



PLANNING COMMISSION REGULAR MEETING AGENDA

Wednesday, October 3, 2018
Mercer Island City Hall

CALL TO ORDER & ROLL CALL

6:00 PM

APPEARANCES

6:05 PM

This is the time set aside for members of the public to speak to the Commission about issues of concern. If you wish to speak, please consider the following points:

- Speak audibly into the podium microphone
- State your name and address for the record
- Limit your comments to three minutes

*The Commission may limit the number of speakers and modify the time allotted.
Total time for appearances: 15 minutes*

SPECIAL BUSINESS

6:20 PM

Agenda Item #1: Planning Commissioner Email Accounts

City staff will be available to assist in setting up email account access for Planning Commissioner's use.

REGULAR BUSINESS

6:50 PM

Agenda Item #2: ZTR18-002 Critical Areas Code Amendment

Review of staff-generated ideas for code clean-up.

Agenda Item #3: 2019 Comprehensive Plan Amendment Docket

Preliminary discussion regarding the 2019 Comprehensive Plan Amendment docket recommendation to City Council. Docket recommendation will occur on October 17.

OTHER BUSINESS

Interim Director's report

Planned Absences for Future Meetings

Next Regularly Scheduled Meeting: October 17, 2018 at 6:00PM

ADJOURN

PLANNING COMMISSIONERS

Carolyn Boatsman

Tiffin Goodman, Vice-Chair

Daniel Hubbell, Chair

Jennifer Mechem

Lucia Pirzio-Biroli

Craig Reynolds

Ted Weinberg

PHONE: 206-275-7729

WEB: www.mercergov.org

AGENDA TIMES ARE APPROXIMATE

CITY COUNCIL CHAMBERS - MERCER ISLAND CITY HALL
9611 SE 36TH STREET; MERCER ISLAND, WA 98040



DEVELOPMENT SERVICES GROUP

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

(206) 275-7605

TO: Planning Commission

FROM: Robin Proebsting, Senior Planner

DATE: September 27, 2018

RE: Critical Areas Code and Shoreline Master Program Updates (ZTR18-002): Staff-generated code update ideas

Summary

Staff have generated a list of potential code update ideas for the Planning Commission’s review. Staff would like to ensure the Planning Commission has the opportunity to review the proposed changes and work with staff to address any questions or concerns.

Background

Staff maintain a running list of potential code “clean-up” ideas, generated through group discussion on projects and permits. As part of the Critical Areas Code and Shoreline Master Program update, staff have captured all of the proposed clean-up ideas on this list pertaining to these two code sections (Attachment 1).

The listed code changes are intended to accomplish the following:

1. Remove conflicts between different provisions of the code;
2. Where unclear or open to interpretation, clarify language to better capture the intent of the code provision, as staff understand it through an examination of the legislative record; and
3. Ensure consistent use of terminology throughout.

Staff would like to keep the Planning Commission informed about all proposed changes to the comprehensive plan and receive any questions or comments you may have about the attached list.

Next Steps

Please review the attached list of proposed code updates and bring questions and comments for staff to the Oct. 3, 2018 meeting.

Attachments:

1. Staff-identified code clean-up ideas

Existing CAO Provision MICC Chapter / Section	Reason for recommending update	Suggested Change
19.07	Potential impacts to off-site critical areas due to construction activity (e.g. impacts to geologically hazardous areas adjacent to a substandard private street leading to a site on which development is proposed) do not have a clear standard under which those impacts may be reviewed under the current code.	Clarify when review of impacts to critical areas is required.
19.07	There is no standard or guidance specifying for how long a critical areas study is valid.	Establish a timeline in the updated code that is consistent with available Dept. of Ecology guidance or building code standards.
19.16	<p>Currently, only the definition of "critical areas determination" contains the requirement that a critical areas determination be approved prior to building permit issuance when alteration of a steep slope is proposed. This requirement is not contained in the critical areas code.</p> <p>Additionally, from an administration standpoint, requiring a separate land use approval to allow the alteration of a steep slope adds duplicates work that needs to be done during the building permit review anyway.</p>	<p>Specify which approvals are required for which scope of work in 19.07.</p> <p>Remove requirement for critical areas determination in the case of alteration of steep slopes.</p>
19.16	There is no definition of the term "buffer", and no guidance on what activities and development may be allowed in them.	Create a definition for the term "buffer". Depending on the outcome of BAS and policy discussions, there may be different definitions for wetland, watercourse, and geologic hazard buffers.
19.07.030(A)(6)	There is no guidance for how new streets, driveways, etc. may be placed within a critical area of buffer.	Suggest the following changes: The infrastructure shall be placed as far as possible from the critical area and as far to the outside of the buffer as possible. Infrastructure may cross through or over a critical area or buffer (may run perpendicular), but must not run parallel to the critical area or within the buffer.
19.07.110(E)(6)(a)	This code section provides development criteria for moorage facilities. However it only talks about the presumption of ecological loss, suggesting that there could be room for deviation from the code with a no net loss plan.	Remove the presumption of no ecological loss so the code reads more like concrete development standards.
17.14 104.6:	Code currently gives City staff right of entry, but only if we ask both the occupant and the owner first. If the occupant/owner says no we "have recourse to the remedies provided by law to secure entry", which we are unlikely to pursue.	Amend code to allow right of entry to areas where work is proposed at any time if a permit is active, and any locations where structures or premises are unsafe, dangerous or hazardous.

17.14 105.1	No requirement for emergency escape and exit opening in existing sleeping rooms is included in the construction code in cases of additions or remodels to existing residences.	Suggest adding a provision stating that, in order to issue a permit the building official may require life safety code upgrades that were adopted at the time when the construction was first performed.
19.07 (19.16)	The current definition of "alteration" in 19.16 is " human-induced action which adversely impacts the existing condition of the area". Our code requires alterations to be mitigated so that no adverse impact occurs. Qualified professionals often state in their reports that if their guidance is followed, there will be no adverse impact. Therefore, few actions qualify as an alteration, even if they have the possibility of creating a large impact. We can't require critical area reviews for actions that are not alterations.	Remove the word "adversely" from the definition of alteration.
19.07.030	The code currently contains a provision allowing new utilities, if specific standards are met, which include: 1) Construction is consistent with best management practices; and 2) The facility is designed and located to mitigate impacts to critical areas consistent with best available science. Stormwater code also prescribes standards for how stormwater infrastructure must be constructed.	Verify that the critical areas code is in harmony with stormwater code, so that no conflicts are created.
19.07.030(A)	The last sentence of this section contains redundant information and could potentially be confusing to readers ("If a project does not qualify as an allowed alteration under this section, it may be allowed through a reasonable use exception or if it is consistent with the other regulations in this chapter.").	Remove sentence.
19.07.030(A)(10)	This provision allows expansion and reconstruction in buffers without using the averaging or reduction processes.	Eliminate the subsection
19.07.040(B)	The use of NGPAs to protect habitat features is limited to subdivision and lot line revisions.	Allow NGPAs to be recorded on any property. If an NGPA is not being recorded as part of a subdivision, it may be recorded on the property title.
19.07.040(B)	It is unclear whether state law would allow an NGPA to be recorded with a lot line revision.	Research and verify whether an NGPA could be recorded on an LLR document. Update the code accordingly.
19.07.060	C3 gives the Code Official the authority to waive the requirement for a geotechnical report, but one of the requirements of (D) of this section is for a geotechnical engineer to make a statement of risk.	Add language allowing the Code Official to waive the requirement for a geotechnical report and the requirements of (D).

19.07.060	D4 only allows work between Oct 1 and Apr 1 if a waiver to the limitation is granted. We have a fee and administrative process for this waiver. We have many edge cases where a project is nudging up against Oct 1 st or looking to start early because weather is good in the end of march . We're currently unable to grant any concessions to these projects (for instance a 30 day deferral of the seasonal limitation) based on practical considerations.	Allow for some flexibility for scenarios when a project is anticipated to need to do some work within the wet season and the Code Official is reasonably certain that all critical areas will remain protected.
19.07.080(D)	Allows the alteration of Category III or IV wetlands, but says nothing about altering the buffer beyond reducing it to the minimum allowed in 19.07.080(C)(1)	Clarify that if a wetland is altered, then its buffer is altered as well.
19.07.110	The term "adjoining owners" and "adjoining lots" are used in the SMP, but it is not clear whether "adjoining" means 1) lots that are adjacent to each other, sharing a lot line and both located on the shoreline, 2) adjacent properties that share a lot line but where one property is on the shoreline and the other property is upland, or 3) if it could refer to either scenario.	Clarify the meaning of "adjoining".
19.07.110	There is currently no clear code standard that would prevent a property owner from taking advantage of the larger dimensional standards for a joint-use dock by applying to construct one with another party, then restricting that party's access to the dock.	Include a requirement that joint use docks shall remain as joint use. If access is restricted for one of the parties, the dock shall be brought into compliance with the regulations for a single property dock.
19.07.110 (E) Table D	This table conflates the words "moorage facility" and "dock", which are not synonymous as currently used in the code.	Use the term "dock" where needed - A,B, D , E, and H.
19.07.110 (E) Table E	This table conflates the words "moorage facility" and "dock", which are not synonymous as currently used in the code.	Use the term "dock" where appropriate
19.07.110 (E)(6)(a)(v)	This code section states the height above the OWHM for moorage facilities, except floats, shall be a minimum of one and one-half feet and a maximum of five feet; however this conflicts with 19.07.110(E)(4)(Table D) as it states the maximum height for Mooring Piles, Diving Boards and Diving Platforms is 10 feet. Moorage facility definition: "Any device or structure used to secure a boat or a vessel, including piers, docks, piles, lift stations or buoys."	Clarify height standards for the different types of moorage facilities (e.g. docks vs. mooring pile)
19.07.110 (E)(Table C)	This code requirement prevents structures (e.g. stairs) within the 0-25 foot setback from the OHWM.	Revise to exempt flatwork (patios, walkways) and steps less than 30 inches above the existing or finished grade, whichever is lower, in order to allow property owners access to beach, within reason. Must still meet 10% impervious requirement. Allow new bulkhead when creating or expanding a beach.

19.07.110 (E)(Table D)	This sections allows covered moorages with a "translucent canopy", but this term is undefined.	Add a definition clarifying what kinds of materials are acceptable for meeting this definition.
19.07.110(B)	Reorganize this section for clarity	Suggest: Item #3 should be relocated to be placed after item #1. This would place the two nonconforming sections together.
19.07.110(B)(1)	Allows the reconstruction of nonconforming overwater structures so long as nonconformance is not increased. This conflicts with 19.07.110(E)(6)(b)(ix).	Add that repairs to a nonconforming structure must comply with 19.07.110(E)(6)(b)(ix).
19.07.110(B)(3)	As written, an entire legal nonconforming dock would need to be rebuilt to be brought into compliance if an expansion is proposed.	Either state that the entire dock must be brought into compliance with current regulations if any expansion occurs, or add the following language that is bolded and underlined: "...; provided that the expanded portion of the structure is constructed in compliance..."
19.07.110(B)(3)	This code section does not contain a provision that a structure must be in compliance with other regulations within this chapter, making it unclear which standards apply.	Add the language that is bolded and underlined. "...all other standards and provisions of the Mercer Island development regulations including this chapter. "
19.07.110(E) Table C	The term "impervious surface" is used. This implies that 100% coverage of the first 50-feet from the OHWM by so-called pervious decks and patios (apart from any area needed for native vegetation plantings).	Repalce the term "impervious surface" with "hardended surface", or "lot coverage" and "hardscape". If the term "hardened surface" is used, add a defintion to 19.16.
19.07.110(E)(2)(d)	This section, referring to new development on steep slopes or bluffs, should be moved out of the bulkheads section of the code. It would be more effective and more visible in a general section of the code. It applies to homes and other structures, not bulkheads. It is not speaking to the immediate construction of bulkheads an staiblization, but the need to plan ahead to avoid the need for bulkheads and other stabilization. Once you read this section to review a stabilization project because of erosion or a slide, it's too late to apply this section.	Suggest moving this standard to 19.07.110(B)
19.07.110(E)(2)(j)	This section, encouraging joint-use and community docks, does not belong in the bulkheads section.	Suggest moving to 19.07.110(B). Further, it would be helpful to add criteria to explain the "should" statement in this provision.
19.07.110(E)(4)	(E)(4) allows only "Only one noncommercial, residential moorage facility per upland residential waterfront lot". The definition of "moorage facility" includes "piers, docks, piles, lift stations or buoys". This implies that a waterfront lot could not have both a dock and a mooring pile.	Revise the defintiion for moorage facilities and/or revise this standard to clarify that only one dock/pier is allowed per lot. (Review of the documentation for adoption of the current SMP including the city council script, and the intent of this section was to limit each lot to one dock.)

19.07.110(E)(4), Table D	The development standard for moorage facility width combines the statement that "moorage facility width shall not include pilings, boat ramps and lift station" with item 4) under the exceptions. It should not be included with this item.	Add a line break between item 4) and "Moorage facility width shall not include pilings, boat ramps and lift stations.
19.07.110(E)(6)(a)(vii)	It's not clear what the terms "structure" and "structures" refer to.	The location and context of this term indicate that "structure" means "dock" in this case.
19.07.110(E)(6)(b)(ix)	Requires moorage facilities to meet other regulations if 50% of the structure's exterior surface is removed or replaced prior to demolition. This section seems to imply that the facility would only need to be brought into conformance if the alteration occurred before the proposed action, not as a part of it.	Clarify when A-C are required to be met. The section could be revised as follows: "If the scope of work proposed under a development application together with any work that occurred within the five years immediately prior to the current application date would result in a cumulative 50 percent replacement or reconstruction of the docks exterior surface (including decking) or structural elements (including pilings), then the replaced or reconstructed area of the dock must also comply with the following standards:"
19.07.110(E)(6)(b)(ix)	The height limit on moorage facilities imposed in this section is in conflict with (E) Table D.	Suggest stating specifically which structures cannot be increased in height. Alternately, exempt mooring piles from the height increase restriction.
19.07.110(E)(6)(b)(ix) and 19.07.110(B)(1)	These two code sections appear to conflict. (E)(6)(b)(ix) describes scenarios when docks--either conforming or nonconforming--need to meet certain standards. (B)(1) allows nonconforming docks to be repaired or completely replaced without any other requirements, as long as the degree of nonconformity is not increased. It appears that both standards apply to existing nonconforming docks.	Suggest creating standards for the repair of conforming docks and the repair of nonconforming docks, and provide requirements for each.
19.16 Lift Station definition	"Lift station" commonly refers to a component of wastewater infrastructure that pumps wastewater from a lower to a higher elevation. The current definition of "Lift Station" in the City's code refers to an apparatus more commonly called a boat lift.	Keep the definition, but change the term "lift station" to "boat lift" in the SMP.
19.16 Moorage facility	Moorage facilities currently include "lift stations", when what is meant, according to the current definition in the City's code, is a boat lift.	If the term "moorage facility" is kept, change the term "lift station" to "boat lift"
19.16 Watercourse definition	The definition as written only applies to watercourses above ground. Sometimes watercourses go underground for a stretch due to soil profiles and other factors. These areas should still be considered watercourses and should be clearly captured in the definition	Expand the definition of watercourse to include portions of watercourses that are underground.



DEVELOPMENT SERVICES GROUP

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

TO: Planning Commission

FROM: Evan Maxim, Interim Director of Development Services

DATE: October 3, 2018

RE: Preliminary Docket – 2019 Comprehensive Plan Amendments

Summary

The City has the opportunity to amend its comprehensive plan and development regulations once per year by compiling proposed amendments on a docket, which is preliminarily reviewed by the Planning Commission and City Council for a determination on which proposed amendments will be advanced for full review in the coming year. Amendments selected by the City Council for full review are then put on the DSG work program for the next calendar year. Staff are requesting proposals for the 2019 docket.

Background

The Mercer Island City Code (MICC) describes the formal process in section 19.15.240 MICC:

D. Docketing of Proposed Amendments. For purpose of this section, docketing refers to compiling and maintaining a list of suggested changes to the comprehensive plan in a manner that will ensure such suggested changes will be considered by the city and will be available for review by the public. The following process will be used to create the docket:

1. Preliminary Docket Review. By September 1, the city will issue notice of the annual comprehensive plan amendment cycle for the following calendar year. The amendment request deadline is October 1. Proposed amendment requests received after October 1 will not be considered for the following year's comprehensive plan amendment process but will be held for the next eligible comprehensive plan amendment process.

a. The code official shall compile and maintain for public review a list of suggested amendments and identified deficiencies as received throughout the year.

b. The code official shall review all complete and timely filed applications proposing amendments to the comprehensive plan and place these applications on the preliminary docket along with other city-initiated amendments to the comprehensive plan.

c. The planning commission shall review the preliminary docket at a public meeting and make a recommendation on the preliminary docket to the city council each year.

d. The city council shall review the preliminary docket at a public meeting. By December 31, the city council shall establish the final docket based on the criteria in subsection E of this section. Once approved, the final docket defines the work plan and resource needs for the following year's comprehensive plan amendments.

Public notice was provided on August 27, 2018.

Proposed comprehensive plan amendments are reviewed according to the following criteria. Those amendments determined to meet these criteria by the City Council advance to the 2019 docket:

E. Docketing Criteria. The following criteria shall be used to determine whether a proposed amendment is added to the final docket in subsection D of this section:

1. The request has been filed in a timely manner, and either:

a. State law requires, or a decision of a court or administrative agency has directed, such a change; or

b. All of the following criteria are met:

i. The proposed amendment presents a matter appropriately addressed through the comprehensive plan;

ii. The city can provide the resources, including staff and budget, necessary to review the proposal, or resources can be provided by an applicant for an amendment;

iii. The proposal does not raise policy or land use issues that are more appropriately addressed by an ongoing work program item approved by the city council;

iv. The proposal will serve the public interest by implementing specifically identified goals of the comprehensive plan or a new approach supporting the city's vision; and

v. The essential elements of the proposal and proposed outcome have not been considered by the city council in the last three years. This time limit may be waived by the city council if the proponent establishes that there exists a change in circumstances that justifies the need for the amendment.

DSG has several significant items on its work program for 2019 and is not expected to have the staff resources available to review and process the same number and breadth of comprehensive plan amendments. Staff suggest focusing proposed amendment to the most urgent issues needing attention in the coming year.

Next Steps

Please bring ideas for potential comprehensive plan amendments to the Oct. 3, 2018 Planning Commission meeting. Note that amendments include any change to the comprehensive plan, which include goals, policies, or modification to a map. The Commission will then have the opportunity to discuss Commissioner ideas and make a recommendation to staff on which items should be brought to the City Council.