

# GMHB EXHIBIT 115



## BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

**AB 6551**  
**October 15, 2024**  
**Regular Business**

### AGENDA BILL INFORMATION

<b>TITLE:</b>	AB 6551: First Reading of Ordinance No. 24C-15 Open Space Zone Code Amendment	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
<b>RECOMMENDED ACTION:</b>	Schedule Ordinance No. 24C-15 for second reading.	

<b>DEPARTMENT:</b>	City Manager
<b>STAFF:</b>	Jessi Bon, City Manager Alison Van Gorp, Deputy CPD Director Carson Hornsby, Management Analyst II
<b>COUNCIL LIAISON:</b>	n/a
<b>EXHIBITS:</b>	1. Ordinance No. 24C-15 2. Planning Commission Recommendation - ZTR24-002 Open Space Zone Code Amendment
<b>CITY COUNCIL PRIORITY:</b>	2. Sustain and enhance our natural environment, especially parks and open spaces, to benefit this generation and others that follow.

<b>AMOUNT OF EXPENDITURE</b>	\$ n/a
<b>AMOUNT BUDGETED</b>	\$ n/a
<b>APPROPRIATION REQUIRED</b>	\$ n/a

### EXECUTIVE SUMMARY

The purpose of this agenda bill is to present Ordinance No. 24C-15 (Exhibit 1) to amend the Mercer Island City Code (MICC) to establish the Open Space Zone development regulations and Zoning Map.

- Creation of a new Parks Zone was added to the 2024 Comprehensive Plan Periodic Review scope of work by the City Council in 2022 with [Resolution No. 1621](#). Creation of a new zone requires amendments to MICC Title 19, the Zoning Map, and the Comprehensive Plan Land Use Map.
- The Parks Zone work item was later split into two zones: one for City-owned and managed Open Space Lands and a second for City-owned and managed Park properties.
- The draft Open Space Zone was developed first to be included in the 2024 Comprehensive Plan Periodic Update. If approved, the proposed Open Space Zone will establish land use regulations for City-owned and managed Open Space Lands and ensure the land is managed in a manner appropriate for such properties, consistent with the Parks, Recreation, and Open Space (PROS) Plan, City code, master plans, forest management plans, and similar documents.
- The Parks and Recreation Commission (PRC) and Open Space Conservancy Trust (OSCT) Board held several joint meetings in Spring 2024 to provide input and develop the proposed amendments to Title 19 MICC, the Zoning Map, and the Comprehensive Plan Land Use Map.

- At its May 29, 2024 Special Meeting, the Planning Commission (PC) held a public hearing regarding the update to the Comprehensive Plan and Land Use Map amendment and approved a recommendation that was provided to the City Council on July 16 ([AB 6510](#)).
- At its September 25 Meeting, the PC held a public hearing regarding the amendment to the development regulations and Zoning Map ([PCB 24-17](#)), and approved a recommendation to the City Council.

## BACKGROUND

The scope of work for the Comprehensive Plan periodic review, adopted by the City Council in 2022, included creation of a new Parks Zone. A preliminary Parks Zone draft was presented to the PRC ([PRC 24-01](#)) and Planning Commission ([PCB 24-01](#)) in January 2024. After receiving feedback from the commissions and community, the City Manager directed staff to pause the legislative review process and return to the PRC for further discussion.

The PRC revisited the Parks Zone in March 2024 and provided a recommendation to staff to separate the Parks Zone planning work into two phases: the first phase to develop a new zone for City-owned public Open Space Lands, and the second phase to develop a new zone for other City-owned public park properties. The PRC recommended prioritizing the development of the Open Space Zone to be included as part of the 2024 Comprehensive Plan Periodic Update. The OSCT Board was invited to hold joint meetings with the PRC to provide input on the proposed Open Space Zone and the associated development regulations.

At the March 21, 2024, joint PRC/OSCT meeting, the PRC and OSCT each voted to approve a joint recommendation to the Planning Commission (PC) on the Open Space Zone and the associated development regulations.

At the May 8, 2024 PC meeting, City staff and the PRC and OSCT Chairs presented the [PRC/OSCT recommendations](#) and the draft development regulations, Zoning map, and Land Use Map to the Planning Commission ([PCB 24-09](#)). The PC had the opportunity to ask questions about the recommended draft, and commissioners were asked to submit written comments to staff following the meeting.

At the May 15, 2024 PC meeting, the PC reviewed the proposed amendments to the development regulations, Zoning Map and Land Use map ([PCB 24-10](#)). Written comments received prior to the meeting were discussed and a couple minor amendments were made by the PC. The PC approved a recommendation for amendments to the development regulations, Zoning Map and Land Use Map. The Land Use Map recommended by the PC was included in the draft Comprehensive Plan amendments considered during a public hearing on May 29, 2024. The PC approved a recommendation to the City Council including the amendments to the Land Use Map on June 12, 2024 ([AB 6510](#)).

On September 25, 2024, the PC held a public hearing on the Open Space Zone development regulations and Zoning Map amendments and approved a recommendation to the City Council (Exhibit 2). One person provided public comment during the hearing. Notice of the Planning Commission public hearing was published in the *Mercer Island Reporter* on August 21, 2024. The WA Department of Commerce was notified of the intent to adopt development code amendments on August 7, 2024. A State Environmental Policy Act (SEPA) determination of non-significance was issued on August 7, 2024, and the project was assigned SEPA register file number 202403416. The SEPA determination comment period was open from August 7 to 26, 2024; no comments were received.

## ISSUE/DISCUSSION

### Planning Commission Recommendation

On September 25, 2024, the Planning Commission approved a recommendation on amendments to the development regulations and Zoning Map to create the Open Space Zone (Exhibit 2). The commission also identified scrivener's errors that have been corrected in Ordinance No. 24C-15 (Exhibit 1).

### Ordinance No. 24C-15

Ordinance No. 24C-15 will implement the Open Space Zone by creating new sections of City Code (MICC 19.05.030 Open Space – OS and MICC 19.05.040 Open Space Development Standards), amending MICC 19.16.010 Definitions and MICC 19.01.040 Zone Establishment, and repealing and replacing MICC Chapter 19 Appendix D – Zoning Map. These code amendments align with amendments to the Land Use Map currently under consideration by the City Council as a part of the Comprehensive Plan Periodic Update. The proposed amendments to the development code and Zoning Map must be adopted concurrently with the Comprehensive Plan to ensure the code remains consistent with the Comprehensive Plan without any gaps in timing.

## NEXT STEPS

Once the City Council completes deliberations on the Open Space Zone code amendment, Ordinance No. 24C-15 will be scheduled for final review and adoption with the same effective date as the Comprehensive Plan Periodic Update, December 31, 2024.

The PRC began working on development of the Parks Zone at their October 8 meeting. It is anticipated the PRC will provide a recommendation on the Parks Zone development regulations to the Planning Commission in spring 2025.

## RECOMMENDED ACTION

Schedule Ordinance No. 24C-15 for second reading on November 4, 2024 with an effective date of December 31, 2024.

**CITY OF MERCER ISLAND  
ORDINANCE NO. 24C-15**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,  
RELATING TO ESTABLISHMENT OF THE OPEN SPACE ZONE; PROVIDING  
FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the adoption of land use and zoning regulations is a valid exercise of the City's police power and is specifically authorized by RCW 35A.63.100; and

**WHEREAS**, through the annual development code and comprehensive plan docket and the adoption of Resolution No. 1621 in 2022, the City added the task of developing legislation to establish a new Parks Zone; and

**WHEREAS**, in March 2024, the Parks and Recreation Commission and Open Space Conservancy Trust Board made the recommendation to split the original Parks Zone code development project into two phases: first, an Open Space Zone, and subsequently, the development of a Parks Zone; and

**WHEREAS**, on May 8, 2024, the Parks and Recreation Commission and Open Space Conservancy Trust Board provided an initial joint recommendation to the Planning Commission on proposed legislation establishing a new Open Space Zone; and

**WHEREAS**, on September 25, 2024, the Planning Commission held a duly advertised public hearing and provided a recommendation regarding the proposed legislation to the City Council; and

**WHEREAS**, establishment of the Open Space Zone requires an update to the Land Use Map in the Comprehensive Plan, which was addressed in a separate duly advertised public hearing on May 29, 2024, related to the 2024 Comprehensive Plan Periodic Update; and

**WHEREAS**, the proposed update to the Land Use Map as part of the Comprehensive Plan Periodic Update must be adopted to be effective concurrently with the code amendments; and

**WHEREAS**, on August 7, 2024, the City notified the Washington State Department of Commerce of the City's intent to adopt development code amendments; and

**WHEREAS**, on August 7, 2024, the City issued a State Environmental Policy Act (SEPA) threshold determination of non-significance (DNS) consistent with the procedures established in Chapter 19.21 MICC; and

**WHEREAS**, on October 15, 2024, the City Council was briefed on the Planning Commission recommendation and had its first reading of this ordinance, and on MM/DD/YYYY, the City Council had its second reading of this ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1. Whereas Clauses Adopted.** The “Whereas Clauses” set forth in the recital of this ordinance are hereby adopted as the findings and conclusions of the City Council for passing this ordinance.

**Section 2. New MICC 19.05.030 Open Space - OS Adopted.** The City Council adopts, effective December 31, 2024, a new section MICC 19.05.030, Open Space Zone, to read as follows;

**MICC 19.05.030 – Open Space Zone.**

- A. *Purpose.* The purpose of the Open Space Zone is to preserve, protect, restore, and enhance Open Space Lands, which provide habitat for native plants and animals and ecological services including stormwater management and carbon sequestration. Open Space Lands provide access to nature for passive recreation and relaxation and educational and stewardship opportunities.
- B. *Open Space Zone Designation Requirements.* In addition to the requirements established in Section [19.15.240 MICC](#), Open Space Lands must be owned, leased, or managed by the City of Mercer Island and fulfill the purpose provided in subsection (A) above to qualify for classification as Open Space Zone.
- C. *Uses Permitted.* The following land uses are permitted in the Open Space Zone. A use not permitted by this section is prohibited.
  - 1. Trails.
  - 2. Passive recreational uses.
  - 3. Passive recreational amenities.
  - 4. Habitat restoration and enhancement.
  - 5. Temporary uses compatible with the purpose of the Open Space Zone, as authorized by the City Manager or designee.
  - 6. Wireless communications facilities. (Only if otherwise permitted by [MICC 19.06.040](#) – Wireless communications and/or [MICC 19.06.070](#) – Small wireless facilities deployment and as subject to design and concealment standards as otherwise provided in the MICC).
  - 7. Utilities, only where necessary for public safety or protection of the natural environment and no reasonable alternative location exists. Utilities should be underground, if feasible.

**Section 3. New MICC 19.05.040 Open Space Zone Development Standards, Adopted.** The City Council adopts, effective December 31, 2024, a new section MICC 19.05.040, Open Space Zone Development Standards, to read as follows;

**MICC 19.05.040 – Open Space Zone Development Standards.**

A. *Applicability.* The provisions of this section shall apply to all development proposals in the Open Space zoning designation.

B. *Setbacks.*

1. The following minimum setbacks apply:
  - a. Zero (0) feet if adjacent property is zoned PI, TC, PBZ, C-O, or B; and
  - b. Twenty (20) feet if adjacent property is zoned R-8.4, R-9.6, R-12, R-15, MF-2L, MF-2, or MF-3.
2. Setbacks are measured from the adjacent property line or the edge of adjacent public rights-of-way.
3. The following developments are exempt from setback requirements: fences, gates, culverts, trails, landscaping, and furnishings.

C. *Restrooms.*

1. Restrooms are only permitted on properties larger than 100 acres. Restrooms shall not be larger than 300 square feet.

D. *Signs and Kiosks.*

1. Signs shall be governed by [MICC 19.12.080](#), except as follows:
  - a. No sign shall be larger than three square feet, other than at an entrance to Open Space Lands, where a sign shall not be larger than ten square feet in size.
  - b. Exterior lighted signs are prohibited.
  - c. Natural colors shall be required unless necessary for public health, safety, or maintenance.
2. The surface area of kiosks shall not exceed 15 square feet and kiosks shall not exceed ten feet in height; except, for Open Space Land larger than 100 acres, the surface area of kiosks shall not exceed 22 square feet and kiosks shall not exceed ten feet in height. Surface area shall be measured as the portion of the kiosk used/usable for providing information.

E. *Trail Standards.*

1. Trails shall not exceed eight feet in width.

**Section 4. MICC 19.16.010 Definitions, Amended.** Effective December 31, 2024, MICC 19.16.010 is amended as follows.

**MICC 19.16.010 – Definitions**

[...]

Kiosk. A small structure in a public area used for providing information.  
[...]

Natural Colors. Muted colors that are consistent with the natural landscape of Open Space lands.  
[...]

Open Space Land(s). A parcel of land that is largely undeveloped and is suitable as a natural habitat.  
[...]

Passive Recreational Amenities. Structures, furnishings, or developments that are specifically provided for passive recreational uses, such as signs, trails, restrooms, kiosks, benches, bike racks, etc.

Passive Recreational Uses. Passive recreational uses have a low impact on the facilities used, and include activities such as hiking, wildlife viewing, walking, jogging, or picnicking. Passive recreational uses place minimal stress on a site's resources; as a result, passive recreational uses are highly compatible with natural resource protection.  
[...]

Temporary Structures, Uses, and Activities. A land use, structure, or activity that will only be in place for a limited period of time not to exceed 180 days in duration.  
[...]

Trail. An off-street path for passive recreational uses.  
[...]

**Section 5. MICC 19.01.040 Zone Establishment, Amended.** Effective December 31, 2024, MICC 19.01.040, Zone Establishment, is amended as follows.

**MICC 19.01.040 – Zone Establishment**

A. Zones.

Zone	Symbol
Single-Family	R-8.4
Single-Family	R-9.6
Single-Family	R-12
Single-Family	R-15
Multiple-Family	MF-2L
Multiple-Family	MF-2

Multiple-Family	MF-3
Business	B
Planned Business	PBZ
Commercial Offices	C-O
Public Institution	PI
<u>Open Space</u>	<u>OS</u>
Town Center	TC

- B. The location and boundaries of the various zones of the city are shown and delineated on the city of Mercer Island Zoning Map which is included in appendix D of this development code and is incorporated herein by reference.
- C. The location and boundaries of the various zones as hereafter determined by the city council shall be shown and delineated on zone maps covering portions of the city, each of which shall be a part of this Code either by adoption as a part hereof or by amendment hereto.
- D. Each zone map and all notations and other information shown therein shall become part of this Code.
- E. A zone map may be divided into parts and each part may, for purposes of identification, be subdivided into units. Such parts may be separately and successively adopted by means of an amendment of this Code and, as adopted, such zone map, or its parts, shall become a part of this Code.
- F. Changes in the boundaries of a zone shall be made by ordinance adopting an amended map, or part of said zone map.
- G. When uncertainty exists as to the boundaries of any zones shown on any zone map, the following rules shall apply:
  - 1. Boundaries shown on a map as approximately following street lines or lot lines shall be construed as actually following such lines.
  - 2. Where a boundary between zones divides a lot into two or more pieces, the entire lot shall be deemed to be located in the first zone on the following list in which any part of the lot is located: R-15, R-12, R-9.6, R-8.4, MF-2L, MF-3, MF-2, OS, PI, PBZ, C-O, TC, and B. The location of the zone boundary shall be determined by use of the scale appearing on the zone map unless the location of the boundary is indicated by dimensions.
  - 3. Where property abuts Lake Washington, the land use classification of the upland property extends waterward across the abutting shorelands and beds to the line of navigability/inner harbor line as established in 1984 by the board of natural resources by Resolution No. 461.
  - 4. In case any uncertainty exists, the planning commission shall recommend and the city council shall determine the location of boundaries.

5. Where a public street is officially vacated or abandoned, the land use classification applicable to the abutting property shall apply to such vacated or abandoned street. If a vacated street forms the boundary between two or more zones, the land use classifications of each abutting zone shall extend to the mid-point of the vacated street unless the planning commission recommends and the city council decides otherwise.

H. Except as hereinafter provided:

1. No land, building, structure or premises shall be used for any purpose or in any manner other than a use listed in this Code, or amendments thereto, for the zone in which such land, building, structure or premises is located.
2. No building or structure shall be erected nor shall any building or structure be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the requirements of this development code or amendments thereto.
3. No yard or other open spaces provided about any building or structure, for the purpose of complying with the regulations of this Code or amendments thereto shall be considered as providing a yard or open space for any other building or structure.

**Section 6. MICC Title 19, Appendix D – Zoning Map, Amended.** Effective December 31, 2024, Appendix D, Zoning Map, to Title 19, is repealed and replaced with the map attached hereto as Exhibit A.

**Section 7. Severability.** If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property, or circumstance, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance or its application to any other person, property, or circumstance.

**Section 8. Publication and Effective Date.** A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS MEETING ON \_\_\_\_\_, 2024.

ATTEST:

CITY OF MERCER ISLAND

\_\_\_\_\_  
Andrea Larson, City Clerk

\_\_\_\_\_  
Salim Nice, Mayor

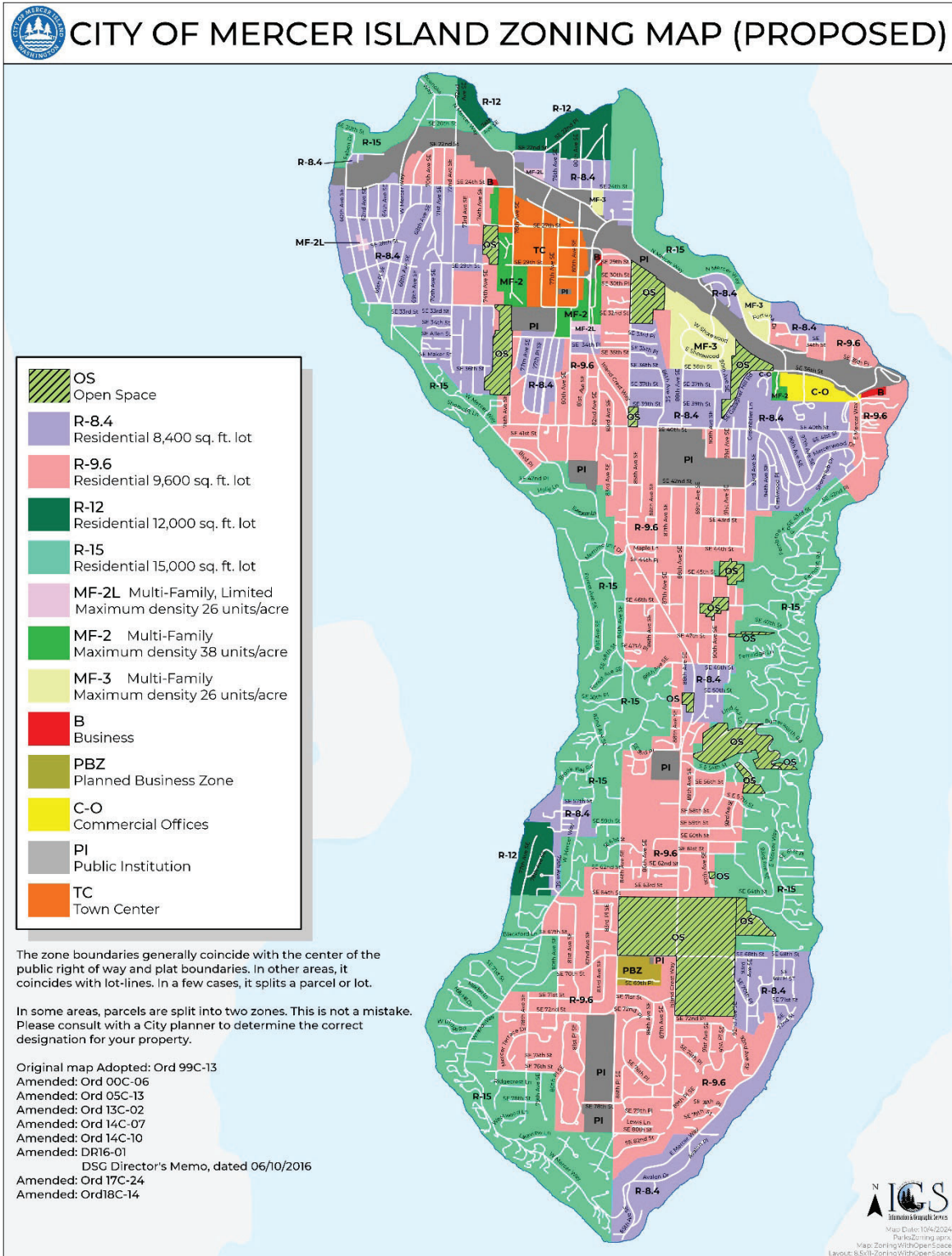
APPROVED AS TO FORM

\_\_\_\_\_  
Bio Park, City Attorney

Date of publication:

# Exhibit A

## Appendix D – ZONING MAP



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# CITY OF MERCER ISLAND

## COMMUNITY PLANNING & DEVELOPMENT

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## PLANNING COMMISSION

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**To:** City Council  
**From:** Angela Battazzo, Planning Commission Chair  
**Date:** September 25, 2024  
**RE:** Planning Commission Recommendation: ZTR24-002 Open Space Zone Code Amendment  
**ATTACHMENTS:** A. Planning Commission Recommended Amendments on the Open Space Zone

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On behalf of the Planning Commission, I am pleased to present our recommendation on ZTR24-002, the amendments to the development code to establish an Open Space Zone and the accompanying development regulations.

The scope of work for the Comprehensive Plan periodic review, adopted by the City Council in 2022, included creation of a new Parks Zone. The Parks and Recreation Commission (PRC) recommended separating the Parks Zone planning work into two phases: the first phase to develop a new zone for City-owned public Open Space Lands, and the second phase to develop a new zone for other City-owned public park properties. The PRC recommended prioritizing the development of the Open Space Zone to be included as part of the 2024 Comprehensive Plan Periodic Update. The Open Space Conservancy Trust Board was invited to hold joint meetings with the PRC to provide input on the proposed Open Space Zone and the associated development regulations.

This matter came before the City of Mercer Island Planning Commission at their meeting on May 8, 2024 when the PRC and OSCT provided their recommendation to commission. The Planning Commission held an open record public hearing on September 25, 2024. One public comment was made during the public hearing on this amendment. The Planning Commission considered this feedback as well as the staff reports dated [May 8, 2024](#), [May 15, 2024](#) and [September 25, 2024](#) in making its recommendation.

After deliberation, the Commission recommends the draft code amendment to create new sections of City Code (MICC 19.05.030 Open Space – OS and MICC 19.05.040 Open Space Development Standards) and amend MICC 19.16.010 Definitions, MICC 19.01.040 Zone Establishment and MICC Chapter 19 Appendix D, as shown in Attachment A. The Planning Commission recommended code amendment would establish a new Open Space Zone, implement the associated development regulations for the zone and update the City's Zoning Map.



October 8, 2024

Angela Battazzo  
Planning Commission Chair  
City of Mercer Island

Date