BEFORE THE HEARING EXAMINER
FOR THE CITY OF MERCER ISLAND

Phil Olbrechts, Hearing Examiner

RE: Stroum Jewish Community Center RZN25-002	**FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION**

INTRODUCTION

The Stroum Jewish Community Center requests approval of a rezone rom Single-Family Residential R-8.4 & R-9.6 to Commercial Office (C-O) for parcels located at 3801 E Mercer Way, 9824 SE 40th St, 3975 99th Ave SE, and 3795 E Mercer Way. It is recommended that the City Council approve the rezone.

This recommendation is premised upon City Council approval of the Applicant's request for approval of a Comprehensive Plan Land Use Map Amendment of the project site from Single-Family Residential to Commercial-Office (CPA25-002). The rezone cannot and should not be approved absent the prior or concurrent approval of CPA25-002. If the Council does approve CPA25-002, the Council will then have to approve the requested rezone to maintain consistency between the Comprehensive Plan Land Use Map and the City's Zoning Map. The only two Zoning Map implementing zones for the Commercial-Office land use map designation are the Commercial Office zoning district and the Business zoning district. The Commercial Office district is the most appropriate of the two implementation zones given the current use of the project site and the sensitivity of surrounding single-family use.

The rezone proposal drew 94 public comment letters in addition to the 341 public comment letters submitted for CPA25-002. The issues raised in the rezone letters are largely the same as those raised for CPA25-002. Most of the letters expressed support for the rezone based upon the current use of the project site as a valued community asset used by numerous persons both on and off the island. Opposing letters raised concerns about traffic, parking, noise, residential character and alleged code compliance issues with the current use.

Beyond maintaining consistency with the land use map, the proposed rezone meets rezone criteria because (1) the project site is in an area characterized by mixed use; (2) City development standards are well suited to mitigate against impacts of new development that would adversely affect surrounding properties or create incompatibilities; and (3) the proposal facilitates future improvements to a well-used community asset encouraged by the Comprehensive Plan.

The greatest potential impact of concern is traffic. Potential traffic impacts are a valid consideration for a rezone. It makes little sense to approve a higher intensity rezone in areas characterized by failing transportation facilities. The Applicant partially addressed this concern by submitting a trip generation analysis. This level of transportation review is far more than what is typically associated with rezone review. However, the trip generation analysis isn't particularly useful because it doesn't address the ability of the surrounding road network to accommodate the added traffic. As a consequence the Council will have to fall back on its concurrency review process for assurance that any new development will have to conform to the City's transportation level of service (traffic congestion) standards.

ORAL TESTIMONY

A computer-generated transcript of the hearing has been prepared to provide an overview of the hearing testimony. The transcript is available for informational purposes only as Appendix A. No assurances are made as to accuracy of the transcript. Those needing an accurate transcription will have to purchase a copy of the recording from the City.

EXHIBITS

Exhibits 1-21 listed on pages 1-2 of the staff report were admitted into the record during the October 19, 2026 hearing. Ex. 17.1-17.38 as listed in the staff report was supplemented by staff during the hearing with an additional 56 public comment letters, extending Ex. 17 from 17.38 to 17.94. An additional comment letter was submitted during hearing and is admitted as Ex. 17.95. The 341 public comment letters for the most recent comprehensive plan map amendment of the property, CPA25-002, were also admitted.

FINDINGS OF FACT

Procedural:

1. Applicants. Amy Lavin for the Stroum Jewish Community Center, 3801 East Mercer Way, Mercer Island, WA 98040.

2. Hearing. A virtual hearing was held on the applications at 9:00 am on October 19, 2026.

Substantive:

3. Site/Proposal Description. The Stroum Jewish Community Center requests approval of an application to rezone 3801 E Mercer Way, 9824 SE 40th St, 3975 99th Ave SE, and 3795 E Mercer Way from Single-Family Residential R-8.4 & R-9.6 to Commercial Office (C-O). The parcel numbers of the lots subject to the rezone request are King County Parcel Nos. 2655500137, 2655500136, 2655500132, and a portion of 2655500115.

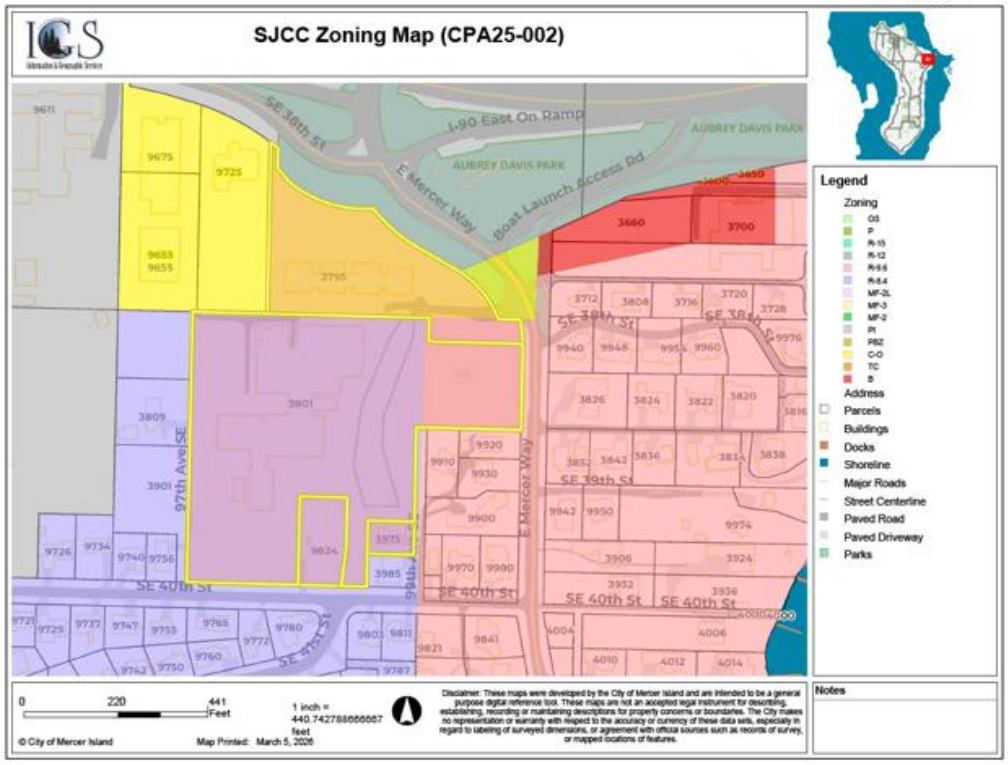
King County tax parcel 2655500137 contains the two-story, 88,362 square foot Stroum Jewish Community Center building, which was constructed in 1969 and includes facilities for various activities including an auditorium, fitness center, indoor pool, and most of the parking for the site. Tax parcel 2655500115 contains the French American School, which is a two-story, 31,815 square foot building constructed in 2005. Tax parcel 2655500136 is developed with landscaping, picnic tables, and hardscape. Finally, tax parcel 2655500132 contains a two-story, 1,860 square foot, single-family residence constructed in 1986. Tax parcels 2655500137, 2655500115, and 2655500136 all appear to be integrated in their daily operations as the Stroum Jewish Community Center site.

The existing facilities are legally nonconforming due to the residential development standards in the single-family zoning designation. The facilities cannot be adequately maintained, renovated, or updated to meet the needs of the community without losing their legal nonconforming status. The development standards in the Commercial-Office zoning designation are more suitable for a civic and social organization and provide criteria to ensure compatibility with surrounding residential neighborhoods[1].

The parcels subject to the rezone are bordered in yellow in the Figure 1 zoning map excerpt below:

[1] One comment letter, Ex. 17.59, questions whether the current use is permitted in the proposed CO zone. The staff report appears to find that the current use qualifies as a civic and social organization, which is permitted in the CO zone. *See* MIMC 19.04.020A5. MIMC 19.16.010 defines a social and civic organization as "*[o]rganizations primarily engaged in promoting the civic and social interests of their members. Illustrative examples include alumni associations, fraternal lodges, granges, and social clubs. ...*" Although not a precise match, the current use of the project site is similar to the type of moderate uses authorized in the CO zone and the contemplated use qualifies as "*promoting the civic and social interests of their members*…" .

Exhibit 013



4. Characteristics of the Area. The project site is in an area of mixed use. E. Mercer Way and single-family development abuts the project site to the east with single-family development across E. Mercer Way. Further east includes a school, community center, and religious facility.SE 40th St. abuts the project site to the south with single-family development across that street. Commercial, City Hall and single-family development is located to the west and Linear Park to the north.

5. Adverse Impacts. As conditioned, the proposal will not create any significant adverse impacts. A SEPA Determination of Non-Significance (DNS) was issued on June 22, 2026. Pertinent impacts are addressed as follows:

A. Traffic. Impacts related to traffic are not entirely clear. However, the City comprehensively address traffic impacts by its adoption of level of service standards it imposes as a part of its concurrency review. Impacts to the City's road network are further mitigated by the imposition of traffic impact fees to cover proportionate share road network impacts. In this regard the City Council has adopted a set of standards defining an acceptable level of traffic impacts. Any new development of the project site will be subject to those standards and thus must be considered to create an acceptable level of traffic impact.

The Applicant submitted a traffic impact study that estimates trip generation for the maximum potential build-out of the project site. That added level of analysis is rare for a rezone. It still falls short of providing an ideally useful rezone analysis. As discussed in the conclusions of law, the adequacy of traffic

infrastructure is pertinent to at least a couple rezone criteria. It makes little sense to authorize more intense land uses in an area with failing intersections that are already a headache to City residents. Unfortunately, the Applicant's traffic analysis doesn't identify the current level of service of surrounding intersections or how potential development could affect those intersections. City staff were unable to provide any specific information on that issue at the public hearing on the rezone application. Consequently, all that is known at this point is that the project site could potentially create a significant amount of trips but it's unknown whether the surrounding road network could accommodate that increase. Given this gap in information, the Council will have to rely upon its concurrency standards to ensure that new trip generation will not violate City level of service standards.

B. Utilities/Infrastructure. Beyond traffic, there is nothing in the record to suggest that there would be any problems in serving development under the CO zone with adequate utilities and infrastructure. The current use of the project site has been there for 55 years. Surrounding lots are fully developed. This all strongly suggests that the full range of utility and infrastructure necessary to serve the development is available.

C. Critical Areas. The SEPA checklist, Ex. 20, doesn't identify any critical areas at the project site except for landslide and seismic hazards. Given that the project site is already largely developed and that the City's critical areas ordinance comprehensively addresses development in geologically hazardous areas, the proposed rezone is not found to materially impact adverse impacts to or from critical areas.

D. Compatibility. The proposal is compatible with surrounding development.

It is acknowledged that there is an extensive amount of single-family development that surrounds the project site. However, it is also clear that the general vicinity is already a mixed-use area with parks, public facilities and commercial development. Most notably, the project site has included the currently existing religious use and school facilities for 55[2] years. The proposed rezone to CO simply facilitates the ability to improve upon facilities that have served the community in that 55-year period.

The City's CO standards, tree protection standards, design review and landscape standards will also help assure a high degree of compatibility. The required setbacks in the CO zone exceed those imposed by the existing single-family zoning standards. Building coverage is limited to 35%. Impervious surface coverage is limited to 60%. The height limit is 36 feet, which is only 6 feet taller than the existing single family zone.

[2] The comment letters and application materials identify either that the current use has been in place 50 or 55 years. The difference is not found significant for purposes of this recommendation.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. MICC 19.15.260C requires the hearing examiner to hold a hearing and issue a recommendation to the City Council on site specific rezone applications.

Substantive:

3. Zoning Designations. Parcel 2655500137 is currently split-zoned Single-Family Residential (R-8.4) and Single-Family Residential (R-9.6). Parcels 2655500136 and 2655500132 are zoned Single-Family Residential (R-8.4). Parcel 2655500115 is split-zoned Single-Family Residential (R-9.6) and Commercial Office (C-O). Pursuant to MICC 19.01.040(G)(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. Therefore, parcels 2655500137 and 2655500115 are deemed located in the R-9.6 zone pursuant to MICC 19.01.040(G)(2).

4. Review Criteria and Application. Rezone criteria are governed by MIMC 19.15.240C. Applicable criteria are quoted below in italics and applied via corresponding conclusions of law.

MIMC 19.15.240C: *Criteria. The city council may approve a rezone only if all of the following criteria are met:*

1. The proposed reclassification is consistent with the policies and provisions of the Mercer Island comprehensive plan;

5. Criterion met. The criterion is met.

Technically, the City Council should only be approving the rezone application if it has already approved the pending Comprehensive Plan Land Use Map Amendment (CPA25-002) from Single-Family Residential to Commercial-Office. One of the recommended conditions of approval requires prior or concurrent approval of CPA25-002. That condition arises from a state mandate, RCW 36.70A.120. That mandate requires the City to "…*perform its activities…in conformity with its comprehensive plan*…," The proposed CO zoning is not consistent with the current Single-Family Residential Comprehensive Plan Land Use Map designation. Consequently, the proposed zoning map amendment can only be found consistent with the comprehensive plan (and hence approved) if the CPA25-002 amendment is first approved.

By the same reasoning, if the CPA25-002 is approved at that point the Council will arguably be legally required to approve the requested rezone. That's because the

current single-family zoning of the project site would be inconsistent with the newly adopted Commercial-Office comprehensive plan designation. The comprehensive plan only authorizes two implementing zones for the Commercial-Office map designation – Commercial Office (CO) or Business (B). *See* Comprehensive Plan, p. 19. Given that the B zone is a more intense zone than the CO zone and that the CO zone is the most compatible of the two zones with both the current use of the project site and the surrounding residential uses, the CO zone is the most consistent with the City's comprehensive plan and its emphasis upon compatibility of use.

As is typical of all comprehensive plans, the broad based and comprehensive policies of the City's comprehensive plan has something to support the position of every perspective regarding the proposed rezone. Policies supporting compatibility and preservation of residential character support project opponents. Policies supporting healthy schools, religious institutions, and recreational clubs support project proponents[3]. From a legal standpoint, when there are conflicting standards, the most specific prevail. *See Univ. of Wash. v. City of Seattle*, 188 Wn.2d 823, 399 P.3d 1144 (2017)(specific statute prevails over general statute). In this regard the Comprehensive Plan Land Use Map provides the most specific development requirements of the Comprehensive Plan because it's the only part of the Comprehensive Plan that applies directly to the project site – i.e. the site is specifically mapped for Commercial-Office use and its associated implementing zones.

In short, the policy choices made by the City Council in approving the CPA25-002 map amendment narrows the focus of hearing examiner review to a quasi-judicial application of specific code criteria to a project application. There is no comprehensive plan policy outside of the Comprehensive Plan Land Use Map that more specifically compels denial of the proposed rezone than the Land Use Map designation dictating its approval.

MIMC 19.15.240C2: *The proposed reclassification is consistent with the purpose of the Mercer Island development code as set forth in MICC 19.01.010;*

6. Criterion met. The criterion is met. MICC 19.01.010 broadly sets the purpose of the zoning code as providing for compatibility of use, adequacy of infrastructure and protection of environmental resources. The proposal rezone is consistent with those objectives for the reasons outlined in Finding of Fact No. 5, Notably, the City's concurrency review process and traffic impact fees will assure adequate transportation facilities.

MIMC 19.15.240C3: *The proposed reclassification is an extension of an existing zone, or a logical transition between zones;*

[3] Pages 6-7 of the staff report identifies the comprehensive plan policies supporting approval of the rezone. Comprehensive Plan policies such as Land Use Policy 1.4 encourage the preservation of residential character. Land Use Policy 1.4 requires new development to be compatible with residential development.

7. Criterion met. The criterion is met. The proposed rezone is an extension of an existing zone. The northern portion of parcel 2655500115 is currently designated Commercial-Office, as well as the three properties to the west of this parcel. The rezone would rectify this existing split-zone and extend the Commercial-Office designation south to SE 40th St by including parcels 2655500137, 2655500136, and 2655500132 as shown in Exhibit 14.

MIMC 19.15.240C4: *The proposed reclassification does not constitute an illegal site-specific rezone;*

8. Criterion met. The criterion is met because the proposal doesn't qualify as a spot zone under the case law applied below.

Spot zoning is zoning action by which a smaller area is singled out of a larger area or district and specially zoned for a use classification totally different from, and inconsistent with, the classification of surrounding land and not in accordance with the comprehensive plan. *SANE v City of Seattle*, 676 P.2d 1006, at 1010 (1984). The proposed rezone does no "single-out" the project site for a different zoning classification. As noted in Finding of Fact No. 4 and shown in Figure 1, the project site is located in an area of mixed zones and uses. The proposed rezone serves as an extension of an existing CO zone into an area that is already developed for that type of use. As noted in Conclusion of Law No. 5, the proposed rezone is consistent with the comprehensive plan.

Particularly pertinent, spot zoning has also been characterized as zoning for private gain designed to favor or benefit a particular individual or group and not the welfare of the community as a whole. *Smith v. Skagit Cnty*., 75 Wash. 2d 715, 743, 453 P.2d 832, 848 (1969), holding modified by *State v. Post*, 118 Wash. 2d 596, 826 P.2d 172 (1992). For this proposal there is little doubt that the proposed rezone is designed to benefit the Applicant, the Stroum Jewish Community Center. However, as well documented in the hundreds of letters of support, the interests of the Applicant are aligned with a sizeable portion of the Mercer Island community. Many Mercer Island residents use the recreational, social and scholastic programs available at the project site on a regular basis. As such, the proposed rezone cannot be characterized as "*not [for] the welfare of the community as whole*." Further, the Applicant itself is a nonprofit organization whose central mission is to benefit the surrounding community and beyond. In this regard, the proposal doesn't qualify as zoning for private gain. For these reasons, the proposal does not qualify as spot zoning under the *Smith v. Skagit County* standard.

MIMC 19.15.240C5: *The proposed reclassification is compatible with surrounding zones and land uses;*

9. Criterion met. The criterion is met for the reasons identified in Finding of Fact No. 5D.

MIMC 19.15.240C6: *The proposed reclassification does not adversely affect public health, safety and welfare; and*

10. Criterion met. The criterion is met because the proposal will not create any material adverse impacts as identified in Finding of Fact No. 5 while also facilitating the improvement of a valued community resource[4].

MIMC 19.15.240C7: *If a comprehensive plan amendment is required in order to satisfy subsection (C)(1) of this section, approval of the comprehensive plan amendment is required prior to or concurrent with the granting of an approval of the rezone.*

11. Criterion met. With a recommended condition, the criterion is met. The rezone is recommended for approval only if conditioned with the requirement that it be contingent upon prior or concurrent approval of a Comprehensive Plan Land Use Map amendment for the project site to Commercial Office.

RECOMMENDATION

For the reasons identified in the Conclusions of Law above, it is recommended that the City Council approve the proposed rezone from Single-Family Residential R-8.4 & R-9.6 to Commercial Office (RZN25-002) subject to the following conditions:

1. Following approval of a rezone, the City shall amend the zoning map to reflect the change in zoning designation. The City shall also indicate on the zoning map the number of the ordinance adopting the rezone.

2. The approval of RZN25-002 shall be contingent on the prior or concurrent approval and adoption of Ordinance No. 26-13 for the associated Comprehensive Plan Land Use Map Amendment (CPA25-002).

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[4] One of the more compelling points raised in the opposition form letters is that part of the staff and Applicant justifications for the comp plan and rezone amendments are based upon current use. For vacant and undeveloped lands, one most certainly should consider the full development potential of a proposed rezone site since the Applicant (absent a development agreement) is not restricted to any specific development. In this case the property has been limited to its current social and civic use for 55 years. It is unlikely that the property would be used for anything else. It is legitimate to consider that factor.

However, it is also plausible that 20 or 30 years from now if the Applicant is experiencing financial problems it may find it worthwhile to sell or lease off a portion or all of the property for commercial use. As identified in the opposition letters, the Council could limit the project site to the current type of use with a development agreement. The counter argument is that any conversion to commercial use likely wouldn't involve a material increase in adverse impacts given that current off-site impacts appear to be similar to other potential uses authorized by the CO zone. City development standards are also already detailed enough to mitigate any such conversion in use. Finally, no matter how well written, development agreements often don't adapt well to changes in circumstance over spans of decades. Over time, such agreements can become very challenging to apply and/or modify. These are all factors to consider in evaluating the merits of a development agreement.

Dated this 2nd day of November, 2026.



Phil Olbrechts
Mercer Island Hearing Examiner

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Appendix A

October 19, 2026 Hearing Transcript
Rezone; RZN25-002

Note: This is a computer-generated transcript provided for informational purposes only. The reader should not take this document as 100% accurate or take offense at errors created by the limitations of the programming in transcribing speech. A recording of the hearing is available at City Hall should anyone need an accurate rendition of the hearing testimony.

Examiner Olbrechts: (00:00:15):

Okay, perfect. All right. Welcome everybody. For the record, it's October 19th, 2026, 9:00 AM. I'm Phil Albrix, hearing examiner for the city of Mercer Island today holding a hearing on an application for a rezone of a piece of property. This is file number RZN25-002. The hearing format today is we'll start off with a presentation from staff who will let us know what this application is all about. And I believe, is that going to be Ms. McGuire on this one? Hold on a second. Yes. Is that correct? Oh yeah, there she is. Okay. Yeah, Ms. McGuire will give us a summary of the application. Once she's done, then we'll move on to applicant comments if they want to add anything. And applicants, you don't have to, but if you do want to speak in support of the rezone, your opportunity would be after Ms. McGuire is finished.

(00:01:08):

After that, then we'll move on to public comments. And we did receive quite a large number of letters, mostly in support of the project. And if there's any member of the public out there that wants to add to all that support, you'll have a chance to make your comments once the applicant's done with their comments, if they have any. After public participation, then we'll go back to Ms. McGuire. She gives her a chance to answer questions that were raised and provide any rebuttal evidence she finds necessary. Then applicant as a matter of due process gets final word and final opportunity to present rebuttal evidence, and then tasked with writing up a recommendation to the city council. And the city council then makes a decision whether or not to approve the rezone.

(00:01:53):

Rezones, unfortunately, they're kind of a little confusing sometimes to the public because they often involve a two-step process. First, for this kind of application that we're dealing with today, the city council has to first approve a comprehensive plan land use map amendment. And it has the same name essentially, classification as the zoning classification, which is commercial, I think it was commercial office. And if the council approves that comprehensive plan designation, then it moves on to my recommendation and decides on whether to approve the rezone or not. So it's a two-step process with a hearing for each and the hearing examiner's only involved in the second part, which is the rezone, and that's what we're considering today essentially. Now by state law, whenever I hold a hearing as the city's hearing examiner, the only information I can consider is the information that's made part of the record of today's hearing that's composed of any exhibits that are admitted into the record, and then of course the testimony that's presented as well.

(00:02:57):

And Ms. McGuire has prepared a very detailed staff report that addresses the criteria for approval of a rezone and then identifies the documents that she wants me to consider in making that

recommendation to the city council. And if I can share my screen, hopefully I can. Let's see here. Where is that? Ah, here we go.

(00:03:22):

Okay. So hopefully at this point you can see, I believe this would be page, actually the first page of Ms. McGuire's staff report. She has a list of the documents she wants considered, which would be the staff report, the application, title reports, the project narrative vicinity maps, the reclassification criteria, memos dealing with the amount of trips generated by this proposal. Let's see, the zoning map, notices of the hearing, and then we have all of those public comments I talked about. There's 38 right there just from one batch and the applicant submitted another batch of 128 pages of other public comments. As I said, there's quite a few there. And then we have what's called the SEPA checklist and the SEPA determination.That's the State Environmental Policy Act, a determination by staff that an environmental impact statement was not necessary for this proposal. And they also considered if any mitigation was necessary as well.

(00:04:19):

So those are the documents I have so far, a total of 21 there. At this point, I just want to ask if anyone has any objection to entry of those documents into the record. If you do, just click on the raise hand button at the bottom of your screen and not seeing any takers there. So I'll go ahead and admit the staff report along with exhibits one through 21. So Ms. McGuire, let me swear you in at this point. Just raise your right hand. Do you swear, affirm to tell the truth, nothing but the truth in this proceeding? I do. Okay, great. Go ahead. Thank you. Oh, sorry. I do see one hand raised. Just a second. Mr. Hall, did you have an objection to the documents or something? I guess we got to make them audible. You there, Mr. Hall? You have a raised hand, so that's where you have to unmute yourself.

(00:05:11):

That's a click on the bottom.

Speaker 3 (00:05:12):

I do have... Can you hear me now?

Examiner Olbrechts: (00:05:14):

Yeah, we can hear you now.

Speaker 3 (00:05:17):

I don't see any of the people listed that had of record that had submitted documents to the city of Mercer Island.

Examiner Olbrechts: (00:05:28):

Not sure what you're asking. Are you saying you need to see all the names of the people who submitted documents?

Speaker 3 (00:05:34):

Well, you showed that.

Examiner Olbrechts: (00:05:36):

Yeah.

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Speaker 3 (00:05:37):

And none of the people that are against it are listed there. Why weren't they included?

Examiner Olbrechts: (00:05:44):

Okay. And Ms. McGuire, maybe you can answer that. I think that list includes every author of every document that was put in the record. But Ms. McGuire, can you answer that?

Speaker 4 (00:05:52):

Yes. I was just going to add that we have received an additional 56 public comments since the staff report was published, and those are included on our file share site as Exhibit 17.039 through 17.094. And I will incorporate any other additional written comments that we received before the close of the public hearing in that link as well. So I will make sure that those are sent to you.

Examiner Olbrechts: (00:06:25):

Okay. Yeah. Well, we want to make that part of the record. Can you show the list on the screen maybe?

Speaker 4 (00:06:31):

Yes.

Examiner Olbrechts: (00:06:31):

Yeah, let's get that in there. Thanks, Mr. Hall. Yeah, it is important we get all the letters in that were submitted.

Speaker 3 (00:06:45):

It is very important.

Examiner Olbrechts: (00:06:46):

Sure. Yeah. Yeah.

Speaker 4 (00:06:53):

Okay. So the 56 public comments that were received after the staff report was published through, I think it was last night was the last comment that we received. So exhibit 17.039 here down to, sorry for all the scrolling, 17.094 down here.

Examiner Olbrechts: (00:07:15):

Okay. And any objections over entry of those documents as well into the record? Again, if you object -

Speaker 3 (00:07:21):

I don't see the people that should be on there. They're not included.

Examiner Olbrechts: (00:07:29):

And Ms. McGuire, I do know that, as I mentioned, there was a packet from the applicant, but those would be all in support, I would take it, right? The packet from the applicant, the 128 pages of comments?

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Speaker 4 (00:07:42):

I'm not sure which specific public comments the applicant included in that. I know that those comments... I guess it's kind of confusing because there's two public hearings that occurred. One was for the comprehensive plan amendment and we received over 300 comments.

Examiner Olbrechts: (00:07:58):

Oh, I see.

Speaker 4 (00:08:00):

And then we have the public comments that were received between the time the notice of public hearing occurred for the rezone and now. So these comments, these 94 comments here were received after the notice of public hearing for the rezone.

Examiner Olbrechts: (00:08:17):

Okay. Okay. So Mr. Hall, I think maybe a partial answer to your question, there were other comments submitted for the comprehensive plan amendment and we're just dealing with the rezone today.

Speaker 3 (00:08:30):

They were submitted in time A, and it's really hard when you have a neighborhood that's small and you have the JCC, which is over 6,000 members submitting blanket submittals. So as of we don't get a chance to do our voice, which is horrible. It's not right. Every time there's a city council change, the JCC runs at this same thing for the last eon.

Examiner Olbrechts: (00:09:02):

Okay. All right. Well, as I said at the beginning, it is I think a little confusing of the public when you have that we have a comprehensive plan and a rezone and they're both kind of doing the same thing and the public can't really distinguish between the two. I think Ms. McGuire, what I'll do is I'll admit the comprehensive plan comments as well. You said 300 of them. I'll make that part of the record just because I think it encompasses the same issues, and some people might've thought that since they commented on the comp plan, that also applied to the rezone itself. So I can review those and I'll understand the difference between a comp plan and rezone amendment, obviously. So at this point -

Speaker 3 (00:09:44):

I would like to make a comment if I could. I reached out to Molly last...

Examiner Olbrechts: (00:09:50):

Okay, go ahead, sir. Mr. Hall? Mr. Hall, did you still... Okay, sorry. Did you want to say something, Mr. Hall? I guess we lost him, but Mr. Hall, when we get to public comments, you can make your comment at that point too. So anyway, so at this point, I'm going to go ahead and again, just want to ask any objections for the list of public comments to, was it 17.94, Ms. McGuire?

Speaker 4 (00:10:27):

Yes.

Examiner Olbrechts: (00:10:27):

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Yeah. Any objections over those? Just hit your raise hand button. And let's see. So we got a Jesse Klauson. Who's objecting?

Speaker 5 (00:10:39):

Ms.

Examiner Olbrechts: (00:10:39):

Lawson?

Speaker 5 (00:10:40):

I'm not objecting actually.

Examiner Olbrechts: (00:10:41):

Oh, okay.

Speaker 5 (00:10:41):

I represent the JCC, Jesse Klauson, McCullough Hill. I just wanted to say that I think just making sure that obviously there will be details in the comp plan comments that have to do with the comp plan criteria that are different from the rezone. The hearing examiner knows the difference. I just wanted to point that out. And we have no objection. You should see all of the comments. It's very important.

Examiner Olbrechts: (00:11:09):

Okay. Thanks, Ms. Klauson. Yeah, and definitely will recognize that. All right. So this again, I just want to make sure because I didn't know if we got the comments to 17.94 resolved. Any objections over those? Okay. Beyond that, not seeing any objections. So those are all admitted up to 17.94. And then we have the next is the 300 or so comments on the comprehensive plan. Any objections over entry of those documents? Again, just raise your virtual hand. Okay, not seeing any takers on that one. So that'll be admitted as well with the recognition that they're addressing the comp plan, but at the same time, also noting that some members of the public may not appreciate the difference there between the rezone and the comp plan. So with that, Ms. McGuire, I think we can finally get to you. Did I manage to finish swearing you in?

(00:11:58):

I don't know if we got interrupted in the middle of that or... Yeah, you're sworn in. Okay, so go ahead.

Speaker 4 (00:12:03):

Thank you. Share my screen. Okay. So the purpose of today's hearing, as the hearing examiner said at the beginning, is to hold the public hearing for rezone 25-002 and obtain the hearing examiner's recommendation to the city council on the proposed amendment to appendix D of the Mercer Island City Code, which is the zoning map, which would rezone four parcels or three parcels and a portion of a fourth one from single family residential to commercial office. And the hearing examiner can recommend to approve, deny, or remand the application back to the applicant. To provide some brief overview of the background, on December 5th, 2023, the city council adopted a resolution which added the SJCC's comprehensive plan amendment and rezone proposals to the 2024 annual docket. And in December of 2025, the SJCC submitted applications for the comprehensive plan amendment, the rezone, and CEPA review for a non-project action.

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(00:13:24):

And a SEPA determination of non-significance was issued on June 22nd, 2026 with no comments or appeals.

(00:13:36):

To give an overview of where we are at in the process, we have already completed a planning commission public hearing for the comprehensive plan amendment and obtained the planning commission's recommendation, and city council successfully completed first reading of that comprehensive plan amendment on September 1st. We are now at the hearing examiner recommendation for the rezone proposal. And following the receipt of the hearing examiner's recommendation, city council will do a first reading of the rezone, which is currently scheduled for November 17th. And then both applications will return to the city council for a second reading, which is currently scheduled for December 1st, provided that first reading of the rezone application is successfully completed.

(00:14:27):

This is an overview. Sorry, the images are really small, but of the proposal for the... This is Appendix D of the City of Mercer Island zoning map. The one on the left and upper map is current, so you can see the CO zone in the yellow and then the single family residential R8. 4 in purple and R9. 6 in that pinkish color. And the proposed map, you can see that all of those four parcels would be yellow in the CO zone. That's the map on the right and then the lower one. So the hearing examiner must determine whether the proposed rezone meets the criteria of approval in Mercer Island City Code Section 19.15. 240 C, and the applicant has the burden of proof to demonstrate that the application meets those criteria. And staff has reviewed the applicant's materials and their demonstration of compliance and included a analysis and recommendation for approval, which is in the staff report in exhibit one.

(00:15:40):

So the first criteria that the proposal needs to meet is that the rezone must be consistent with the comprehensive plan. And a detailed analysis of this is included in the staff report that outlines several of the policies and provisions in the comprehensive plan that are included in the staff report. But I did want to highlight a couple in the presentation here today. So specifically goal 7.4 in the land use element where social and recreational clubs, schools, and religious institutions are predominantly located in single-family residential areas, but the city may consider measures within the land use code to address the maintenance, updating, and renovation of these facilities since they contribute to the mental, physical, and spiritual wellbeing of Mercer Island residents. So a reclassification of property is a measure available within the Land Use Code, and the applicant has proposed this measure to address the redevelopment of an existing social and recreational club.

(00:16:38):

And the existing facility is legally non-conforming due to the residential development standards in the single-family zoning designation that do not allow the facility to be adequately maintained, renovated, or updated to meet the needs of the community without losing its legal non-conforming status. So the development standards in the commercial office zoning designation are more suitable for a civic and social organization and provide standards to ensure compatibility with surrounding residential neighborhoods such as screening, setbacks, impervious service limitations, transportation concurrency requirements, and building height restrictions.

(00:17:24):

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The other goal I wanted to highlight is goal 9.2 in the land use element where commercial uses and densities near the I-90 East Mercer Way exit and Southeast 36th Street are appropriate for that area. This is the area that the proposed commercial office rezone would be located and future development, again, would be required to meet all of the development standards in that zone that have been designed to ensure compatibility with the surrounding land uses. Criteria two is that the proposed rezone must be consistent with the purpose of the Mercer Island Development Code, and the purpose is fully written out in the staff report, but in short is to protect and promote the health, safety, and general welfare through the regulation of development and the provisions of the code have been designed to consider things like conservation and protection of the natural beauty and resources on the island, provide coordinated development, avoid traffic congestion, and facilitate adequate provisions for public improvements.

(00:18:22):

And the proposed rezone is consistent with the purpose of the development and code as it would allow for the development of the uses in the commercial office zone, which include uses that promote the health, safety, and general welfare of the city, such as schools, religious institutions, and civic and social organizations like the SJCC. Any future development proposal would be required to comply with the development standards in the CO zone, design standards, CPA review for project actions, our critical areas ordinance, and transportation concurrency review, which all address the considerations in the purpose of the development code for environmental factors, transportation impacts, and coordinated development.

(00:19:06):

Criteria three requires the proposed rezone to be an extension of an existing zone or a logical transition between zones, and a portion of the northern property is already zoned commercial office and the proposed rezone would extend the existing commercial office area south to the other three properties, so this criteria is met. And criteria four is that the proposed rezone does not constitute an illegal site-specific rezone. Past case law has determined that an illegal site-specific rezone singles out a small area from a larger area or district and specifically zones it for a use completely different and not in accord with the surrounding land and is not related to the general plan for the community as a whole. And as we've discussed in the previous criteria, staff have found that the proposed rezone is consistent with the general plan for the community as a whole, as it is consistent with the comprehensive plan and staff have found that the rezone does not have the five characteristics outlined in the staff report that would constitute an illegal spa zone.

(00:20:10):

So to be an illegal spot zone, the proposal would need to carve out a small area of a larger zoning district, which we have determined that it is an extension of an existing zone. Two, it would allow uses of the smaller area that are inconsistent with the uses allowed in the remaining larger zoning district. And again, this would be an extension of an existing zone that allows uses that are encouraged and appropriate for the specific area and any impacts would be indicated through the development standards and design standards for future development. That includes CEPA and transportation concurrency reviews where a proposal would only be approved if the net new trips do not cause the level of service at a concurrency intersection to decline below the standards adopted in the transportation element of the comp plan. The third characteristic of an illegal spot zone is that the rezone would allow a use of the smaller area that is not in accord with the comprehensive plan, which again was analyzed in criteria one and staff have found that the proposed rezone is consistent with the comprehensive plan.

(00:21:13):

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And an illegal spot zone would be merely for the private gain of one or a group of owners to the detriment of their neighbors without adequate public advantage or justification. No private gain would occur as a result of the rezone because the SJCC is a nonprofit organization and the development regulations under the commercial office zone guard against impacts to neighbors through setbacks, screening, building height, transportation and concurrency reviews, SEPA, critical areas and design review.

(00:21:43):

And finally, criteria five of the legal spot zone would have no substantial relationship to the public health safety and general welfare. Staff have found that the proposed rezone does have a substantial relationship and supports the development of civic and social organization uses, schools, and religious institutions allowed in the commercial office zone. And a more detailed discussion of the proposed benefit to the public health safety and general welfare is included later in the staff report and I'll summarize those findings here shortly. But to recap, criteria four, staff conclude that the proposed rezone does not possess the characteristics of an illegal spot zone.

(00:22:22):

Criteria five is of the proposed rezone. We need to be compatible with surrounding zones and land uses, and the surrounding zones include commercial offices to the north and west of the subject properties, public institution on the city hall properties further to the west, and single-family residential to the southwest and east. So as previously discussed, the proposed rezone is compatible with the surrounding zones and is consistent with the uses identified as appropriate for the I-90 East Mercer Way exit area in the comprehensive plan. Criteria six is that the proposed rezone does not adversely affect public health safety and welfare, and staff finds that the proposed rezone would facilitate the development of uses that are allowed in the commercial office zone that are encouraged and identified as appropriate for the area in the comprehensive plan. So the comprehensive plan finds that social and recreational clubs, schools, and religious institutions contribute to the mental, physical, and spiritual wellbeing of Mercer Island residents.

(00:23:24):

While these uses are allowed in the residential zones, the development standards for single-family development do not provide feasible development of these types of uses. So the development standards in the commercial office zone have been designed to appropriately facilitate these uses while protecting the surrounding uses, again, through those setbacks, design standards, building height and transportation currency review. I touched on this a little bit previously, but I know that traffic impacts are a significant concern for the surrounding community, and I just want to highlight some of the requirements for a new development. So the applicant submitted a memorandum for the trip generation for the maximum development capacity under the commercial office zone and found that through only analyzing the potential building footprint, the site could theoretically accommodate a potential 134,087 square foot building footprint and the highest generating land use would be a medical dental office building.

(00:24:25):

And at three stories, this would result in a potential 400,000 plus square foot building. So this footprint does not consider any of the other limiting factors that would result in a smaller gross floor area. And I mentioned earlier that a transportation concurrency certificate would only be approved if the net new trips from the development proposal do not cause the level of service at a concurrency intersection to decline below the standards in the comprehensive plan. And if the level of service would decline, the code provides mitigation options for the applicant to provide or build a mitigation strategy for the

transportation facility improvements necessary to achieve concurrency. So a future development proposal could not be approved unless transportation concurrency is obtained.

(00:25:17):

And finally, if a comprehensive plan amendment is required in order to satisfy subsection one for consistency with the comprehensive plan, approval of the CPA is required prior to or concurrent with the granting of an approval for the proposed rezone. So this rezone application is accompanied by a comprehensive plan amendment, which has successfully completed first reading with the city council and second reading is currently scheduled for December 1st. So following receipt of the hearing examiner's recommendation and the completion of first reading of the rezone, both applications would go back to city council for a second reading to achieve concurrent review. A condition of approval is recommended to be included in the hearing examiner's decision to reflect that should council vote to grant the rezone, such rezone would be contingent upon the passage of the comprehensive plan amendment. So in conclusion, staff has reviewed the proposed application in accordance with the criteria for approval of a rezone and recommend that the hearing examiner adopt the findings contained in the staff report and recommend approval of the proposed rezone under city file number RZN25-002 to the city council.

(00:26:31):

And that concludes the staff presentation and I am happy to answer any questions that the hearing examiner may have.

Examiner Olbrechts: (00:26:37):

Okay, great. Thanks, Ms. McGuire. Just one question actually. Is the commercial office zoning classification the only implementing zone for the commercial office or comprehensive plan designation?

Speaker 4 (00:26:51):

No, there are other zoning designations. I believe business might just be business.

Examiner Olbrechts: (00:27:03):

Oh, okay. Okay. All right. Is that a less intense zone, do you know, or more?

Speaker 4 (00:27:12):

It seems like the uses are similar. There is one other zone, the planned business zone, PBZ zone, but the applicant has proposed that the rezone is for commercial office.

Examiner Olbrechts: (00:27:27):

Oh sure. Yeah. Okay, great. All right. Thank you, Ms. McGuire. All right, well, let's move on to applicant comments. And Ms. Klauson, are you going to be representing the applicant today?

Speaker 5 (00:27:37):

I am today.

Examiner Olbrechts: (00:27:38):

Okay, great. And you're counsel for the applicant, is that correct?

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Speaker 5 (00:27:41):

I'm counsel for the applicant. It's a little interesting because we're at the planning commission and the city council for the comp plan, which is a little bit less formal. So I don't typically like to be sworn in, but I do think I'll be giving testimony.

Examiner Olbrechts: (00:27:56):

Oh, okay. All right.

Speaker 5 (00:27:58):

Because we're doing a presentation that's just kind of outlining the background for everything.

Examiner Olbrechts: (00:28:02):

Okay. Well, I'll swear you in there. Just raise your right hand. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Speaker 5 (00:28:09):

I do.

Examiner Olbrechts: (00:28:09):

Okay, great. Go ahead.

Speaker 5 (00:28:11):

Okay. I will state my name and address for the record. My name is Jessica Clawson, C-L-A-W-S-O-N. I am with McCullough Hill, a land use firm, and I actually live on Mercer Island, so I will give you my home address. It's 6730 82nd Avenue Southeast, Mercer Island, Washington. So I am going to share my screen. If you don't mind, we have a PowerPoint presentation to walk through, and with me today is Amy Lavin, who is the CEO of the SJCC, and so we'll kind of ham and egg it a little bit here. So can you see that?

Examiner Olbrechts: (00:28:50):

Yes. Okay,

Speaker 5 (00:28:51):

Great.

Examiner Olbrechts: (00:28:52):

Okay.

Speaker 5 (00:28:53):

So obviously, thank you, Molly, for your presentation. We are requesting a rezone from R8. 4 and R9. 6 to commercial office.

Examiner Olbrechts: (00:29:04):

Ms. Clawson, you're not in presentation mode though. I don't know if that makes a difference, but...

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Speaker 5 (00:29:08):

I don't know that it does. I don't have any notes, but if it's harder to see, let's see if I can do that. I'm actually still not great at that.

Examiner Olbrechts: (00:29:19):

Is it at the bottom right? Oh, there it is. You got it.

Speaker 5 (00:29:21):

Yeah. Okay. I can't see you, but that's okay. So we wanted to talk about just giving some background for the need for this rezone. It's hard to say that in the context of the criteria, so we just wanted to share that story with the hearing examiner. It really does have to do with the need for a remodel and reconfiguration of the building. There are specific single family zone constraints that used to work for these types of buildings on Mercer Island and no longer work. We wanted to go over the CO zone requirements as Molly outlined very aptly in her presentation They are restrictive and do help to buffer surrounding properties and mitigate impacts. And then obviously we believe our application meets the criteria and we'll go through that. So here's the current zoning map. You may be familiar. Our property, can you see my cursor?

Examiner Olbrechts: (00:30:21):

No. Are you moving it around? Yeah.

Speaker 5 (00:30:24):

I am, but it's

Examiner Olbrechts: (00:30:24):

Okay.

Speaker 5 (00:30:27):

Down below where it says O, that big piece of purple property, that is the JCC property. And then a little bit of the kind of coral property is the R 9.6 zoned property. So the commercial office designation is only in this area of Mercer Island as Molly stated. And the Hertzel property across the street is zone B, so that's the only tiny little B zone. And then there's another little B zones kind of sprinkled throughout the city. And our property is split zone R8. 4 and R 9.6. And this is the proposed map change. This is all in our application materials. And then you can also note the CO zone adjacency, which is to the north. And I will briefly hand it over to Amy Lavin, who will talk about what the JCC is and the impacts to the positive impacts that it has on many people on the island.

(00:31:29):

Amy?

Examiner Olbrechts: (00:31:29):

Okay. Ms. Lavin, let me swear you in. Just raise your right hand. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Speaker 6 (00:31:36):

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I do.

Examiner Olbrechts: (00:31:36):

Okay, great. Go ahead.

Speaker 6 (00:31:39):

Hello, and thank you for having us here today and for being with us to process this application. My name is Amy Lavin. I'm the CEO of the Strom Jewish Community Center, and I have lived on Mercer Island for over 40 years. I now live at 7835 Southeast 22nd Place here on the island. The Strom Jewish Community Center is a very busy place with visitors from birth to a hundred years old in our building regularly. We serve an incredible range of visitors with a vast set of interests, needs, and capabilities. Our mission is to amplify profound connection for every generation, but with an aging non - ADA compliant building with mechanical equipment from 1969, this is challenging. In fact, following the windstorm in November of 24, we were left without power for several days and we couldn't bring our building back online effectively to keep our heat in our early childhood school at its required regulated levels.

(00:32:33):

The systems couldn't be rebooted without one little thing causing another trouble or quirky outage. This led to disrupted operations, which has incredible impacts on the families that we serve. Parents were requested and required to come pick up their children in the middle of their work days. And this is just an unacceptable condition in 2025. And since then we've had to upgrade part of our school and the rest of our building is still subject to many of these mechanical limitations. The equipment behind and under our swimming pool isn't much better. Here on Mercer Island, we saw that with the Mary Waite pool, this is an example of one of our closed facilities that we're kind of in limbo to repair. Here on Mercer Island, the public pool, the Merr Waite pool, which is even younger than the J, had to replace the guts of that facility.

(00:33:19):

And that facility is even younger than ours. And we've seen this happening with other public institutions around Mercer Island, including City Hall. We are all from the same era and facing many of the same challenges. The last several months have been full of constant, extensive, and expensive repairs, needing to upgrade, replace, repair pipes, pumps, electrical inputs and everything else into this building and the repairs continue constantly. On top of this, we are not ADA compliant and we don't have an elevator. Yet fixing these things is nearly impossible because of the code. Significant improvements would require code compliant upgrades, yet the way we'd have to upgrade it is not addressed by the code. Our facility actually makes it hard to welcome people with mobility challenges. Our systems are not energy efficient. They're incredibly intensive and not environmentally sustainable. Beyond that, the spaces are not designated for contemporary living, technology or the types of programs we'd like to offer.

(00:34:21):

These things are counter to our agency values. They're bad for the environment and they distract our people and our resources from doing what we should be doing, which is building community and enriching the lives of the people we serve. In the last eight years, we've been working intently to find a path forward. Construction costs have skyrocketed in this time and they continue to escalate and any changes we hope to make to our building now in today's dollars are already costing us millions more than they would've when we started this process years ago. As you'll hear throughout our conversation today, the 2017 single family code updates have had expensive and time-consuming impacts for the city

of Mercer Island and the Strom Jewish Community Center. Imagine the impact we could be having on this community if those funds and our agency time and energy were applied to the programs that enrich the lives of people of all ages.

(00:35:10):

It's time to create a path forward for the Straum JCC, an agency that we believe serves more, employs more, scholarships more, and enriches more island lives than any private agency on Mercer Island. In a world where connection, values, tradition, friendship, and support are so shaky or missing altogether, the J is more important than ever. Add to the fact that fear for many people in our community is at an all time high. It's even more important to offer a space for people to gather where they feel safe, supported, and celebrated. I want to thank you again for your time today and urge you to recommend approval of this rezone.

Examiner Olbrechts: (00:35:48):

Okay. Thanks Ms. Lavin. All right, anyone else? Ms. Clawson?

Speaker 5 (00:35:52):

No, but I'm going to continue because I think that is the background of the systems and it still doesn't tell the kind of why for the rezone. So typically, and this is consistent with the rest of the island, the city has allowed for these uses in single family zones or residential zones and they've done it through a conditional use permit. And so that is how the original JCC was permitted and many of the institutions on the island are permitted with a conditional use permit. And you can see over the years we've been able to, I guess, slightly modernize, but the early childhood school was added on, auditorium was added on, things have been added on over the years. So here are all of the land use approvals issued over the years. And there were conditions of approval related to CEPA, the design review process and the CUP associated with those approvals.

(00:36:56):

That has worked very well for the island, except Ms. Lavin just discussed the 2017 mega mansion legislation, which was intended to, I guess, stop the mega mansions that were popping up all over the island and put a maximum square footage limit for all uses in the residential zone. So unfortunately, and I don't think this was intended, but it did not carve out or did not allow for an out for uses like ours that are clearly well in exceedance of the maximum square footage limit. So the JCC is about 90-ish thousand square feet and in our zones, as you can see, it's small, sorry, our 8.4, there's a maximum square footage limit of 5,000 square feet. In the 9.6, it's 8,000 square feet. So we are well in exceedance of that limitation. So we thought surely that couldn't apply to us and we should be able to at least apply for variance from these criteria.

(00:38:06):

And we wanted to make sure before spending a lot of money on architectural drawings and all of this stuff that goes into submitting an application. So we did apply for an interpretation of the variance criteria. That's development code interpretation 22004. It can be found on the city's CPD website, and if you want to take judicial notice of that decision, we'd appreciate that. But what we asked was, can the city grant a variance from the numeric standards for a non-residential structure cited in a residential zone? And the answer was no. And the reasons are laid out in the interpretation and it's very clear from the code that that is not okay and now it is a formal interpretation. So there is no way that we could, I guess, knock the JCC down and rebuild. We would be subject to those square footage limits. And these are the restrictive zoning standards that we cannot ask for a variance from.

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(00:39:05):

So that puts us into a non-conforming status. Obviously the building is non-conforming in many ways to the code probably at this point, but the Mercer Island code is interesting in that it allows for interior remodeling. So you can stay within your box and you can have essentially no cost limit. But as soon as you do an exterior alteration or enlargement, and it's not just enlargement, it's exterior alteration are the words in the code, you are limited to a cost of upgrade of 50% of the structure's current King County assessed value. And the current assessed value of the building is about $26 million as of yesterday when I looked. So we would be limited to if we changed an exterior wall to a $13 million retrofit cost and the costs of doing so are just astronomically beyond that. So again, the challenges with staying within an existing box, even interior remodels must comply with current building codes.

(00:40:13):

We have to have EDA compliance, energy code, structural earthquake codes, and fire codes. And we will tell you, we've said this to the community, we have studied this every which way, backward, forward, upside down, right side up, and it is not technically feasible and it is extremely cost inefficient to stay within the existent walls. And piecemeal remodels, we've been doing them. These systems need a complete overhaul. We would also say that staying in the existing box also doesn't allow for the reconfiguration of the parking lot and access and traffic issues, which we know are an existing thing with the JCC today. And so that is how we ended up in this rezone place, which we know it's a big deal on Mercer Island. So the commercial office zone requirements, as Molly stated, they are still very protective of the neighborhood. There's a height of 36 feet that's compared to a height of 30 feet allowed in the single family zones.

(00:41:15):

There are significantly increased parking requirements. There is a 60% impervious surface limit and a 35% building coverage limit. And then there are significant setbacks required from rights of way, side yards, and then minimum setbacks from residential properties that are adjacent. So we just wanted to make sure that the examiner is aware that the commercial office zone does take care of surrounding properties.

(00:41:46):

And then this is an example of how the setbacks could apply. Again, we would have to apply for a lot consolidation here if this was the entire property, but this is as compared to the R8. 4 and R9. 6 that's on the right, which are a little bit less protective. The CO zone is more protective in terms of setbacks and adjacencies. And then obviously the project review requirements are very clear and they apply to anything that goes on in the commercial office zone. So for any building that was built here in the future, we would have to go through a site development permit/design review. That is a public hearing with opportunity for conditions placed, and that requires compliance with the design standards in chapter 1912 of the Mercer Island Code. I would also say if you just look at those design criteria in the code, they're very similar to the types of design criteria that are in the conditional use permit that we have.

(00:42:45):

And so again, it's things like ensuring good transitions, ensuring no impacts on your neighbors, ensuring light shielding and landscaping and things like that. So those standards are very protective of the neighbors. We would also obviously have to go through SEPA review. That is additional public comment and opportunity for conditions to be placed, concurrency and transportation engineering review as Molly mentioned. Obviously we would have to ensure that we are not degrading below a certain level of service, otherwise we'd have to upgrade things and compliance with all the other technical codes, trees,

stormwater, critical areas, if any, et cetera. So again, this is not the end of anything. Any actual project would have to go through this extensive and lengthy review process that includes many public comment opportunities. So the rezone approval criteria, just to hit these high level because Molly did a good job already, the proposed classification is consistent with the policies and provisions of the comp plan.

(00:43:47):

We have an extensive list of those in our application, as does the city and its staff report. There is a specific comprehensive plan policy that is supportive of organizations, community organizations like the JCCs because of the public good that we do. The proposed reclassification is consistent with the purpose of the Mercer Island Development Code. We submitted additional materials in a memo that go over that specific purpose and intent statement. Again, it's really about ensuring that the code will be followed as I just stated in the CO zone. The code will be followed when we are going through our development applications. The proposed reclassification is an extension of the existing zone or a logical transition between zones. We think it's actually both. The transition between this exact zoning and CO happens already on our property and it's also an extension of an existing zone. So the CO zone does exist adjacent to these zoning designations here in this area, and we are just extending the existing zone.

(00:45:01):

So we do meet that criterion. And I submitted additional materials related to the illegal site-specific rezone. There's a very dated because I think in a lot of ways the Growth Management Act has dealt with some of these site-specific rezone issues or illegal spot zone issues. But the Attorney General's opinion outlines those criteria that Molly went over. We clearly do not constitute an illegal spot zone, particularly because when this rezone is passed, the comprehensive plan will have been changed as well. The proposed reclassification is compatible with surrounding zones and land uses. Again, we've gone over that extensively in our application, and I think I just discussed the CO zone is very protective, and I would say even potentially more protective than the single family zone in terms of setbacks and things that you have to go through and do in terms of design review and meeting those criteria.

(00:46:02):

And then the proposed reclassification does not adversely affect public health, safety, and welfare. We did submit, just because we though it was important given some of the recent doings of the growth board, a traffic study and memorandum that had to do with the maximum development capacity. I will say, and we've said this on the record many times, the JCC is not building anything but a JCC on this property. So it does outline a potentially 400,000 square foot medical office building and other types of uses on this property. It only does that to disclose the maximum development capacity. Again, the JCC could not build a 400,000 square foot community center. It's just you need members to be able to fill that up. We do not have that membership. It would be so ungodly expensive. It just wouldn't be done. And then particularly when you look at the office market right now, nobody's building any 400,000 square foot office buildings.

(00:47:17):

So we just wanted to be clear that when we submitted that, it was really about the maximum development capacity issue. It had nothing to do with any actual proposal or any plans or anything like that. But again, as Molly stated earlier, the reclassification itself doesn't adversely affect public health, safety and welfare. And then any future development review would definitely have to go through many, many, many rounds of review to ensure, again, compliance with CEPA and design review and the code itself. And then finally, seven, obviously a comprehensive plan amendment has been submitted. The rezone can't go through until the comp plan amendment is done and we understand that is happening.

So that is our presentation. And if you have any questions for us, we are more than happy to answer them.

Examiner Olbrechts: (00:48:13):

Okay. Thanks, Ms. Clawson. Well done. Thank you. All right. Well, now we can move on to the public comments. If any of you want to say anything at this point, click on that virtual hand at the bottom of your screen. It says raise hand and we'll be sure to call on you, make sure you're heard. So let's start off with Mr. Lincoln, I think. Can we unmute him and get him on? Okay. So you up yet, Mr. Lincoln? There he is. Okay. Mr. Lincoln, can you hear me? Sir, you want to say something so we can know you're with us? Oh, you're muted. Oh, there you go. Yeah, you're unmuted now. You want to try saying something, Mr. Lincoln? That's odd. Does staff know what the problem might be because he is unmuted at this point.

Speaker 7 (00:49:15):

Mr. Hearing Examiner, would you like to be able to see the people as they're providing comments?

Examiner Olbrechts: (00:49:21):

I think that would be good too if they want to be seen. Yeah. Does that mean you're going to have to promote them all?

Speaker 7 (00:49:27):

Yep, but we can move them. We'll cycle them through.

Examiner Olbrechts: (00:49:29):

Okay. All right. Let's get Mr. Lincoln on then. Mr.

Speaker 7 (00:49:32):

Lincoln, you're going to have to accept my... I'm going to click a button, promote you to panelist. You'll have to accept it. And I also believe, sir, that Ms. McCauley has a list of people who signed up. Would you like her to work through the list of people?

Examiner Olbrechts: (00:49:55):

Oh, sure. Yeah. If we can do that. Yeah, that'd probably be more efficient.

Speaker 7 (00:50:01):

Mr. Lincoln, you should be able to turn on your camera and unmute.

Examiner Olbrechts: (00:50:13):

Well, I guess we can go back to him and let's see if the other members of the public can be heard and seen. Next on the list there. Who is that?

Speaker 2 (00:50:31):

Next on the list would be David Landsman. Okay, Mr. Lansman.

Examiner Olbrechts: (00:50:33):

And it looks like he is

Speaker 2 (00:50:34):

Available.

Examiner Olbrechts: (00:50:36):

All right, let's put him up. And everyone who wants to testify, I'll have to swear you in real quick and then just let us know what your name is and then you can go ahead and testify. And also, if anyone out there wants a copy of my recommendation, just make sure that the city has your email address. And staff, how do you want that to be handled? Or is that just going to be part of the council packet that people should access online? How is that distributed?

Speaker 7 (00:51:07):

Mr. Hearing Examiner, to ensure we have everyone's contact information when you close the hearing, Brandon and I can stick around and ensure that we have the contact information for anyone who testifies today for the parties of record.

Examiner Olbrechts: (00:51:20):

All right. So after the hearing is done, just make sure that for those of you who testified and you want to get a copy of the recommendation, make sure staff gets your email address. So Mr. Landsman, I see you there. Let me swear you in, just raise your right hand. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Speaker 8 (00:51:37):

Yes, I do.

Examiner Olbrechts: (00:51:38):

Okay, great. Go ahead.

Speaker 8 (00:51:39):

Okay. And you can see me as well?

Examiner Olbrechts: (00:51:41):

Yes. Yeah.

Speaker 8 (00:51:42):

Okay. Hi. Okay, so thanks for hearing me. My name is David Landsman. My wife, Mindy, and I have been members of the JCC since we moved to Kirkland in 1994. We moved to Mercer Island in 1999, and one of the reasons was proximity to the J. Our son, who's now 33, was a student in the J's preschool. Mindy was a personal trainer at the J from 2003 to 2020 and has continued to take fitness classes and swim laps for over 30 years. These days, she also volunteers as an instructor in the Rock Steady boxing fitness classes for members who have Parkinson's disease. We both use the waiting room and are active participants in the programs offered at the J, such as Seattle Jewish Film Festival, cooking classes,

musical performances, and more. So to us, the J is part of an extended family that enriches the quality of life for all members of all ages, ethnic backgrounds, and religions on Mercer Island.

(00:52:49):

We are in particular concerned... Well, the infrastructure breakdowns that Amy and others have talked about have caused an overall decline, and that's there for all to see. Also, the lack of Americans for Disability Act updates are a barrier for people with things like people with Parkinson's, for those who are recovering from surgery, for older members or for any member who has physical disability. We feel this really needs to change.

(00:53:22):

Simply put, we think the J needs to be a modernized facility to truly serve and welcome all J members. And the fact that an archaic zoning designation is preventing those critical improvements from being done effectively is just wrong. While I understand concerns that I've heard from JCC's neighbors, I'm certain that the J will approach any development as a responsible neighbor. And for example, I'm sure issues such as traffic can not only be mitigated, but quite probably improved. So the alternative, not rezoning, would maintain the status quo and force fit the J into a single family administrative framework. And this will add cost to improvements or worse, it will doom the J into a cycle of continuing infrastructure decline. The J can and should be a vibrant and modern community resource for all of Mercer Island, so we ask that you please support the proposal to rezone the JCC site.

Examiner Olbrechts: (00:54:25):

Thank

Speaker 8 (00:54:25):

You. Okay.

Examiner Olbrechts: (00:54:25):

Thank you, Mr. Lincoln. All right, so moving on to Mr. Lincoln, I think we were able to see you there before, so try him again there. There you are. Just unmute yourself and you're ready to go. Okay, Mr. Lincoln, let me swear you in. Just raise your right hand. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Speaker 9 (00:54:45):

I do.

Examiner Olbrechts: (00:54:45):

Okay, great. Go ahead.

Speaker 9 (00:54:47):

Good morning. Thanks for resolving these technical difficulties. It's always hard to do things remotely, but my name is Steve Lincoln. My family lives in Bellevue, but we've been coming to Mercer Island for over 22 years, mostly to attend the jail. And I'm speaking in favor of the rezoning of the JCC property from single family to commercial. Now, my daughter started preschool at the J in 2009, and she attended for three years. She also took swimming lessons at the J, and for several years she attended the J summer camp program. At one point, my daughter and her classmates went on a field trip to the Mercer Island Police Department, and while there, they viewed the jail. And afterward, I told my

daughter, "I thought sometimes the jail is used for students who refuse to do their homework." Now today, she's a sophomore in college in California.

(00:55:46):

She recently recognized among other freshmen for having had a 4.0 GPA their first year. And I think that field trip to the Mercer Island Police Department had a role in playing that. My family has attended several dozens of other functions at the J, carnivals, civic and educational programs, and obviously the J has been serving the community as a community center for over 55 years. And the J does not only serve the Jewish community, the children from the nearby French American school constantly are coming to the J to use the pool and the gym facility, and the preschool, many non-Jewish students, and the summer camps had many more non-Jewish students. Now, I've heard the concerns of the objectors, and they're afraid that the J will massively expand, thereby increasing traffic and possibly noise in the area, but nothing in this rezone allows that to happen. The rezone does not change the daily operation of the J at all, and any future changes in configuration are going to require design review and involve significant public processes.

(00:57:02):

And as a result, these objections really are premature as they are speculating about what might happen and what might happen is not a valid basis for a concurrent objection. The plan amendment is not a request to change the character of the property. It's a request to preserve it because for over 50 years, it's been what it is. And the center's one of the great things that's made the island a community for over a half a century. If you have an island full of homes, you have an island full of homes, you add a community center, you have a community. And this vote is more about the zoning. It's whether the community continues to have a place to benefit from the activities of the J. So I would request that you allow the Jay to have a viable path to repair and possibly replace its aging facility and continue to serve the community for generations to come.

(00:58:06):

Please approve this comprehensive plan amendment.

Examiner Olbrechts: (00:58:09):

Okay. Thanks, Mr. Lincoln. Well said. All right, let's move on to Mr. Jacobs. Mr. Jacobs, be sure to unmute yourself and we'll get you up on the video there. Uh-oh, we're still... Staff, are you having any trouble getting Mr. Jacob up?

Speaker 7 (00:58:39):

We're working on it, sir.

Examiner Olbrechts: (00:58:40):

Okay. All right. There he is. Okay, Mr. Jacobs, let me swear you in. Just raise your right hand. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Examiner Olbrechts:0 (00:58:53):

I do.

Examiner Olbrechts: (00:58:53):

Okay, great. Go ahead.

Examiner Olbrechts:0 (00:58:58):

Greetings, hearing examiner, staff, Zoom audience. My name is Thomas Jacobs. I've lived on the island for many decades. I live on East Mercer Way. For many years, I went to the downtown Seattle YMCA to play racquetball. I knew very little about the JCC. Then I found out that the J had racquetball. I joined around 2010. My wife joined in 2019. I'm so glad that we did. It's open to the general public. It's open to all. I find it to be warm and welcoming, safe, and secure. It's for all ages. There's activities for children, for teenagers, for young adults, for adults, for seniors. And the events, oh yes, the events, there's plays, there's movies, there's speakers, there's

Speaker 4 (00:59:50):

Comedians,

Examiner Olbrechts:0 (00:59:51):

There's cooking

Speaker 4 (00:59:52):

Classes.

Examiner Olbrechts:0 (00:59:53):

The fitness facilities are excellent. There's a pool, there's a basketball court, you

Speaker 4 (00:59:59):

Play

Examiner Olbrechts:0 (00:59:59):

Pickleball. The basketball court, racquetball court, a separate weight room. They also have a fitness room where there's any

Speaker 4 (01:00:10):

Kind

Examiner Olbrechts:0 (01:00:10):

Of weight machine that you'd like. They have rowing machines and stair steppers. All good. The fitness classes, I tell you, they're amazing. On Tuesdays, I've been doing Zumba class,

Speaker 4 (01:00:21):

Thursday

Examiner Olbrechts:0 (01:00:21):

Step class. Saturdays and Sundays, I play racquetball. I go to the men's locker room and I marvel at the cleanliness. I tell you, that place is spotless. I mean it. However, that being said, the J is aging. The time has come. In order to move forward with the renovation, there's an obstacle that needs to be overcome. The land use needs to be changed from single family use to commercial use. I'm not sure

how that happened. It's not single family. The J has been here for over 55 years. Let's move forward and get the

Speaker 4 (01:01:01):

Plans

Examiner Olbrechts:0 (01:01:01):

Authorized to prepare for the future. The J is a very

Speaker 4 (01:01:05):

Valuable

Examiner Olbrechts:0 (01:01:06):

Asset to the community. Let's give it the go ahead. Let's get over this hurdle. The JCC is a gem. Let it sparkle and shine again. Please remove the single family roadblock. Thank you.

Examiner Olbrechts: (01:01:19):

All right. Thank you, Mr. Jacobs. All right, looks like next on the list is Mr. Berstein. Looks like he's almost there. We got his black screen at this point. Okay. All right, Mr. Bernstein, there we are. Let me swear you in. Just raise your right hand. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Examiner Olbrechts:1 (01:01:58):

Yes, I do.

Examiner Olbrechts: (01:01:59):

Okay, fantastic. Thank you. Go ahead.

Examiner Olbrechts:1 (01:02:02):

Thank you. I'm here today to urge you to support rezoning the property of the Strom Jewish Community Center from residential to commercial. My name's Paul Berstein. My wife and I moved to Mercer Island 40 years ago, and we've been members of the JCC ever since. For us, for our children, and for our grandchildren, the JCC has been an important part of our lives. What are those of us supporting a rezone asking for? The JCC's land is zoned residential, but the land has never been residential and there are no plans for it ever to be residential. We're just asking that the J zoning be brought into line with reality. Why do so? Mercer Island has changed a lot during the 40 years since my family moved here and the almost 60 years since the J was built. We've got a Mercer Island community center, a rebuilt library, a new school, and updated school facilities, and a dramatically improved central business district.

(01:03:08):

Mercer Island is a 2020s community, not a 1960s community, and is the better for it. The JCC has grown and changed along with the rest of Mercer Island, but it's stuck. Even with the modest improvements allowed under its current zoning, it's still a 1960s facility. Does Mercer Island, moving forward in so many areas, want to force the J to remain a relic from the 1960s? I hope not. I hope the J will be allowed to be part of Mercer Island's progress, a JCC for the 2020s and a vital part of our community. The JCC's

leadership is visionary. It has plans for the J that will improve it beyond measure. If you approve a rezone, you will make that possible. I urge you to do so. Thank you.

Examiner Olbrechts: (01:04:02):

Okay. Thank you, Mr. Bernstein. All right, last on our list so far is Matt Goldbach. And Mr. Goldbach, make sure you're unmuted. That's audio but there... Okay, there we are. We got your black screen, so we should be getting your video here pretty soon. Start my video. There we are. Okay, Mr. Goldbach, let me swear you in. Just raise your right hand. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Examiner Olbrechts:2 (01:04:44):

I do.

Examiner Olbrechts: (01:04:44):

Oh, great. Go ahead.

Examiner Olbrechts:2 (01:04:46):

Well, I have to say, I concur with most of what everyone has said so far in that the J is a good institution and there certainly are a lot of happy members that support them. I do not support their change to commercial. I'm a neighbor and contrary to what's been said by many people, the J has not been particularly friendly with their neighbors over the last few decades. It's been pretty much a constant battle and anyone that's been around a while knows the CFZ, which is one of the things that an original change of zoning was very contentious, caused a major upheaval in our city, lost many, many staff due to that, and ultimately was just put aside and didn't happen. The problem that I see as a neighbor is the ability of the JCC to stay in whatever confines that are put upon them.

(01:05:48):

I submitted in my written testimony a copy of a notice of violation of the J. This was originally reported by residents because the city has no actual code checking people out there. And the residents noted these infractions to the city in May of 25. It took the city months to send even a notice to the J saying they think they're in violation. Could they talk about it? I don't know how those conversations went, but in late December and early January, the city of Mercer Island sent notices of violation to the J, to specifically Amy Levin, and there's no public record of the J responding to any of these. Then later, and what I sent the city was notice of violations by the J from the city. And in that notice, it states that they should have no permits considered while they're in violation. They have not appealed the violation and currently owe the city in excess of $50,000 in penalties.

(01:07:07):

Note that neither the city nor the applicant has mentioned that they're out of conformance with city code, and I'm surprised the city is ignoring, as they have so many times in the past, violations by the J, and those are documented, provide that data to you.

(01:07:30):

For that reason, giving them a commercial designation would provide them with significantly more flexibility to cause problems to their neighbors. The CUP, which is used by all the other community organizations, it does have limitations, admittedly, but it does also allow the residents to have a voice, the residents of Mercer Island, the taxpayers of Mercer Island, to have a voice in what happens on Mercer Island by nonprofits in particular. Everybody else is okay, just the J, over and over and over. My

neighbors and I, last time around, spent over $40,000 in legal fees. Yeah, they didn't get their way. We didn't get our 40 grand back either, by the way. Again, if this goes forward, that'll be the same scenario. The residents will get together, pool their money, hire legal counsel and go to the growth management board. I caution you, just suggest that you consider the fact that nobody told you about these violations and this ongoing problem with the residents.

(01:08:50):

And that's basically all I want to say about it. Again, I will say the J does a good job. I was a member of the J for many years. I don't think that's an issue. I don't think anybody's saying that's not the case. We're talking about zoning here, and I think that's what we want to stay focused on. Thank you very much.

Examiner Olbrechts: (01:09:09):

Okay. Mr. Goldbeck, just a question for you. You mentioned you had submitted written comment identifying those notices of violation. Do you know, was that part of the commentary on the comprehensive plan amendment? You might've heard at the beginning of the hearing we got those comments in because I haven't seen that written comment, so I'm assuming that -

Examiner Olbrechts:2 (01:09:29):

I'll tell you, I did submit them then.

Examiner Olbrechts: (01:09:32):

Okay.

Examiner Olbrechts:2 (01:09:33):

I submitted them again. Molly texted me this morning stating that she had them and would provide them to you.

Examiner Olbrechts: (01:09:42):

Oh, okay. And Ms. McGuire, can you maybe answer that question at this point? Is that part of the up to the, what was it, the 17.92 or something or part of the 300?

Speaker 4 (01:09:53):

Yes. Mr. Goldbach's comment was included as 17.94.

Examiner Olbrechts: (01:09:57):

Okay. All right, perfect. So we got you in. Thank you. Thank you, Mr. McGuire. Thank you, Mr. Goldbach. All right, let's jump up to Mr. Hall then. And Mr. Hall, this time we'll have to swear you in once we get your video and audio in there.

Speaker 3 (01:10:24):

Hello.

Examiner Olbrechts: (01:10:26):

Let's see. You're almost there. There you are. Okay, let me swear you in. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Speaker 3 (01:10:34):

Yes, I do.

Examiner Olbrechts: (01:10:34):

Okay, great. Go ahead.

Speaker 3 (01:10:37):

I've been a neighbor since 1958 before the JCC was even here. They've been a horrible neighbor to our neighborhood. The city has not included any of the complaints over the last 50 years, which there's hundreds of them. I have in particular two specific properties that should be not included in this to protect our neighborhood. Parcel 265500136 at 9824 Southeast 40th Street has a long history as a residential property and buffer. The JCC previous sought to use this property as a daycare and was denied by the city. There is a designated wetland area to the west and a 60-foot green belt in perpetuity to the east that was intended to help protect the neighborhood, yet this residential property has been most recently used for outdoor daycare activities against the CUP conditions. Also, parcel 265500132 at 3985 99th Avenue Southeast is also residential property. The JCC purchased it, but has remained a residential residence.

(01:12:05):

Simply purchasing a residential property should not create an expectation that it can later be incorporated into an industrial rezone. And that is really the precedent I'm asking you to consider tonight. And if an institution can purchase neighboring residential homes and then gradually have those properties rezoned for industrial use, where does that expansion stop? Residents rely on zoning when they purchase and maintain their homes. The existing restrictions have maintained a balance between the JCC and the neighborhood for decades. I respectfully ask you to protect the balance and preserve the residential zoning of these properties and deny the comprehensive plan amendment and rezone applications. Thank you.

Examiner Olbrechts: (01:12:58):

Okay. Thank you, Mr. Hall. All right. It looks like we still have... Well, let me ask staff, is there any members of the public left who want to say anything at this point? I see we don't have any raised hands.

Speaker 2 (01:13:12):

We actually have a few who signed up to speak. I can call them and then see if they -

Examiner Olbrechts: (01:13:17):

Sure. Yeah. Why don't you do that just in case. Yeah.

Speaker 2 (01:13:20):

Jill Handley. Jill, could you raise your hand if you are in attendance? Doesn't look like it. Anastasia Miranova, please raise your hand if you're in attendance. And Pavel Sturba. Okay. It doesn't look like they are in attendance, but we just want to make sure.

T

Examiner Olbrechts: (01:13:51):

We'll go back to Ms. McGuire then. Any rebuttal comments you want to make, Ms. McGuire? Any other information to present?

Speaker 4 (01:14:00):

Not at this time. Thank you, Mr. Alexander.

Examiner Olbrechts: (01:14:02):

Okay. Just one quick question for you. Yeah, I was glad to see that the traffic impact analysis was done.

Speaker 4 (01:14:09):

And

Examiner Olbrechts: (01:14:11):

I mean, that information becomes pertinent if you're rezoning in an area where the traffic infrastructure isn't doing very well, you're at failing intersections, that kind of stuff. What is the surrounding traffic infrastructure like in this area? Can it handle all that? I mean, I realize there's going to be a concurrency review, but it still doesn't make much sense to allow a rezone in an area where you've got a bunch of intersections operating in LOSF. So I was just kind of curious, I mean, can you make any comments in general about the surrounding infrastructure there?

Speaker 4 (01:14:45):

Yeah, I will say that the levels of service were analyzed most recently in the spring of this year when the SJCC and the French American School properties were operating already as commercial uses. And again, the rezone itself would not generate trips, but future development proposals may and traffic impact analysis would be required for any trips in excess of 10 trips.

Examiner Olbrechts: (01:15:20):

Oh,

Speaker 4 (01:15:20):

Right.

Examiner Olbrechts: (01:15:21):

Okay. Okay. All right. Thanks, Ms. McGuire. All right, and that's it from staff, right? Okay. Ms. Clawson, anything from the applicant?

Speaker 5 (01:15:30):

No, not at this time. Thank you.

Examiner Olbrechts: (01:15:32):

Okay. All right. Well, I'll go ahead and close the hearing and yeah, a lot to think about on this one. It certainly puts my gym membership to shame. Obviously, it's a great facility out there. Of course, we have competing issues to consider. One is the necessity for the difference in zoning to the community

and the consistency with the comp plan. And a major factor in that, of course, is compatibility of surrounding uses, whether it makes sense to allow a greater intensity of development in this area. I'm sure as Ms. Clawson, a land use attorney, appreciates that the comp plan amendment is the major obstacle to the applicant's plans here. If they get the comprehensive plan amendment approved ultimately, then it's kind of a downhill struggle from that point because state law and the city's development regulations require the rezone to be consistent with the comprehensive plan.

(01:16:29):

I think everyone who's interested in this project can find some comp plan policies that support their position. But the way you kind of reconcile those competing policies is the law requires that the most specific comprehensive plan policies prevail over anything that's more general. And usually 99% of the time, the most specific comprehensive plan policy you're dealing with is the comprehensive plan land use map. And if it says thou shalt have these three implementing zones, then those are the implementing zones that have to be approved, and it just comes down to an issue of which implementing zone is most appropriate for this location at this point. So if this plan amendment is contingent upon the city council approving that comp plan amendment, and if it's approved, legally my council's options are limited as to whether or not they approve the rezone, so they have to do something that's consistent with that plan map.

(01:17:30):

So it's going to be a likely recommendation for approval just based on that factor alone, but there are the other issues to consider as well. And also I do have to make clear, I think that's kind of a common misunderstanding is that these land use hearings, it's not a vote issue where you kind of go the way that most people want you to go. It really is based on the code criteria. And as I said, the code criteria here are primarily consistency with the comp plan and compatibility surrounding uses. That's what it boils down to. So that's what I'll be focusing my analysis on, and I'll make sure that the city council gets a good summary at least of all the concerns that were raised by everybody, all the letters in support and that kind of stuff that will all be noted so the council knows, and I'm sure they're aware of the community interest as it is already anyway.

(01:18:23):

So I thank you all today for taking time off from work or whatever you were doing to participate in this hearing, and I want you to have a great rest of the day. We're adjourned, so have a great day. Thank you.