



PLANNING COMMISSION REGULAR MEETING AGENDA

Wednesday, January 17, 2018
Mercer Island City Hall

CALL TO ORDER & ROLL CALL

6:00 PM

MINUTES

October 18, 2017

APPEARANCES

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*

REGULAR BUSINESS

Agenda Item #1: Director's Report

6:15 PM

The Director of the Development Services Group would like to offer some preliminary comments to the Planning Commission

Agenda Item #2: 2018 Work Plan

6:30 PM

Review the 2018 Planning Commission work plan and schedule, including overall schedule and approach.

Agenda Item #3: Procedural Code Amendments

7:00 PM

Introduction to a proposed code amendment (ZTR18-001) related to procedural requirements for land use actions.

Agenda Item #4: Critical Area Code Amendments

7:45 PM

Discussion and recommendation to City Council of the scope of work and schedule for review of the City's environmentally critical areas regulations (ZTR18-002).

OTHER BUSINESS

Planned Absences for Future Meetings

Next Regularly Scheduled Meeting: February 7, 2018 at 6:00PM

ADJOURN

PLANNING COMMISSIONERS

Carolyn Boatsman

Bryan Cairns

Tiffin Goodman, Vice-Chair

Daniel Hubbell, Chair

Jennifer Mechem

Lucia Pirzio-Biroli

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



PLANNING COMMISSION MEETING MINUTES OCTOBER 18, 2017

CALL TO ORDER:

The Planning Commission was called to order by Chair Dan Hubbell at 6:06 PM in the Council Chambers at 9611 SE 36th Street, Mercer Island, Washington.

ROLL CALL:

Chair Dan Hubbell, Vice Chair Tiffin Goodman, Commissioner Ted Weinberg, Jennifer Mechem, Lucia Pirzio-Biroli, Bryan Cairns and Carolyn Boatsman were present.

City staff was represented by Evan Maxim, Planning Manager, Lauren Anderson, Assistant Planner, and Bio Park, Assistant City Attorney, Andrea Larson, Administrative Assistant, Kelsey Salvo, Administrative Assistant.

Commissioner Carolyn Boatsman moved to approve the September 27, 2017 minutes. Commissioner Bryan Cairns seconded move to approve minutes. 7-0 minutes passed.

Commissioner Jennifer Mechem motioned to approve the October 4, 2017 minutes. Commissioner Carolyn Boatsman seconded to approve the minutes. 7-0 minutes passed.

APPEARANCES:

No public appearances.

REGULAR BUSINESS:

Agenda Item #1: ZTR16-002 MICA Zoning Text Amendment Public Hearing- Cancelled

Evan Maxim, Planning Manager, discussed the pause for the exploration of alternative sites. Rescheduling will likely happen in December 2017 or January 2018.

Agenda Item #2: 2018 Comprehensive Plan Amendments – Preliminary Docket

Evan Maxim, Planning Manager, reviewed the history of the Comprehensive Plan Amendment review process, docket criteria, provided an overview of the amendments on the docket, and fielded questions from the Planning Commission. Public Notice was August 16, 2017 and the deadline for submitting requests was October 1, 2017. November 6, 2017 is the scheduled City Council review. The docket items includes the following:

1. Update the Land Use Element / Land Use Map for clarity and accuracy of map designations
2. Update the Capital Facilities Plan with the budget
3. Update to address traffic modeling, LOS, non-motorized (pedestrian and bike), and I-90 changes
4. Add policy support for participation in the King County Public Benefit Rating System
5. Develop goals and polices supporting the requirements of the City National Pollution Discharge Elimination System (NPDES) permit and supporting low impact development
6. Develop goals and policies supporting the cultural arts
7. Critical areas ordinance update – placeholder
8. Create a new land use map designation "Private Community Facilities" or similar, for the

properties currently occupied by the JCC, French American School, and Herzl-Ner Tamid (approximately 18 acres). This amendment to be accompanied by a zoning map and zoning code amendment.

Referring to docket item number 8, the applicant, Richard Hill, discussed why the proposal was requested to be added to the docket (6:41pm). Richard then introduced Ed Weinstein, the architect and planner, who then presented the proposed phasing of the project.

Following the applicant's presentation, the Commission then asked for clarification on certain items. Ed Weinstein, Richard Hill, and Evan Maxim responded to the Commission's questions.

Three representatives of the three stakeholders were present. Dave Cutler, board of trustees for the French American School, Michelle Glasser, Co-President at Herzl Ner Tamid, and Amy Laven the Chief Officer of the SJCC spoke to recommend the Planning Commission move to put item number 8 on the docket.

Commissioner Bryan Cairns motioned to recommend approval of the preliminary docket of Comprehensive Plan Amendments to the City Council for creation of a final docket of Comprehensive Plan Amendments, for review in 2018. Seconded by Commissioner Lucia Pirzio-Biroli.

Chair Hubbell opened for discussion. Vice Chair Tiffin Goodman recommended considering to include housing for a care taker for example for item 8. Commissioner Tiffin Goodman recommended to add disaster/hazard planning to the docket. Commissioner Jennifer Mechem agreed with Vice Chair Tiffin Goodman, and also recommended to consider smaller housing and cottage housing into the docket. Commissioner Jennifer Mechem recommended to add accessibility into the Comprehensive Plan.

Commissioner Lucia Pirzio-Biroli motioned to add to the docket a 9th item, to develop goals and policies for disaster planning and recovery. Seconded by Vice Chair Tiffin Goodman. Amendment passes 7-0.

Commissioner Jennifer Mechem motioned to add item 10 to the docket to review Comprehensive Plan to identify and recommend policy to promote accessibility, universal design, and age friendly planning throughout the City. Seconded by Commissioner Carolyn Boatsman. Commissioner Lucia recommended to add this item to the purpose section as a blanket statement for the entire Comprehensive Plan. Amendment passes 7-0.

Chair Daniel Hubbell motioned to recommend approval of all 10 items in the preliminary docket of Comprehensive Plan Amendments to the City Council for creation of a final docket of Comprehensive Plan Amendments, for review in 2018. The recommended docket was passed 7-0.

OTHER BUSINESS:

Discussed the City Council's response to the Planning Commission's recommendation for Cohen's proposed amendment.

NEXT MEETING:

The next regularly scheduled Planning Commission meeting will be November 1, 2017 at 6:00PM at Mercer Island City Hall. The next meeting currently has no items so far on the agenda, and most

likely will be cancelled. Chair Dan Hubbell will not be present on November 1, 2017. Next meeting will be on November 15, 2017.

ADJOURNMENT: Chair Dan Hubbell adjourned the meeting at 7:46 pm.

DRAFT



DEVELOPMENT SERVICES GROUP

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

TO: Planning Commission

FROM: Nicole Gaudette, Senior Planner

DATE: January 17, 2018

RE: ZTR18-001 – Procedural Code Amendment – Narrative

Problem Statement:

The proposed amendments to the procedural requirements for land use applications are intended to:

- A. Clarify the review process and language;
- B. Re-organize and consolidate the procedural requirements and approval criteria;
- C. Ensure compliance with applicable state regulations (e.g. RCW 36.70B) and recent case law (e.g. Potala Village Kirkland, LLC v City of Kirkland); and,
- D. Simplify the regulations for readability, ease of use, and to eliminate unintended consequences.

The proposed amendments are primarily procedural changes. The proposed amendments will involve clarifying language in existing code, relocating portions of code to consolidate criteria and process, and establishing permit types. This update is necessary for numerous reasons. The current permit typing system does not provide a clear process for how some permits are processed, such as design review applications. The code lacks criteria and/or process for some permits types such as zoning code text amendments and shoreline revisions. There is inconsistent terminology used throughout the code such as “critical areas determination” vs. “critical lands determination” and terms such a “formal design review” vs “significant”. Review criteria are located across multiple chapters and interspersed with process code.

The City of Mercer Island has also developed several different processes that appear to be very similar with slightly different aspects over time; for example, there are at least six different types of design review processes requiring action by either the code official or the Design Commission. There are at least another six different types of review process for land use applications that do not require design review. It appears that some of these processes were created around individual land use improvements, and do not readily integrate with similar land use application processes.

Overview of Proposed Amendments:

To improve clarity and simplify the process, a new land use application “typing” system is being proposed. Staff is proposing to classify procedural requirements by a land use application type (e.g. a Type 1 or Type 2, etc. process). Land use applications are typed based upon the review process they

undertake; for example, a Type 1 land use application may only require a Notice of Decision, while a Type 2 land use application would require a Notice of Application and Notice of Decision. Currently most land use applications are classified as ministerial, administrative, discretionary and legislative; in most cases staff anticipates that the land use application process will be placed in the type of process that most clearly matches the existing process. A **draft** permit process table (please see attached) is being provided for context.

Staff anticipates that the consolidation of approval criteria and procedural requirements for land use applications will likely require modification of several chapters, including chapters 19.06, 19.07, 19.08, and 19.15 of the Mercer Island City Code (MICC). The bulk of these amendments will result in “re-locating” process criteria to Chapter 19.15 MICC, and standardizing the terminology used.

Finally, staff will focus on modifying the language to address provisions of state law and recent case law as noted above. For example, additional language regarding “vesting”, the timing of SEPA review, consolidation of public hearings, the distinction between a “change in use” and a “tenant improvement” and addressing the overall timeline would improve the clarity and transparency of the land use review process.

Next Steps:

On January 17, 2018, staff intends to review the above information with the Planning Commission and seek to confirm direction before proceeding with preparation of draft code amendment materials. On February 21, 2018, staff will provide an initial draft of the proposed amendments for Planning Commission review, followed by a tentatively scheduled public hearing and recommendation to City Council in March or April of 2018.

INITIAL DRAFT

January 17, 2018

	Type I	Type II	Type III	Type IV	Type V	Type VI
Feasibility meeting	No	Yes	Yes	No	Yes	No
Issue letter of completion within 28 days including optional SEPA notification	No	Yes	Yes	Yes	Yes	No
Notice of application	No	Yes	Yes	No	Yes	No
Recommendation by board, commission or hearing examiner	No	No except for parking variances to design commission and city engineer	No	Code official	No	Planning commission
Open record predecision hearing	No	No	Hearing examiner	Hearing examiner or Planning commission	No	Planning commission
Decision	Code official	Code official	Hearing examiner	Council	Code official and Department of Ecology	Council
SEPA threshold decision	No	Project Dependent	Yes	Yes	Project Dependent	Yes
Notice of decision (preliminary)	Yes	Yes, for preliminary short plat	Yes, for preliminary long plat	No	No	No
Notice of decision (final)	No	Yes	Yes	Yes	Yes	Yes
Appeal Authority	Hearing Examiner	Hearing Examiner or Shoreline Hearings Board	Superior Court	Superior Court	State Shorelines Hearings Board	Superior court



DEVELOPMENT SERVICES GROUP

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

TO: Planning Commission

FROM: Robin Proebsting, Senior Planner

DATE: January 11, 2018

RE: ZTR18-002 - Critical Area Code Update Introduction

Summary

On January 17, 2018, the Planning Commission will hold its first meeting on the Critical Area Code update, a project to update the City's Critical Area Code (primarily housed in MICC 19.07) to include the latest Best Available Science. Staff have two objectives for this meeting: 1) To provide the Planning Commission with an introduction and legislative context for this required code update, and 2) to obtain input from the Planning Commission on the scope of work to be included in this project.

Background

The Critical Area Code update fulfills a requirement of the Growth Management Act (GMA, RCW 36.70A) for cities to review and, if needed, revise their development regulations to ensure that they comply with the GMA. Compliance with the GMA means adopting development regulations that protect critical areas, which are defined in state law as (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. Currently, regulations protecting these features are generally contained in the City's code in MICC 19.07.

The progression of tasks for this project will generally be to first finalize a scope of work (to include a list of topics to be reviewed, as well as a conceptual public engagement plan) with the Planning Commission and City Council. The code update process will then begin with a review of current regulations and a discussion on a decision-making framework. Next, the Planning Commission and staff will review Best Available Science and relevant policy direction pertaining to critical areas. Finally, the Planning Commission will consider the guidance offered by Best Available Science, community comments and input, and policy direction from adopted City documents to develop recommended amendments to the Critical Area code.

The Planning Commission's tasks for this project will include:

1. *Reviewing Best Available Science:* Staff expect to engage a consultant to provide scientific information on the critical areas found on Mercer Island. State law requires cities to include Best Available Science in developing development regulations.

2. *Reviewing comprehensive plan policies:* The Comprehensive Plan is the City's guiding policy document. Development regulations, such as the Critical Area Code the Planning Commission will be reviewing, must be consistent with the Comprehensive Plan goals and policies.
3. *Providing policy direction to staff:* Based on a synthesis of Best Available Science, public input, and comprehensive plan guidance, the Planning Commission will provide staff with the policy direction that will establish the basis for the draft Critical Area Code.
4. *Reviewing draft code:* The Planning Commission will review draft code updated generated by staff in order to confirm that the Commission's intended policy direction has been captured.

Finally, staff anticipates using a public engagement plan similar to the one used for the Residential Development Standards update, including community meeting(s), a social media outreach, a project specific website, in addition to standard noticing requirements.

Next Steps

At the January 17th meeting, staff will provide a brief overview of the requirements for critical area code updates in state statute and policy guidance from the City's Comprehensive Plan, as well as field questions the Planning Commission may have. Staff will request the Commissioners' input on the following:

1. What regulatory topics should be reviewed as part of the Critical Area Code update, in addition to those listed in the attached scope of work?
2. Are there specific community engagement considerations that staff should address during the Critical Area Code update process?

Staff will next take these recommendations to the City Council for review and approval. Once staff have an approved scope of work, staff will proceed with the Critical Area Code update process.

I invite any questions you may have at this stage of the process, as well as any requests for topics that you would like covered during the January 17th meeting. If you share questions in advance of the meeting, we will attempt to address them at the meeting. You can reach me at 206-275-7717 or robin.proebsting@mercergov.org

Attachments:

1. Memo to Planning Commission RE: ZTR18-002 – Critical Areas Code Update – Scope of Work



DEVELOPMENT SERVICES GROUP

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

TO: Planning Commission

FROM: Evan Maxim, Planning Manager

DATE: January 17, 2018

RE: ZTR18-002 – Critical Areas Code Update – Scope of Work

Background:

The City Council has directed staff to initiate work on the Critical Areas Code update in 2018. Staff has prepared an initial scope of work for review by the Planning Commission. Following review and any additional guidance by the Planning Commission on January 17, 2018, staff will seek City Council confirmation of the final scope of work and begin.

The Washington State Growth Management Act (GMA)¹ requires that the City periodically update its environmentally critical areas (Critical Areas) code to address any changes in Best Available Science (BAS). The City of Mercer Island is “overdue” updating its Critical Areas code.

Finally, to ensure that the City has a consistent set of critical area regulations citywide, the City will update the Mercer Island Shoreline Master Program to incorporate any eventual amendments to the regulations.

Scope of Work

In developing the draft scope of work for Planning Commission and City Council review, the staff has divided the scope of work into tasks: A) “Mandated” by the GMA; B) “Recommended” by the staff to improve implementation; and intended to ensure C) “Community Engagement and Coordination”.

A) Mandated:

1. Identify and designate critical areas based on terms and definitions in state statute (RCW) and regulations (WAC) and local code.
 - a. Provide special consideration to protection / conservation of anadromous fish
2. Adopt amendments resulting from updated Best Available Science (BAS), changes in statute or case law, and the Mercer Island Comprehensive Plan, including:
 - a. Avoidance sequencing (avoid, minimize, mitigate);
 - b. Buffers, setbacks, mitigation / enhancement requirements;
 - c. Clarify and “clean up” of existing standards;

¹ Pursuant to the Revised Code of Washington (RCW) 36.70A.130.

- d. Review applicable case law and statutory laws including amendments since 2005.
- 3. Update Shoreline Master Program (SMP) to incorporate any proposed changes to critical area regulations into the SMP.

B) Recommended:

- 4. Clarify / simplify procedural requirements.
- 5. Re-evaluate balance of protection of critical areas and allowances for impacts:
 - a. Flexibility for small home additions;
 - b. Flexibility for new development (e.g. new house, buildings, etc);
 - c. Public projects
- 6. Review regulations around piped streams (watercourses) vs. stormwater conveyance and control facilities.
- 7. Update mapping of critical areas.
- 8. Review for consistency with the Sustainability Plan, Luther Burbank Park, Pioneer Park, or other Master Plan documents.

C) Community Engagement and Coordination:

- 9. Community outreach (Mercer Island at large, impacted properties, multiple media approach)
- 10. Relationship to urban forestry management plan, hazard mitigation plan(s)
- 11. GIS / mapping (and updates to GIS / mapping)
- 12. Coordination with other organizations:
 - a. Citizen groups;
 - b. Tribes; and,
 - c. Regional, State, and Federal Agencies.