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To: Planning Commission
Cc: Council; Deb Estrada; Alison Van Gorp
Subject: Public Comment RE CPA25-002, RZN25-002, SEP25-021

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Comprehensive Plan Amendment

Criteria 1 MICC 19.15.230.F

F. Decisions to amend the comprehensive plan shall be based on the criteria specified below. An applicant for a comprehensive plan amendment proposal shall have the burden of demonstrating that the proposed amendment complies with the applicable regulations and decisions criteria.

The applicant has not met the burden of demonstrating the proposed amendment complies with the applicable regulations and decision criteria.

Criteria 1. The amendment is not consistent with the Growth Management Act, the countywide planning policies, or the other provisions of the comprehensive plan and city policies based on the following:

1. Each and every response by the applicant to these criteria regarding compliance with the comp plan, GMA and city policies are based on the current use of the property as a community center, and the current building size and intensity of use - the applicant relies on the operator, not the designation. However, the proposed comprehensive plan amendment is not tied to the existing use, it is not tied to a specific project, it is not tied to a proposed use, and it does not guarantee that the current use will continue after an amendment. The proposal does not limit future development to the square footage that currently exists. It is simply an application to change the zoning from residential to commercial office, which would result in increased density and intensity of use of the property, regardless if that use is an office building or a community center.
2. Comprehensive plan land use designation attaches to the land, not an owner or a program. Nothing in the CO designation requires an early childhood school, scholarships, a community garden, swim lessons, or any cultural programming. Nothing prevents the sale of the property and a future owner implementing different programming. The applicant's amendment secures none of the benefits offered as the basis for finding it consistent.
3. The applicant does not offer to enter a Development Agreement under RCW 36.70B.170-.210, which they could do concurrently with the rezone, and would run with the land and bind successors. A Development Agreement can 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 cost the applicant nothing it has claimed to want. By declining to enter a development agreement, the applicant brings into question their intended future use.

4. The applicant does not establish consistence with the Transportation Element. RCW 36.70A.070 requires an internally consistent plan: 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 buildout capacity – changes the assumption. Nothing in the application shows that the Transportation Element's forecasts, LOS standards, or capital facilities program were checked against the amended map. The Staff report does not address this internal inconsistency.

5. Land Use Goal 7.1 – "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 applicant does not address what Goal 7.1 actually askes, which is what happens to form, bulk, scale, and intensity under the Commercial Office designation. A 4.25X increase in buildout capacity is, by the comprehensive plan's own definition, a neighborhood-character question that the application does not comply with.

6. Transportation Goal 9.2 – "Address parking overflow impacts on neighbors cause by major traffic generators such as schools, businesses, parks…" The applicant does not address how the redesignation would address the neighbors' concerns, including parking overflowing onto East Mercer Way that blocks the bike lane and forces bikes and pedestrians into the traffic lane; cars from user of the property parking on SE 40th, cars from users of the property blocking driveways on adjacent streets. Goal 9.2 asks for a plan to address the impact, but the applicant does not cite any specifics in how the redesignation will do that. In fact, the redesignation would allow for 4.25X building area, which would result in even more traffic and overflow parking.
7. "Commercial Office and PBZ zones must serve the needs of the local populations while remaining compatible with the overall residential character of the community." The applicant asserts compatibility will "increase" and that "anything that is built will conform to CO standards." That is an assertion about code compliance, not about compatibility, and it is unsupported by any analysis of way CO buildout looks like against the neighboring Single-Family Residential land. Additionally, the applicants current membership is made up primarily of non-residents of Mercer Island, thus they are not serving the local population.
8. The applicant does not include any analysis of whether PBZ, a Public Institution designation, or tailored community-facility designation would fit the situation better than CO. It is the applicant's burden to show the proposed designation is consistent, the absence of any alternative analysis demonstrates the applicant has not met the burden.

Criteria 1A – The applicant concedes there is not a technical error, thus this criterion cannot be used to allow for the applicant's amendment.

Criteria 1B – Changed Circumstances of the City as a Whole – This criterion requires a change in circumstances of the city as a whole, not of the property, not of the applicant, not of a single institution. Washington reclassification cases look for changed conditions in the area, not merely a changed circumstance of the proponent. See Parkridge v Seattle, 90Wn.2d454(1987).

1. The staff report rejects that there has been a change in circumstance of the City as a Whole "The City disagrees with the applicant's assertion as to the 2017 development standards. The changes to the residential development standards that occurred in 2017 were policy decisions made by the then seated City Council, and are not 'changing circumstances of the city as a whole." Additionally, the staff report found that the applicant's factual premise

incorrect – that the MICC 19.01.050(D)(3) does in fact permit exterior alteration or enlargement of nonconforming non-single-family structures, subject to the 50-percent-of-assessed-value threshold.

2. The Staff report theorizes that the changed circumstances are "more accurately described as an increased demand of a facility that is at the end of its useful life and which demand cannot be accommodated under" MICC 19.01.050(D)(3).

   a. MICC 19.15.230(F) places the burden of demonstration on the applicant. When the reviewing body rejects the applicant's theory, finds its factual premise incorrect, that should result in denial of the application. The city staff cannot construct a substitute rationale, by doing so the burden has effectively been carried by staff rather than by the applicant.

   b. The staff's substitute theory is unsupported by anything in the application or the staff report and relies on two assertions without providing any evidence.

      i. "Increased demand" – The applicant has refused to provide any membership trend data, enrollment figures, waitlists, utilization studies, or demographic demand analysis. The applicant offers only that Mercer Island's population "has grown over 20% since the JCC was built in 1969." A 20% increase in the cities population does not justify an over 400% increase in allowed building area for the site.

      ii. The applicant asserts that the facility that is at the end of its useful life, however no condition assessment, structural evaluation, systems assessment, or cost-to-cure estimate has been provided.

      iii. 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 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 vital community organizations on MI." If that is true, the correct response to a city-wide regulatory gap affecting a class of institutions is a code amendment or community-facility overlay applicable to that class, not a parcel-specific change for one member of it. Comprehensive Plan Land Use Goal 7.4 says exactly this: 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 argues for the one remedy the goal does not contemplate.

Criterion 2(a) – MICC 19.15.230(F)(2)(a): Compatibility with Adjacent Land Use and Development Pattern. – "Development pattern" is not a synonym for "surrounding uses," rather 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 patterns must be satisfied.

1. The Staff report misinterprets this requirement, stating "adjacent land use and development patterns include both single-family residences and commercial buildings… which all align with the existing facilities on the SJCC properties." That finding is about the compatibility of the existing facilitates, not the proposed amendment. The proposed amendment is not tied to the current use. A 402,261 gsf building, over four times larger than the existing building, is not compatible with single-family residential zoning on three sides.

2. The applicant differs to future review of any proposed development for compliance with the CO code in an attempt to justify compliance with this criteria, however this does not address the compatibility questions, including trip generation, hours of operation, parking demand, or cumulative intensity.

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 does not provide any analysis of the resulting boundary or development pattern, whether the amended boundary is orderly, whether the remnant residential areas remain viable as designated, or whether the city would ever draw this line on its own.
4. Irregular boundaries drawn to follow one owner's parcel assembly are precisely the evidentiary pattern Washington courts look to in spot-zoning analysis as indicating private rather than public benefit. See Anderson v Island County, 81Wn.2d312(1972); Save Our rural Env't, 99Wn.2d363(1983).

Criteria 2(b) – MICC 19.15.230(F)(2)(b): Suitability for Development in Conformance with the Standards Under the Potential Zoning.

1. The Staff report disputes the applicants compliance with this criteria, stating "at least one parcel would not be suitable for development in conformance with the standards under the potential zoning as it currently exists" in reference to parcel 2655500132, which when applying CO zoning setbacks would result in abuilding envelope of six inches by eight feet. Parcel 2655500137 is similarly cannot practically be developed under the CO zoning setbacks, resulting in a building envelope of 35' by 105'. The staff report does not calculate the larger parcels.
2. Parcels 2655500132 & 2655500136 both have access to the residential street, SE 40th St. Rezoning these parcels to CO would direct commercial traffic directly onto a residential street.
3. Parcel 2655500132 is omitted from the staff reports list currently observed conditions: "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 recreational or community-facility purpose. It is a single-family home, in a single-family neighborhood, on a single-family street, that happens to have been speculatively acquired by an institutional neighbor in 2016.

1. Parcel 265550-0136 was speculatively purchased by the applicant on October 30th, 2012 and is not included in their Conditional Use Permit. This parcel had a single family home existing on it when the applicant purchased it. This parcel should be excluded from any rezone consideration.

Criteria 2(c) – MICC 19.15.230(F)(2)(c): Benefit to the Community as a Whole; No Adverse Effect on Community Facilities or Public Health, Safety, and General Welfare.

The amendment must benefit the community as a whole and must not adversely affect community facilities or the public health, safety, and general welfare. The second cannot be satisfied by showing the benefit outweighs the harm.

1. The applicant again rests their argument of benefit to the community as a whole on the operator rather than the Commercial Office designation. As discussed, the application must be reviewed based on the Commercial Office Designation – not the current owner, current programming, or current operator of the property – which this application has failed to do. Additionally, the applicant does not provide services to all Mercer Island Residents, they do not offer discounts to Mercer Island residents, and their membership is primarily made-up of non-residents.

2. This criterion also requires No Adverse Effect, however the applicant does not address this criterion in their application and neither does the Staff Report. This application would, in fact, adversely affect public health, safety, and general welfare as follows:

a. The applicant presented a rendering of a potential new facility. On that rendering it shows two curb cuts to the residential street 97th Ave SE. This demonstrates that the applicant intends to utilize 97th Ave SE & SE 40th St. for ingress/egress to their property. These are both local residential streets that cannot accommodate commercial traffic and would adversely affect public safety. This access point was not discussed in the Trip Generation memo submitted by the applicant.

b. The proposed rezone will increase traffic congestion and reduce pedestrian safety, as evidenced by the following.

- The Trip Generation Memo submitted by the applicant indicates that rezoning the property could result in an over **460% increase** total trips to/from the property. (From 245/hour to 1,376/hour per Transpo Group memorandum dated 2/10/2026). Rezoning the property would create traffic beyond what the residential area can support, would cause traffic and parking to spillover onto adjacent residential streets, and would endanger the safety of residents and children who use those streets.

- The Trip Generation Memo does not account for trips associated with French American School of Puget Sound (FASPS), which shares a driveway with the property proposed for a Rezone. It is impossible to know which observed trips were to/from FASPS vs to/from SJCC, which means the report overstates observed trips. The report also understates future trips by excluding FASPS from the calculation of future trips. Commercial Office Rezone would be even more impactful than presented by the applicant.

c. The city required a Traffic Impact Analysis, but the applicant only provided a Trip Generation Memo, which is distinctly different and does not provide the information and analysis required. A Traffic Impact Analysis would include, among other things, a forecast of future traffic volumes with and without the rezone, an analysis of crash history including trends and serious injury or fatal crashes, a review site access with respect to sight distance and other applicable standards, and a level of services analysis of intersections around the property.

3. Based on the proximity to I-90, Washington State DOT should be reviewing the amendment and its impacts on I90.

4. A Traffic Impact Analysis must include the school that is currently under construction across East Mercer from the applicants property.

Rezon Criteria:

Criteria 1. The proposed reclassification must be consistent with the policies and provisions of the Mercer Island Comprehensive Plan:

The proposed reclassification is not consistent with the comprehensive plan for the following reasons:

1. The applicant tries to justify compliance with the comprehensive plan based on the current use of the property as a community center, and the current building size and intensity of use. However, the proposed rezone is not tied to the existing use, it is not tied to a specific project, it is not tied to a proposed use, and it does not guarantee that the current use will continue after a rezone. The proposal does not limit future development to the square footage that currently exists. It is simply an application to change the zoning from residential to commercial office, which would result in increased density and intensity of use of the property, regardless if that use is an office building or a community center.
2. The applicant has stated that they want to continue to use the property as it has been used for 55 years, however that is untrue. Since the original Conditional Use Permit was granted, the applicant has significantly grown their building footprint, and purchased multiple additional parcels.
3. The existing building is 88,362 square feet (per King County Assessor). Rezoning the property to Commercial Office would allow a 402,261 square foot building to be built on the property. This is a **355% increase** in building area and is in addition to the existing 31,815 SF FASPS Building.
4. Commercial Office in this location is not compatible with the comprehensive plan. The justifications presented in the application are irrelevant without a project being tied to the application. The applicant only focuses on the current use of the property (including the current building size), not what is actually being applied for, which is Commercial Office zoning recalcification.
5. There is currently a total of 637,818 SF of office space existing on Mercer Island. The largest existing office building is the Riot Games building in the town center at 155,599 SF. This rezone application would allow for 402,261 SF on this site alone, making it larger than the total size of the seven largest existing office buildings combined. Rezoning this property could result in a **60% increase** in total office space across all of Mercer Island, and place that significant growth in a location surrounded by residential zoning.
6. The Washington State Growth Management Act (GMA) requires the City of Mercer Island to prioritize housing in the comprehensive plan. This application does the exact opposite; it converts single family zoned property to Commercial Office. It does not meet the criteria of the Mercer Island Comprehensive Plan or the WA State GMA.
7. The application states "There is no current development proposal being submitted to the city for simultaneous review with the redesignation and rezone proposal." The planning commission and city council must assume that a rezone will result in the applicant (or future owner) utilizing the maximum density allowed under the Commercial Office zoning.

Criteria 2. The proposed reclassification must be consistent with Mercer Island development code as set for in MICC 19.01.010;

The proposal does not comply with these criteria for the following reasons:

1. This criteria includes provisions to avoid traffic congestion. The proposed rezone will increase traffic congestion, as evidenced by the following:

    - The Trip Generation Memo submitted by the applicant indicates that rezoning the property could result in an over **460% increase** total trips to/from the property. (From 245/hour to 1,376/hour per Transpo Group memorandum dated 2/10/2026). Rezoning

the property would create traffic beyond what the residential area can support, would cause traffic and parking to spillover onto adjacent residential streets, and would endanger the safety of residents and children who use those streets.

- The Trip Generation Memo does not account for trips associated with FASPS, which shares a driveway with the property proposed for a Rezone. It is impossible to know which observed trips were to/from FASPS vs to/from SJCC, which means the report overstates observed trips. The report also understates future trips by excluding FASPS from the calculation of future trips to/from the shared driveway. Commercial Office Rezone would be even more impactful than presented by the applicant.

- The city required a Traffic Impact Analysis, but the applicant only provided a Trip Generation Memo, which is distinctly different and does not provide the information and analysis required. A Traffic Impact Analysis would include, among other things, a forecast of future traffic volumes with and without the rezone, an analysis of crash history including trends and serious injury or fatal crashes, a review site access with respect to sight distance and other applicable standards, and a level of services analysis of intersections serving the property. A Traffic Impact Analysis would further confirm that this application does not comply with Criteria 2.

- The applicant indicates on their own documentation that they intend to increase parking counts, which means they intend to increase traffic to the property.

- The applicant presented a rendering of a potential new facility. On that rendering it shows two curb cuts to the residential street 97th Ave SE. This demonstrates that the applicant intends to utilize 97th Ave SE & SE 40th St. for ingress/egress to their property. These are both local residential streets that cannot accommodate commercial traffic and would adversely affect public safety. This access point was not discussed in the Trip Generation memo submitted by the applicant.

1. This criteria includes provisions to protect the natural beauty and other natural resources. The proposal does the opposite, by increasing density and the intensity of the approved land use.
2. This criteria includes provisions to prevent overcrowding. The proposal does the opposite, by increasing density and the intensity of the approved land use.
3. The applicant again refers to the current use of the land to justify rezoning, however those responses are irrelevant as the proposal is not tied to a specific use, the proposal is to rezone the property to Commercial Office, which is not compatible with this criteria of the comprehensive plan.
4. The application states "There is no current development proposal being submitted to the city for simultaneous review with the redesignation and rezone proposal." The planning commission and city council must assume that a rezone will result in the applicant (or future owner) utilizing the maximum density allowed under the Commercial Office zoning, because that is what is being applied for.

Criteria 3. The proposed reclassification must be an extension of an existing zone, or a logical transition between zones.

The proposed rezone is not the extension of an existing zone or a logical transition between zones, it is actually the opposite.

1. The property is bound on three sides by residential zones, rezoning this parcel would create a pocket of commercially zoned parcels surrounded on three sides by single-family residential zoning.

2. Additionally, parcels 265550-0166, 265550-0168, and 265550-0165 to the west of the applicant's property, which are single-family zoned properties, would end up surrounded by Commercial zoning to the north and east, and Public Institution zoning to the West. See below map.

1. The zoning map in the application is not current.
2. Rezoning of this property would create a choppy patchwork of zoning with no logical transition between zones.

1. The application states "There is no current development proposal being submitted to the city for simultaneous review with the redesignation and rezone proposal." The planning commission and city council must assume that a rezone will result in the applicant (or future owner) utilizing the maximum density allowed under the Commercial Office zoning.

Criteria 4. The proposed reclassification must not constitute an illegal Site-Specific Rezone.

The proposal does create an illegal site-specific rezone, solely for the benefit of a single property.

1. While the applicant has chosen to pursue non-profit status for tax purposes, and they do not pay property taxes on Mercer Island, they are still business that will see financial gain from the rezone.
2. With the applicant's tax status, they rely on Mercer Island residents and taxpayers to fund public safety and maintenance of city infrastructure serving their property, while they indicate on their website that they serve the "general community of the greater Seattle area" and the majority of their members or not Island residents. This is in contrast to other clubs and CUP properties on Mercer Island that primarily cater to Island residents and abide by strict membership limits. The burden on Mercer Island taxpayers will be exacerbated if the land were to be rezoned to commercial and land use becomes more intense with no limits on programming or membership.
3. The applicant chose to build a building for the French American School of Puget Sound (FASPS) on the commercially zoned portion of their property in order to generate revenue through a lease for their own financial gain. If the applicant desired additional square footage to operate their center, they could have used that commercially zoned parcel and should not have leased the land to FASPS. A rezone cannot legally be granted for the private gain of one owner or a group of owners to the detriment of their neighbors. The FASPS lease demonstrates that the rezone application is for the financial gain of the applicant.
4. The applicant recently and speculatively purchased additional parcels that were not included in their original conditional use permit, and they are now seeking to rezone those parcels for their own gain.

    - Parcel 265550-0136 was speculatively purchased by the applicant on October 30th, 2012 and is not included in their Conditional Use Permit. This parcel had a single family home existing on it when the applicant purchased it. This parcel should be excluded from any rezone consideration.

    - Parcel 265550-0132 was speculatively purchased by the applicant on November 21, 2016 and is not included in their Conditional Use Permit. Furthermore, this

parcel currently has a single-family home on it. Renderings presented by the applicant of a potential new facility shows the single-family residence remaining. Based on that, and the fact that this parcel is not included in the CUP, this parcel should be excluded from any rezone consideration.

1. The application states "There is no current development proposal being submitted to the city for simultaneous review with the redesignation and rezone proposal." The planning commission and city council must assume that a rezone will result in the applicant (or future owner) utilizing the maximum density allowed under the Commercial Office zoning.
2. Again, the proposed rezone is not tied to a specific project or use and the applicant refers to the current use of the land to justify rezoning. Rezoning this property to commercial office does not provide a public benefit, making it an illegal site-specific rezone.

Criteria 5. The proposed reclassification must be compatible with surrounding zones and land uses.

Commercial Office zoning is not compatible with the single-family residential zoning that borders the property on three sides.

1. The property is bound on three sides by residential zones, and one side by commercial office. Rezoning this parcel would create a pocket of commercially zoned parcels surrounded on three sides by single family zoning.
2. Additionally, parcels 265550-0166, 265550-0168, and 265550-0165 to the west of the applicant's property, which are single family zoned properties, would end up surrounded by Commercial zoning to the north and east, and Public Institution zoning to the West.
3. The zoning map in the application is not current.
4. Rezoning of this property would create a choppy patchwork of zoning with no logical transition between zones.
5. The application states "There is no current development proposal being submitted to the city for simultaneous review with the redesignation and rezone proposal." The planning commission and city council must assume that a rezone will result in the applicant (or future owner) utilizing the maximum density allowed under the Commercial Office zoning.

Criteria 6. The proposed reclassification must not adversely affect public health, safety and welfare.

Rezoning this property to Commercial Office would adversely affect public health, safety and welfare for the following reasons.

1. The existing building is 88,362 square feet (per King County Assessor). Rezoning the property to Commercial Office would allow a 402,261 square foot building to be built on the property. This is a **355% increase** in building area and is in addition to the existing 31,815 SF FASPS Building.

2. The applicant presented a rendering of a potential new facility. On that rendering it shows two curb cuts to the residential street 97th Ave SE. This demonstrates that the applicant intends to utilize 97th Ave SE & SE 40th St. for ingress/egress to their property. These are both local residential streets that cannot accommodate commercial traffic and would

adversely affect public safety. This access point was not discussed in the Trip Generation memo submitted by the applicant.

1. The proposed rezone will increase traffic congestion and reduce pedestrian safety, as evidenced by the following.

    - The Trip Generation Memo submitted by the applicant indicates that rezoning the property could result in an over **460% increase** total trips to/from the property. (From 245/hour to 1,376/hour per Transpo Group memorandum dated 2/10/2026). Rezoning the property would create traffic beyond what the residential area can support, would cause traffic and parking to spillover onto adjacent residential streets, and would endanger the safety of residents and children who use those streets.

    - The Trip Generation Memo does not account for trips associated with FASPS, which shares a driveway with the property proposed for a Rezone. It is impossible to know which observed trips were to/from FASPS vs to/from SJCC, which means the report overstates observed trips. The report also understates future trips by excluding FASPS from the calculation of future trips. Commercial Office Rezone would be even more impactful than presented by the applicant.

    - The city required a Traffic Impact Analysis, but the applicant only provided a Trip Generation Memo, which is distinctly different and does not provide the information and analysis required. A Traffic Impact Analysis would include, among other things, a forecast of future traffic volumes with and without the rezone, an analysis of crash history including trends and serious injury or fatal crashes, a review site access with respect to sight distance and other applicable standards, and a level of services analysis of intersections around the property. Without the Traffic Impact Analysis, it is impossible to confirm compliance with Criteria 6.

Mercer Island is first and foremost a residential community, and residential zoning should be protected for the residents and families of Mercer Island.