concerns regarding reducing dock width.

Josh Nop, 4859 86th Ave SE. He is a property manager for a client who would like to do updates to their dock. He spoke regarding concerns on narrowing docks and how transparent decking can be hard on feet.

Alexandra Boyle, 4150 Blvd Pl. She spoke regarding her concerns that there was not enough noticing regarding this update and that she believes that people did not understand how this could impact their ability to build or update a home.

Chair Hubbell Closed the public hearing at 6:45pm

REGULAR BUSINESS

Agenda Item #2: ZTR18-002 Critical Areas and Shoreline Master Program Code Amendments.

Robin Proebsting, Senior Planner, provided a presentation on the Critical Areas and Shoreline Master Program code amendments.

It was moved by Reynolds; seconded by Pirzio-Biroli to:

To recommend that the Planning Commission recommend approval of the proposed amendments to the Critical Areas update and associated definitions.

The motion to recommend was withdrawn by Reynolds, seconded by Pirzio-Biroli

It was moved by Reynolds; seconded by Pirzio-Biroli to:

Recommend that the Planning Commission recommend approval the proposed amendments to the Mercer Island City Code (MICC) Title 19 as provided in the Public hearing draft of the CAO and SMP update.

It was moved by Boatsman; seconded by Pirzio-Biroli to:

Amend chapter 19.07.010 line 31 to delete the phrase "climate resilient".

Motion passed 5-1

It was moved by Reynolds; seconded by Goodman to:

Amend line 3, page 2, 19.07.010, to delete first "possible" and amend second "possible" to

read “reasonably possible”.

Passed 6-0

It was Moved by Boatsman; seconded by BP

Delete the word “including watercourses” from line 14 page 2 of 19.07.020

Motion was withdrawn by Boatsman, seconded by PB.

It was moved by Goodman; Reynolds to:

Amend subsection 19.07.080 page 3 line 27 to strike “if required by the code official”

Passed 6-0

It was Moved by Pirzio-Biroli; Seconded by Reynolds:

Amend subsection 19.07.080.F, page 4 line 8, to replace “meets city standards established by permit condition or applicable codes,” with “does not comply with the permit or applicable codes”

Passed 6-0

Moved by Pirzio-Biroli; seconded by Reynolds to:

Amend 17.07.080.G, page 4 line 14, to replace “completed according” to “shall be updated or completed according to the current best available science”

Passed 6-0

It was moved by Boatsman; seconded by Pirzio-Biroli

Amend 19.07.080.G, page 4 line 13, replace “is still accurate” and replaced with “determine if the study provides accurate information compliant with the current code”

Passed 6-0

The Commission took a break until 8:25pm

It was moved by Boatsman; seconded Pirzio-Biroli to:

Amend 19.07.100, page 5 line 25, to remove “modification” and replace with “development proposal or activity”:

Passed 6-0

It was moved by Boatsman;

Add line G saying “Maintain, repair ... in perpetuity”

Motion was withdrawn by Boatsman.

It was moved by Boatsman; seconded by Pirzio-Biroli to:

Delete the second “qualified professional” from 19.07.110, page 6 line 39

Passed 6-0

It was moved by Boatsman; seconded by Goodman to:

Amend 19.07.120, page 7 line 26, to read “The following activities are exempt from city review and approval but not from compliance with this chapter”

Passed 6-0

It was moved by Boatsman; seconded by Pirzio-Biroli to:

Review 19.07.130.A.4, page 9, to review for scrivener’s errors.

Passed 6-0

It was moved by Boatsman; Pirzio-Biroli to:

Move subsection 19.07.120.E.3 to subsection 19.07.130.A.4

6-0

Vice-Chair Goodman left at 9pm.

It was moved by Pirzio-Biroli; seconded by Reynolds to:
Amend 19.07.130.B.3, page 9 line 18, to “erosion control measures and seasonal clearing limitations appropriate”

It was moved by Pirzio-Biroli; Boatsman to:
Table the motion until March 20th.
Passed 5-0

Moved by Boatsman; seconded by Weinberg to:
Amend 19.07.130.B.1 and 19.07.130.B.2, page 9 lines 14 & 16, to remove “and/ or climate resilient species”
Passed 5-0

Moved by Boatsman; Weinberg to:
Remove the term “and/ or climate resilient species”, anytime within the proposed document and replace with “native species”.
Passed 5-0

Moved by Weinberg; seconded by Boatsman to:
Adopt staff recommended amendments from the Department of Ecology in subsection 19.07.150.B “Proposal does not pose an unreasonable threat to the public health, safety or welfare on or off the development site” and “The Proposal is consistent with other applicable regulations and standards.
Passed 5-0

Moved by Boatsman; seconded by Weinberg to:
Not allow new construction in landslide hazard areas.
Failed 0-5

The Commission requested for it to be standardized across the amendment to use “qualified professional” and “geotechnical report”.

Moved by Weinberg; seconded by Boatsman to:
Redefine steep slope from 40% to 30%.
Failed 0-5

It was moved by Weinberg; second by Reynolds:
To table the main motion until the Planning Commission meeting on March 20th.
Passed 5-0

PLANNED ABSENCES FOR FUTURE MEETINGS

There are no planned absences.

OTHER BUSINESS

Evan Maxim, CPD Director, provided an update on Community Facilities subcommittee meetings.

ANNOUNCEMENTS AND COMMUNICATIONS

The next Planning Commission meeting is on March 20, 2019 at 6:00PM.

ADJOURNMENT

The meeting was adjourned at 10:47pm



Community Planning and Development

9611 SE 36TH ST., MERCER ISLAND, WA 98040

(206) 275-7605

TO: Planning Commission

FROM: Lauren Anderson, Planner
Andrew Leon, Planner

DATE: March 20, 2019

RE: **ZTR18-006 – Fall 2018 Code Cleanup – Draft Code**

Summary

The proposed amendments to the Mercer Island City Code (MICC) are intended to clean up the code in the following ways:

1. Improve consistency between different sections of the code.
2. Improve clarity of City development standards and definitions.
3. Correct errors in typography and wording.

Following adoption of the Residential Development Standards, the City Council directed staff to periodically review the MICC to ensure that it is consistent and free of errors. The currently proposed amendments are intended to ensure that this objective is met. The proposed amendment consists of clarifying language in existing code, as well as ensuring that the code is consistent with the definitions found in MICC 19.16.

A SEPA Determination of Nonsignificance was issued for the code cleanup amendment on February 19, 2019. No comments were received for the Determination of Nonsignificance. The public notice of open record public hearing for the project was also issued on February 19, 2019, for which the City received no public comment.

Staff used the input and direction from the Planning Commission from the meetings on October 17, 2018 and December 5, 2018 to draft code language, which has been attached to this memo for the Planning Commission's review.

Next Steps

At the March 20th meeting, staff will provide a brief overview of the proposed code update language, answer questions the Planning Commission may have, and seek input. Staff anticipates that the Planning Commission will then open a public hearing for the code amendment. During the public

hearing, members of the public will have the chance to provide testimony on the proposed code amendments.

We welcome questions you may have at this stage of the process, as well as topics that you would like covered during the March 20th meeting. If you provide questions in advance, staff will attempt to address them at the meeting. We can be reached at:

Lauren Anderson: lauren.anderson@mercergov.org or 206-275-7704.

Andrew Leon: andrew.leon@mercergov.org or 206-275-7720.

Attachments:

- A. Draft Code Update Language

PLANNING COMMISSION – RECOMMENDATION DRAFT
Draft Zoning Text Amendments
2018 Code Cleanup

19.01.050 Nonconforming structures, sites, lots and uses.

D. Exterior Alteration or Enlargement of Nonconforming Structures.

1. Detached Single-Family Residential Structures.

b. Intentional Exterior Alteration or Enlargement.

i. Detached Single-Family Dwelling. A legally nonconforming detached single-family dwelling may be intentionally altered or enlarged without losing its legal nonconforming status as long as no more than 40 percent of the length of the dwelling's existing exterior walls, excluding attached accessory buildings, are structurally altered. Any portion of the length of existing walls that are structurally altered shall be included in calculating the 40-percent threshold. In no event shall the alteration or enlargement increase any existing nonconforming aspect of the dwelling or create any new nonconformance. Legal nonconforming status shall be lost, and the structure shall be required to come into conformance with current code requirements, if the 40-percent threshold is exceeded. An increase in height of that portion of a structure that is legally nonconforming because it intrudes into a required yard is an increase in the nonconformity and is not allowed unless the additional height meets the current yard requirements of MICC 19.02.020(C)(1) except:

ii. Accessory Buildings or Structures. A legally nonconforming attached or detached accessory building or structure, including but not limited to a carport, garage, shed, gazebo, deck or fence, may be altered or enlarged without losing its legal nonconforming status as long as no more than 40 percent of its existing exterior perimeter (or length in the case of a fence) is structurally altered. A wall that is shared with the main dwelling shall not be included in the calculation for the attached accessory building. In no event shall any alteration or enlargement increase any existing nonconforming aspect of the building or structure or create any new nonconformance. Legal nonconforming status shall be lost, and the structure shall be required to come into conformance with current code requirements, if the 40-percent threshold is exceeded.

iii. Structural Alteration Calculation. For the purposes of determining the percentage of exterior walls of a nonconforming structure that is being structurally altered, the following calculation applies:

Formula:
$$\frac{\text{Percentage of exterior walls altered} = (\text{sum of the length of walls to be structurally altered}) \div (\text{sum of the length of exterior walls})$$

Where:

(A) The "sum of the length of exterior walls to be structurally altered" is the sum of each wall segment that is completely demolished.

1 (B) The “sum of the length of exterior walls” is the sum of the lengths of
2 each exterior wall segment of a structure or building.

3 (C) For the purposes of this subsection, a wall segment is “completely
4 demolished” when any portion of the wall is completely removed, such
5 that no structural elements remain.

6 (D) For the purposes of this subsection, the “wall segment” is the
7 horizontal length of each continuous exterior wall plane or façade,
8 provided that each building modulation (e.g. a bay window bump-out)
9 shall be accounted for as a separate exterior wall plane. For example,
10 the sum of the length of the exterior wall segments for a building that is
11 a perfect cube with a dimension of 50 horizontal feet on each side of
12 the house, is 200 feet. The same building with a second story bay
13 window bump out dimensioned 2 feet by 10 feet by 2 feet, has a sum of
14 214 feet.

15
16 iv. Roof Repair and Replacement. The roof of a nonconforming structure may be
17 repaired, including total replacement, provided that the existing nonconformity
18 is not increased. Repair or replacement of a roof does not constitute structural
19 alteration of exterior walls.

20 v. Cumulative Time Limit. The maximum cumulative structural alteration of a
21 legally nonconforming structure, as described in subsections (i) and (ii) above, is
22 40 percent within any five-year period. The five-year period includes the
23 cumulative total of the work authorized by a permit application, and the work
24 conducted within the five years immediately prior to demolition or construction
25 authorized by the permit application. Legal nonconforming status shall be lost,
26 and the structure shall be required to come into conformance with current code
27 requirements, if the cumulative 40-percent threshold is exceeded within the
28 five-year time limit.

29 ...
30 F. Nonconforming Sites.

31 ...
32 3. Landscaping, Open Space and Buffer Requirements.
33 ...

34 b. Lot Coverage – Single-Family Dwellings. A site developed with a single-family dwelling
35 that is legally nonconforming because the required landscaping area pursuant to
36 Chapter 19.02 MICC has not been provided, or because maximum allowable hardscape
37 has been exceeded, can be increased in height and gross floor area (up to the maximum
38 height and gross floor area permitted). No new hardscape or further reduction in
39 landscaping area is permitted unless:

40 i. The site is either brought into conformance with all applicable lot coverage
41 requirements of MICC 19.02.020; or

42 ii. For lots where the ~~minimum~~ maximum hardscape is exceeded, two square
43 feet of legally existing hardscape are removed for every one square foot of new
44 hardscape; or

45 iii. For lots where the maximum lot coverage is exceeded, two square feet of
46 landscaping area are provided for every one square foot of additional
47 nonlandscaping area.
48 ...

1
2 19.02.010 Single-family.
3 A. Uses Permitted in Zones R-8.4, R-9.6, R-12, and R-15.

4 ...
5 13. Open Space.
6 ...

7 19.02.020 Development standards.
8 ...
9 C. Yard Requirements.

10 ...
11 2. Yard Determination.

12 a. Front Yard. ~~The front yard is the yard abutting an improved street from which the lot~~
13 ~~gains primary access or the yard abutting the entrance to a building and extending the~~
14 ~~full width of the lot. If this definition does not establish a front yard setback, the code~~
15 ~~official shall establish the front yard based upon orientation of the lot to surrounding~~
16 ~~lots and the means of access to the lot.~~

17 i. Front Yard – General. For lots that are not corner lots or waterfront lots, the
18 front yard shall extend the full width of the lot and is determined using the
19 following sequential approach, in descending order of preference, until a front
20 yard is established:

21 (A) The yard abutting an improved street from which the lot gains
22 primary access.

23 (B) The yard abutting the primary entrance to a building.

24 (C) The orientation of buildings on the surrounding lots and the means
25 of access to the lot.

26 ii. Front Yard – Corner Lots. On corner lots the front yard shall be measured
27 from the narrowest dimension of the lot abutting a street. The yard adjacent to
28 the widest dimension of the lot abutting a street shall be a side yard, provided:

29 (A) If a setback equivalent to or greater than required for a front yard is
30 provided along the property lines abutting both streets, then only one
31 of the remaining setbacks must be a rear yard.

32 iii. Front Yard – Waterfront Lots. On a waterfront lot, regardless of the location
33 of access to the lot, the front yard may be measured from the property line
34 opposite and generally parallel to the ordinary high water line.

35 iv. This code section shall apply except as provided for in MICC 19.08.030(F)(1).

36 b. Rear Yard. ~~Except as allowed in subsections (a)(ii) and (iii) above, the rear yard is the~~
37 ~~yard opposite the front yard. The rear yard shall extend across the full width of the rear~~
38 ~~of the lot, and shall be measured between the rear line of the lot and the nearest point~~
39 ~~of the main building including an enclosed or covered porch. If this definition does not~~
40 ~~establish a rear yard setback for irregularly shaped lots, the code official may shall~~
41 ~~establish the rear yard based on the following method: The rear yard shall be measured~~
42 ~~from a line or lines drawn from side lot line(s) to side lot line(s), at least 10 feet in~~
43 ~~length, parallel to and at a maximum distance from the front lot line.~~

44 ~~c. Corner Lots. On corner lots the front yard shall be measured from the narrowest~~
45 ~~dimension of the lot abutting a street. The yard adjacent to the widest dimension of the~~
46 ~~lot abutting a street shall be a side yard. If a setback equivalent to or greater than~~
47 ~~required for a front yard is provided along the property lines abutting both streets, then~~

~~only one of the remaining setbacks must be a rear yard. This code section shall apply except as provided for in MICC 19.08.030(F)(1).~~

cd. Side Yard. Any yards not designated as a front or rear yard shall be defined as a side yard.

E. Building Height Limit.

3. Antennas, lightning rods, plumbing stacks, flagpoles, electrical service leads, chimneys and fireplaces, solar panels, rooftop deck railings and fences, and other similar appurtenances may extend to a maximum of five feet above the height allowed for the main structure in subsections (E)(1) and (2) of this section. Rooftop railings shall be designed such that at least 80 percent of the total surface area consists of visual open spaces.

19.02.040 Garages, other accessory buildings and accessory structures.

D. Garages and Carports. Garages and carports may be built to within 10 feet of the front property line in the front yard provided: ~~if the front yard of the lot~~

1. There is greater than four vertical feet measured between the elevation at the bottom of the wall of the building, and the ground elevation at the front yard property line where such the property line is closest to the building. The elevations of both the intersection of the building and the ground, and the point of the property line closest to the wall of the building, shall be measured using the lower of the existing and finished grade, measured at the midpoint of the wall of the garage closest to the front yard property line, is more than four feet above or below the existing grade or finished grade, whichever is lower, at the point on the front property line closest to the midpoint of the wall of the garage at its proposed location; and,
2. The height of such garage or carport shall not exceed 12 feet from existing or finished grade, whichever is lower, for that portion built within the front yard.

19.02.050 Fences, retaining walls and rockeries.

C. Height Measurement.

1. Fences/Gates. The height of a fence or gate is measured from the top of the fence or gate, including posts, to the existing grade or finished grade, whichever is lower, directly below the section of the fence or gate being measured.
2. Retaining Walls and Rockeries. The height of a retaining wall or rockery is measured from the top of the retaining wall or rockery to the existing grade or finished grade, whichever is lower, directly below the retaining wall or rockery.
3. Multiple Retaining Walls. Retaining walls outside of required yard setbacks shall be stepped to meet a 1:1 ratio of separation with 45 degrees of grade to be considered separate. For example, two six-foot-tall retaining walls would need to be separated by at least six feet of horizontal distance measured from the toe of the upper wall to the top of the bottom wall, to be considered separate and not combined for maximum height calculations.

19.04.020 Commercial offices.

B. Required Conditions.

4. Not more than 60 percent of a lot may be covered by buildings, structures, and other impervious surfaces, including outdoor storage areas, provided the exemptions for decks, pavers, patios and walkways detailed in MICC ~~19.02.020(D)(2)~~ 19.02.060(C) shall apply. The building footprint shall occupy no more than 35 percent of the gross lot area.

19.15.030 Land use review types

Table A. Land Use Review Type

Type I	Type II	Type III	Type IV
<ul style="list-style-type: none"> • Home business • Seasonal development limitation waiver • Nonmajor single-family dwelling permits • Tree removal permit • Right-of-way permit • Special needs group housing safety determination • Tenant improvement/change of use • Shoreline Exemption¹ • Critical areas determination (steep slope alteration) • Final short plat • Temporary commerce on public property • Site development permits • Transportation concurrency certificate 	<ul style="list-style-type: none"> • Modified wireless communication facilities (6409 per 47 CFR 1.40001) • Lot line revision • Setback deviations • Final plat ^{2,3} • Code official design review • Accessory dwelling unit • Parking variances (reviewed by city engineer) 	<ul style="list-style-type: none"> • New and modified wireless (non-6409) eligible facility • SEPA threshold determination • Critical areas determination (wetland/watercourse buffer averaging/reduction) • Temporary encampment⁴ • Short plat alteration and vacations • Preliminary short plat • Development code interpretations • Major single-family dwelling building permit⁵ • Shoreline substantial development permit¹ • Shoreline revision (substantial development)¹ 	<ul style="list-style-type: none"> • Preliminary long plat approval • Conditional use permit • Variance • Critical areas reasonable use exception • Long plat alteration and vacations • Parking variances (reviewed by design commission) • Variance from short plat acreage limitation • Wireless communication facility height variance • Planned unit development • Design commission design review • Shoreline conditional use permit (SCUP)^{5,6} • Shoreline variance^{5,6} • Shoreline revision (variance and SCUP)

¹Appeal will be heard by the Shorelines Hearings Board.

²Decision is made by city council after discussion at a public meeting.

³A notice of decision will be issued for a final long plat.

⁴A public meeting is required.

⁵Major single-family dwelling building permits are subject only to the notice of application process. A notice of decision will be provided to parties of record.

1 ⁵⁶Hearing examiner will forward a recommendation to the Washington State Department of Ecology for
2 Ecology's decision.

3 ...

4
5 19.16.010 Definitions

6
7 ...

8 Finished Grade: The surface level at any point on the lot at the conclusion of development.

9 ...

10
11 Gross Floor Area: The total square footage of floor area bounded by the exterior faces of the building.

12 1. The gross floor area of a single-family dwelling shall include:

13 ...

14 e. Decks that are attached to the second or third ~~story level~~ of a single-family dwelling
15 and are covered by a roof. For the purposes of calculating the gross floor area of
16 covered decks, the entire deck area covered by the roof shall be accounted for as floor
17 area, provided an 18-inch eave extending beyond the edge of the deck shall not be
18 included in the gross floor area.

19 ...

20 2. The gross floor area of a single-family dwelling does not include:

21 a. Second- or third-~~story level~~ uncovered decks, or uncovered rooftop decks.

22 b. First level covered decks.

23 ...

24 Hardscape: The solid, hard elements or structures that are incorporated into landscaping. The hardscape
25 includes, but is not limited to, structures other than buildings, paved areas other than driving surfaces,
26 stairs, walkways, decks, patios, and similar constructed elements. The hardscape within landscaping is
27 usually made up of materials that include, but are not limited to, wood, stone, concrete, gravel, artificial
28 turf, and permeable pavements or pavers, and similar materials. Hardscape does not include solid, hard
29 elements or structures that are covered by a minimum of two feet of soil intended for softscape (for
30 example, a septic tank or detention tank covered with at least two feet of soil and planted shrubs is not
31 hardscape). Hardscape areas do not include driving surfaces or buildings.

32 ...

33 ~~Kitchen: Any room used, intended, or designed for cooking and/or preparation of food.~~ An identifiable
34 area inside a building for the cooking, refrigeration and storage of food that includes, but is not limited
35 to, the following improvements:

36 1. Ventilation;

37 2. A sink;

38 3. A combination of appliances used to cook food including a stove, range, oven, or
39 microwave;

40 4. A refrigerator; and,

41 4.5. A counter or cupboards.

42 ...

43 Open Space: Open space functions as protection of natural resources and biodiversity, recreation
44 spaces, development of neighborhood gathering spaces, and promotion of public health benefits. Open
45 space areas are left predominantly in a vegetated state to create urban separators and greenbelts, and
46 that:

47 1. Sustain native ecosystems, connect and increase protective buffers for environmentally
48 critical areas; or,

2. Provide a visual contrast to continuous development, reinforce community identity and aesthetics; or,
- 4.3. Provide links between important environmental or recreational resources.

...

Remodel: Interior or exterior alteration of a structure that includes, but is not limited to, the following:

1. Transforming the structure of any home or building;
2. Change in floor plan layout;
3. Combining rooms (removing walls); or,
- 4.4. The addition or removal of the exterior or interior of any structure.

...

Yard: An open, unoccupied space, unobstructed from the ground to the sky, except where specifically provided by this code, on the lot on which a building is situated, required to be kept open by the yard requirements prescribed herein. Except as otherwise specified, the edge of the yard is measured from a fixed point or line on the lot such as the edge of an easement that affords or could be capable of affording vehicular access, or from a property line. Determination of front, rear, and side yards are established in MICC 19.02.020(C)(2).

~~1. Front Yard: The front yard is the yard abutting an improved street from which the lot gains primary access or the yard abutting the entrance to a building and extending the full width of the lot. If this definition does not establish a front yard setback, the code official shall establish the front yard based upon orientation of the lot to surrounding lots and the means of access to the lot.~~

~~2. Rear Yard: The yard opposite the front yard.~~

~~3. Side Yard: Any yards not designated as a front or rear yard shall be defined as a side yard.~~

...



COMMUNITY PLANNING AND DEVELOPMENT
9611 SE 36TH ST., MERCER ISLAND, WA 98040
(206) 275-7605

TO: Planning Commission

FROM: Robin Proebsting, Senior Planner

DATE: March 14, 2019

RE: Critical Areas Code and Shoreline Master Program Updates (ZTR18-002): Continuation of deliberations

Summary

At its March 20, 2019 meeting, the Planning Commission will continue its deliberations on the Critical Areas Code and Shoreline Master Program update, which began on March 6, 2019. This memo summarizes amendments to the original motion made and seconded by the Commission, which was recommend adoption of the Critical Areas Code and Shoreline Master Program update. At the upcoming meeting, staff would also like to speak to the Planning Commission about issues raised in public comment offered at the March 6, 2019 public hearing.

Background

The original motion, which was tabled until March 20, 2019, was to recommend approval of the changes to Title 19 as shown in the attached Public Hearing Draft.

The Planning Commission has reviewed and recommended adoption of more than 15 amendments to the public hearing draft of the code. Staff has been diligently tracking the amendments to the original motion and will review the audio recording as necessary to ensure all amendments are captured in the final Planning Commission recommendation. In summary, amendments passed at the March 6, 2019 included:

1. Replacing the reference to “native and / or climate resilient vegetation” with language that focuses on native vegetation only;
2. Incorporating some of the Department of Ecology recommended amendments, with more scheduled for discussion on March 20, 2019;
3. Amendments that clarified and / or refined the original draft standard to maintain an appropriate balance of environmental protection and flexibility for property owner needs; and,
4. Corrections of technical and scrivener’s errors.

One proposed amendment was tabled until March 20, 2019, which was to amend page 9, line 18 to add

language regarding seasonal limitations on restoration activities over a certain area.

Finally, staff noted that several of the public comments received on March 6, 2019 appeared to indicate that the dock width standard for docks undergoing significant repair or renovation was changing. This is not accurate – the amendments proposed to this section are intended to clarify, but not modify the standard. For ease of comparison, please see below:

	<i>Existing Code Pages 20 and 21 of 45</i>	<i>Proposed Code Pages 20 and 21 of 45</i>	<i>Perkins Coie Recommendation Pages 8 and 9 of March 6, 2019 letter</i>
<i>How much work triggers narrowing of the dock in the first 30 feet from the shoreline?</i>	Replacement ¹ of either 50% of the decking or 50% of the structural elements ² .	Replacement of either 50% of the decking or 50% of the structural elements. Amendments are clarifying in nature.	Replacement of 75% of the pilings. Replacement of 50% of the decking does not require narrowing.
<i>Is removal of piles required to achieve narrowing?</i>	No. (Reference Table D, page 13 of 45). Piles are excluded from width requirement.	No. Amendment is to ensure consistent terminology.	Yes.
<i>How much narrowing is required?</i>	Dock width limited to 4 feet within 30 feet of the shoreline. In some instances, width may be increased to 5 feet. (Reference Table D, page 13 of 45).	No change.	No change.

Finally, please note that City Council authorized scope of work for the Shoreline Master Program amendments did not include substantive changes to existing standards, unless required by statutory amendments or case law. Staff has worked with the Department of Ecology to ensure that the proposed standards for public docks will not trigger additional Department of Ecology analysis and review; the recommended amendment above will likely require additional Ecology analysis and review.

Next Steps

Staff recommend that the Planning Commission continue its deliberations on the Critical Areas Code and Shoreline Master Program update with the goal of finalizing its recommendation at the March 20, 2019 meeting.

After the Planning Commission deliberations have concluded, staff intend to prompt a conversation with the Commission about the effective date of the Critical Areas Code and Shoreline Master Program.

¹ Replacement includes repair and reconstruction for the purposes of this table.

² Structural elements include piles, cross bracing, beams, etc. for the purposes of this table.