

Molly McGuire

From: Anthony Bastone <abastone@gmail.com>
Sent: Monday, August 3, 2026 8:42 PM
To: City Clerk
Cc: Molly McGuire
Subject: RE: Public hearing for CPA25-002 — Supplemental Public Comment (CPA25-002, RZN25-002, SEP25-021)

Dear City Clerk and Ms. McGuire,

I submitted public comment on July 13, 2026 regarding CPA25-002 and was confirmed as a Party of Record. I am writing to supplement that comment with detailed objections addressed to the specific decision criteria. Please add this letter to the project record for CPA25-002, RZN25-002, and SEP25-021.

Anthony Bastone
9942 SE 39th Street
Mercer Island, WA 98040
Resident and property owner

I respectfully request that the Planning Commission recommend denial of the application, and that the City Council deny it.

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PART I — COMPREHENSIVE PLAN AMENDMENT CRITERIA (MICC 19.15.230.F)

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MICC 19.15.230.F places the burden of demonstration on the applicant. In my view, the applicant has not carried that burden.

CRITERION 1 — CONSISTENCY WITH THE GMA, COUNTYWIDE PLANNING POLICIES, AND THE COMPREHENSIVE PLAN

1. The application is argued on the wrong subject. Each of the applicant's responses rests on the current use of the property as a community center, the current building size, and the current intensity of use. The applicant relies on the operator, not the designation. The proposed amendment is not tied to the existing use, is not tied to a specific project, is not tied to a proposed use, and does not guarantee that the current use will continue. The proposal does not limit future development to the square footage that exists today. It is an application to change the designation from residential to Commercial Office, which permits materially greater density and intensity regardless of whether the eventual occupant is an office building or a community center.

2. Land use designations attach to land, not to owners or programs. Nothing in the CO designation requires an early childhood school, scholarships, a community garden, swim lessons, or cultural programming. Nothing prevents a sale of the property and a different program under a future owner. The amendment secures none of the benefits offered as the basis for finding it consistent.

3. The applicant has not offered a development agreement. Under RCW 36.70B.170–.210, a development agreement could be executed concurrently with the rezone; it would run with the land and bind successors. It could restrict permitted uses to community-facility uses, cap gross floor area, fix access locations, and require specific transportation mitigation. If the applicant's representation is that no change of use is proposed, a development agreement would cost the applicant nothing it has claimed to want. Its absence leaves the record without any enforceable limit on future intensity.

4. Internal consistency with the Transportation Element is not established. RCW 36.70A.070 requires an internally consistent plan, and RCW 36.70A.070(6)(a)(i)(C) requires the transportation element to rest on land use assumptions. The Land Use Map is the input to the travel forecast. Redesignating this site from Single-Family Residential to Commercial Office — on the applicant's own consultant's figures, from 94,723 gsf to 402,261 gsf of buildout capacity — changes that assumption. Nothing in the application shows that the Transportation Element's forecasts, LOS standards, or capital facilities program were checked against the amended map, and the staff report does not address this.

5. Land Use Goal 7.1 is not addressed on its own terms. Goal 7.1 provides: "Preserve the neighborhood character in residential zones. For the purpose of implementing this element, neighborhood character only refers to form, bulk, scale and intensity of the built environment." The application does not analyze what happens to form, bulk, scale, and intensity under the CO designation. A roughly 4.25x increase in buildout capacity is, by the Comprehensive Plan's own definition, precisely a neighborhood-character question.

6. Transportation Goal 9.2 is not addressed. Goal 9.2 directs the City to "address parking overflow impacts on neighbors caused by major traffic generators such as schools, businesses, parks." Existing conditions already include parking overflow onto East Mercer Way that blocks the bike lane and forces cyclists and pedestrians into the travel lane, parking on SE 40th Street, and vehicles blocking driveways on adjacent streets. The application identifies no measures responsive to these impacts. A designation permitting roughly 4.25x the building area would increase, not reduce, the generator's size.

7. Compatibility is asserted rather than analyzed. The Plan provides that Commercial Office and PBZ zones must serve the needs of local populations while remaining compatible with the overall residential character of the community. The applicant asserts that compatibility will "increase" and that anything built will conform to CO standards. That is a statement about code compliance, not about compatibility, and it is unsupported by any analysis of how CO buildout would sit against adjoining Single-Family Residential land.

8. No alternative designations were analyzed. The application contains no evaluation of whether PBZ, a Public Institution designation, or a tailored community-facility designation would fit the situation better than CO. Where the burden of showing the proposed designation is consistent rests on the applicant, the absence of any alternatives analysis is itself a failure to carry that burden.

CRITERION 1(A) — TECHNICAL ERROR

The applicant concedes there is no technical error. This criterion cannot support the amendment.

CRITERION 1(B) — CHANGED CIRCUMSTANCES OF THE CITY AS A WHOLE

This criterion requires a change in the circumstances of the city as a whole — not of the property, not of

the applicant, not of a single institution. Washington reclassification cases look to changed conditions in the area rather than a changed circumstance of the proponent. See *Parkridge v. City of Seattle*, 89 Wn.2d 454 (1978).

1. Staff rejected the applicant's theory. The staff report states that the City disagrees with the applicant's assertion regarding the 2017 development standards, and that those changes were policy decisions of the then-seated City Council rather than changing circumstances of the city as a whole. Staff also found the applicant's factual premise incorrect, concluding that MICC 19.01.050(D)(3) does permit exterior alteration or enlargement of nonconforming non-single-family structures, subject to the 50-percent-of-assessed-value threshold.

2. Staff then supplied a substitute rationale — that the changed circumstance is more accurately described as increased demand for a facility at the end of its useful life, which cannot be accommodated under MICC 19.01.050(D)(3). Two problems follow:

a. MICC 19.15.230(F) places the burden on the applicant. When the reviewing body rejects the applicant's theory and finds its factual premise incorrect, the result should be denial. Where staff constructs a substitute rationale, the burden has effectively been carried by staff rather than by the applicant.

b. The substitute theory is unsupported by the record:

- Increased demand: no membership trend data, enrollment figures, waitlists, utilization studies, or demographic demand analysis has been provided. The applicant offers only that Mercer Island's population has grown over 20% since 1969. A 20% population increase does not support a greater than 400% increase in allowed building area on this site.
- End of useful life: no condition assessment, structural evaluation, systems assessment, or cost-to-cure estimate has been provided.
- In any event, a single facility reaching the end of its useful life is a circumstance of that property, not of the city as a whole.

3. The applicant's own framing points to a different remedy. The applicant argues that the 2017 GFA and impervious surface limits, combined with the variance interpretation, apply across most of the Island's zoning and have stranded many other community organizations. If that is accurate, the correct response to a city-wide regulatory gap affecting a class of institutions is a code amendment or a community-facility overlay applicable to that class — not a parcel-specific redesignation for one member of it. Land Use Goal 7.4 says as much: "The City may consider measures within the land use code to address the maintenance, updating, and renovation of these facilities." The applicant quotes Goal 7.4 and then requests the one remedy the goal does not contemplate.

CRITERION 2(A) — COMPATIBILITY WITH ADJACENT LAND USE AND DEVELOPMENT PATTERN

"Development pattern" is not a synonym for "surrounding uses." It refers to the geometry and logic of the map, the coherence of district boundaries, and how the amendment fits the City's overall land use structure. Both adjacent land use and development pattern must be satisfied.

1. The staff finding that adjacent land uses include both single-family residences and commercial buildings which "all align with the existing facilities on the SJCC properties" addresses the compatibility of the existing facility, not of the proposed designation. The amendment is not tied to the current use. A

402,261 gsf building — more than four times the existing structure — is not compatible with single-family residential zoning on three sides.

2. Deferring compatibility to future project-level review for CO code compliance does not answer the compatibility question. Trip generation, hours of operation, parking demand, and cumulative intensity are designation-level questions.

3. Development pattern: the amendment would leave (i) a narrow strip of residentially designated property to the west, sandwiched between Public Institution and Commercial Office designations, and (ii) an isolated pocket of residential parcels in the southeast corner of the block sharing a property line with the subject site. The staff report contains no analysis of the resulting boundary — whether it is orderly, whether the remnant residential areas remain viable as designated, or whether the City would draw this line on its own initiative.

4. Boundaries drawn to follow a single owner's parcel assembly are the evidentiary pattern Washington courts examine in spot-zoning analysis as indicating private rather than public benefit. See *Anderson v. Island County*, 81 Wn.2d 312 (1972); *Save Our Rural Environment v. Snohomish County*, 99 Wn.2d 363 (1983).

CRITERION 2(B) — SUITABILITY FOR DEVELOPMENT UNDER THE POTENTIAL ZONING

1. Staff itself found that at least one parcel would not be suitable for development in conformance with CO standards as it currently exists: applying CO setbacks to parcel 2655500132 yields a building envelope of approximately six inches by eight feet. Parcel 2655500137 is similarly constrained, yielding an envelope of roughly 35 feet by 105 feet. The staff report does not perform this calculation for the larger parcels.

2. Parcels 2655500132 and 2655500136 both take access from SE 40th Street, a residential street. Applying CO zoning to these parcels would direct commercial traffic onto a residential street.

3. Parcel 2655500132 is omitted from the staff report's list of currently observed conditions, which states that "Tax Parcels 2655500137, 2655500115, and 2655500136 all appear to be integrated in their daily operations as the Stroum Jewish Community Center site." Parcel 2655500132 has not been used for a recreational or community-facility purpose. It is a single-family home, on a single-family street, in a single-family neighborhood, acquired by an institutional neighbor in 2016.

4. Parcel 265550-0136 was acquired by the applicant on October 30, 2012, is not included in the applicant's Conditional Use Permit, and had a single-family home on it at the time of purchase. This parcel should be excluded from any rezone consideration.

CRITERION 2(C) — BENEFIT TO THE COMMUNITY AS A WHOLE; NO ADVERSE EFFECT

This criterion has two independent requirements. The amendment must benefit the community as a whole, and it must not adversely affect community facilities or the public health, safety, and general welfare. The second requirement is not satisfied by showing that benefits outweigh harms.

1. The claimed benefits are again attributes of the current operator and current programming rather than of the Commercial Office designation. For the reasons stated under Criterion 1, the application must be

evaluated on the designation being requested.

2. Neither the application nor the staff report addresses the "no adverse effect" requirement. The record indicates adverse effects on public health, safety, and general welfare:

a. The applicant's own rendering of a potential new facility shows two curb cuts onto 97th Avenue SE, indicating an intent to use 97th Avenue SE and SE 40th Street for ingress and egress. Both are local residential streets that cannot accommodate commercial traffic volumes. These access points are not discussed in the applicant's Trip Generation Memo.

b. The Trip Generation Memo indicates that the redesignation could produce a greater than 460% increase in total trips to and from the property (from 245 to 1,376 per the Transpo Group memorandum dated February 10, 2026). This would generate traffic beyond what the surrounding residential network can support and would push traffic and parking onto adjacent residential streets used by residents and children.

c. The Trip Generation Memo does not account for trips associated with the French American School of Puget Sound, which shares a driveway with the subject property. Observed trips cannot be attributed between FASPS and SJCC, which means observed trips are overstated; future trips are simultaneously understated by excluding FASPS. The actual impact would be greater than the memo presents.

d. The City required a Traffic Impact Analysis; the applicant submitted only a Trip Generation Memo. These are materially different work products. A Traffic Impact Analysis would include a forecast of future volumes with and without the rezone, crash history including trends and serious injury or fatal crashes, a review of site access against sight distance and applicable standards, and a level-of-service analysis of surrounding intersections. Without it, compliance with this criterion cannot be confirmed.

3. Given the site's proximity to I-90, WSDOT should review the proposal and its impacts on the interstate system.

4. Any Traffic Impact Analysis must account for the school currently under construction across East Mercer Way from the subject property.

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PART II — REZONE CRITERIA

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CRITERION 1 — CONSISTENCY WITH THE COMPREHENSIVE PLAN

1. As above, the reclassification is not tied to the existing use, a specific project, or a proposed use, and does not guarantee continuation of the current use or limit development to the existing square footage.

2. The applicant states an intention to continue using the property as it has for 55 years. The record does not support that framing: since the original Conditional Use Permit was granted, the building footprint has grown substantially and additional parcels have been acquired.

3. The existing building is 88,362 square feet per the King County Assessor. CO zoning would permit a building of approximately 402,261 square feet, in addition to the existing 31,815 sf FASPS building.

4. Mercer Island currently contains approximately 637,818 sf of office space in total. The largest existing office building is the Riot Games building in the Town Center at 155,599 sf. This application would permit 402,261 sf on this site alone — larger than the seven largest existing office buildings combined, and a roughly 60% increase in total Island office space, sited in the middle of residential zoning.

5. The GMA requires the City to plan for and prioritize housing. This application converts single-family zoned property to Commercial Office, which runs in the opposite direction.

6. The application states that "There is no current development proposal being submitted to the city for simultaneous review with the redesignation and rezone proposal." In the absence of any binding limitation, the Planning Commission and City Council should evaluate the application on the assumption that the maximum density permitted under CO zoning will be built.

CRITERION 2 — CONSISTENCY WITH MICC 19.01.010

MICC 19.01.010 includes provisions directed at avoiding traffic congestion, protecting natural beauty and natural resources, and preventing overcrowding.

1. Traffic congestion: see the Trip Generation and Traffic Impact Analysis points above, which apply equally here. The applicant's own materials indicate an intent to increase parking counts, which necessarily implies increased vehicle trips. The rendering showing curb cuts onto 97th Avenue SE indicates commercial access onto residential streets that was never analyzed.

2. Natural beauty and natural resources; overcrowding: a designation permitting roughly 4.25x the current buildout capacity increases density and intensity rather than limiting them.

3. Again, the responses in the application address the current use rather than the reclassification actually being sought.

CRITERION 3 — EXTENSION OF AN EXISTING ZONE OR LOGICAL TRANSITION BETWEEN ZONES

1. The property is bounded on three sides by residential zoning. The reclassification would create a pocket of commercially zoned parcels surrounded on three sides by single-family residential.

2. Parcels 265550-0166, 265550-0168, and 265550-0165 to the west — single-family zoned — would be surrounded by Commercial zoning to the north and east and Public Institution zoning to the west.

3. The zoning map included in the application is not current.

4. The result is a patchwork boundary with no logical transition between zones.

CRITERION 4 — NOT AN ILLEGAL SPOT ZONE

Washington law prohibits reclassification granted primarily for the private benefit of a single owner rather than for the public benefit. Several features of this application raise that concern:

1. The reclassification would attach to specific parcels assembled by one owner, and the resulting

boundary follows that assembly rather than any independent planning logic.

2. The applicant constructed a building on the commercially zoned portion of its property and leases it to the French American School of Puget Sound. If additional square footage were needed for the applicant's own operations, that commercially zoned area was available for it.

3. Parcels acquired after the original Conditional Use Permit are now proposed for reclassification:

- Parcel 265550-0136, acquired October 30, 2012, is not included in the CUP and had a single-family home on it at the time of purchase.
- Parcel 265550-0132, acquired November 21, 2016, is not included in the CUP and currently has a single-family home on it. The applicant's own renderings show that residence remaining in place. Both parcels should be excluded from any reclassification consideration.

4. Because the application is not tied to any project or use and rests entirely on representations about current programming, the record does not establish a public benefit sufficient to sustain the reclassification.

CRITERION 5 — COMPATIBILITY WITH SURROUNDING ZONES AND LAND USES

Commercial Office zoning is not compatible with the single-family residential zoning bordering the property on three sides, for the reasons set out under Criterion 3 and Criterion 2(a) above.

CRITERION 6 — NO ADVERSE EFFECT ON PUBLIC HEALTH, SAFETY, AND WELFARE

1. The existing building is 88,362 sf; CO zoning would permit approximately 402,261 sf, in addition to the existing 31,815 sf FASPS building.

2. The applicant's rendering shows two curb cuts onto 97th Avenue SE, indicating intended commercial access via 97th Avenue SE and SE 40th Street — local residential streets that cannot safely accommodate that traffic. These access points are absent from the Trip Generation Memo.

3. The traffic and pedestrian safety concerns described under Criterion 2(c) apply here in full. Without the Traffic Impact Analysis the City required, compliance with this criterion cannot be confirmed.

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CONCLUSION

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The applicant bears the burden under MICC 19.15.230(F) and has not met it. The application is argued on the basis of the current operator and current programming rather than the designation sought; it offers no enforceable limit on future intensity; it does not establish changed circumstances of the city as a whole; it leaves an incoherent zoning boundary; and it is supported by a Trip Generation Memo where the City required a Traffic Impact Analysis.

I respectfully request that the Planning Commission recommend denial of CPA25-002 and RZN25-002, and that the City Council deny the applications. At a minimum, no action should be taken until a complete Traffic Impact Analysis — including the FASPS shared driveway, the school under construction across East Mercer Way, and WSDOT review of I-90 impacts — has been prepared and made available

for public review.

Thank you for your consideration and for adding this letter to the record.

Respectfully,

Anthony Bastone
9942 SE 39th Street
Mercer Island, WA 98040
Party of Record, CPA25-002

On Tue, Jul 14, 2026 01:55 PM, Molly McGuire <molly.mcguire@mercerisland.gov> wrote:

Hi Anthony,

Thank you for providing public comment on the SJCC's Comprehensive Plan Amendment application. Your comment has been saved in the project record, and you are now a Party of Record.

Sincerely,

Molly McGuire

Senior Planner
City of Mercer Island – Community Planning & Development
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Notice: Emails and attachments may be subject to disclosure pursuant to the Public Records Act (chapter 42.56 RCW).

The City of Mercer Island utilizes a hybrid working environment. Please see the City's [Facility and Program Information](#) page for City service hours of operation.

From: Anthony Bastone <abastone@gmail.com>
Sent: Monday, July 13, 2026 9:15 PM
To: City Clerk <cityclerk@mercerisland.gov>
Subject: Public hearing for CPA25-002

Dear City Clerk,

As a resident of Mercer Island, I am writing to formally object to the proposed rezoning of the JCC

property to Commercial Office. I believe this change sets a concerning precedent that deviates from Mercer Island's stated goal of maintaining its character as a premier residential community.

I also wish to express my objection to the timing of the hearing. Scheduling this discussion during the summer, when many residents are on vacation or preparing for the upcoming school year, limits the community's ability to participate effectively in the process.

Thank you for considering my concerns.

Best regards,
Anthony Bastone