



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND**

**AB 6909
April 21, 2026
Regular Business**

AGENDA BILL INFORMATION

TITLE:	AB 6909: GMA Compliance – Policy Direction on Development Code Amendments	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	<ol style="list-style-type: none"> 1. Direct staff to set the inclusionary zoning requirements at 10 percent of units to be affordable at 50 percent AMI when drafting code amendments to comply with the GMHB Order. 2. Direct staff to prohibit adult entertainment and warehousing in the TC-8 subarea when drafting code amendments to comply with the GMHB Order. 3. Direct staff to include policy direction in the Station Subarea Plan to review the requirement for average daylight plane, major site features, and major façade modulation during Station Subarea Plan Phase 2. 	

DEPARTMENT:	Community Planning and Development
STAFF:	Jeff Thomas, Community Planning and Development Director Alison Van Gorp, Community Planning and Development Deputy Director Adam Zack, Principal Planner
COUNCIL LIAISON:	n/a
EXHIBITS:	<ol style="list-style-type: none"> 1. Inclusionary Zoning and Fee in Lieu of Affordable Housing Policy Brief 2. Town Center Zoning Amendments Policy Brief 3. Town Center Design Standards Policy Brief
CITY COUNCIL PRIORITY:	n/a

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

EXECUTIVE SUMMARY

The purpose of this agenda item is to receive City Council direction on a series of policy questions related to the Development Code amendments that are necessary to address Growth Management Act (GMA) compliance under the Growth Management Hearing Board (GMHB) Order (see Exhibits 1-3).

- The City completed a periodic review and update of the Mercer Island Comprehensive Plan, which was adopted by the City Council on November 19, 2024 (see [AB 6573](#)).
- The 2024 Comprehensive Plan was appealed to the GMHB on the grounds that the Comprehensive Plan did not adequately plan for and accommodate future affordable housing needs (GMHB Case No. 25-3-0003). On August 1, 2025, the GMHB issued a final decision and order (GMHB Order).
- The GMHB Order found that the City must make changes to its Comprehensive Plan to comply with the Washington State Growth Management Act (GMA). Specifically, the City must amend its Comprehensive Plan to address the following four issues:
 1. Land Capacity: Analyze residential land capacity at each housing affordability level and close any identified gaps.
 2. Adequate Provisions: Adopt incentives, mandatory provisions, and planned actions (“aka adequate provisions”) that will increase the supply of affordable housing.
 3. Station Subarea Plan: Adopt a subarea plan for the area around the transit station.
 4. Anti-Displacement Measures: Adopt anti-displacement measures to address the potential displacement that can occur with changes in zoning.
- Additional policy direction is needed in order for staff to draft the development code amendments necessary to implement prior Council direction.
- Exhibits 1 through 3 include additional discussion, analysis, and a staff recommendation for each policy direction requested.
- Council policy direction is requested on these three topics:
 - What rate and affordability level should be required by the new inclusionary zoning (Exhibit 1)?
 - Should “adult entertainment” and “warehousing” be allowed land uses in the new TC-8 subarea (Exhibit 2)?
 - Should the Town Center design standards that affect floor area ratio be reviewed during Phase 1 or 2 of the Station Subarea Plan (Exhibit 3)?

BACKGROUND

GROWTH MANAGEMENT HEARINGS BOARD FINAL DECISION AND ORDER

Cities and counties in Washington State are required to adopt a comprehensive plan under the Growth Management Act (GMA). The comprehensive plan is a statement of goals and policies that detail how a county or city will manage and accommodate future growth. The goals and policies of the comprehensive plan are implemented through capital investments, development regulations, and programs. The GMA requires cities and counties to periodically review and update their comprehensive plans on a ten-year cycle. Mercer Island most recently completed a periodic review and update of its Comprehensive Plan in 2024 (see [AB 6573](#)).

The 2024 adoption of the Mercer Island Comprehensive Plan periodic review and update was appealed to the Growth Management Hearings Board (GMHB) on the grounds that the Comprehensive Plan did not adequately plan for and accommodate future affordable housing needs (GMHB case number 25-3-0003). On August 1, 2025, the GMHB issued a Final Decision and Order (GMHB Order) and remanded the Comprehensive Plan to the City for revisions due by July 31, 2026.

The Comprehensive Plan adopted in 2024 remains in effect during the remand, but the City must complete work to update the plan and comply with the timeline established by the GMHB Order (RCW 36.70A.300(3)(b)). The compliance timeline is one year from when the GMHB issued its decision; work must be completed by July 31, 2026. Failure to comply with the GMHB Order may result in sanctions against the City (RCW 36.70A.340).

The GMHB Order requires the City to address four issues:

1. Land Capacity: Analyze residential land capacity at each housing affordability level and close any identified gaps.
2. Adequate Provisions: Adopt incentives, mandatory provisions, and planned actions (“aka adequate provisions”) that will increase the supply of affordable housing.
3. Station Subarea Plan: Adopt a subarea plan for the area around the transit station.
4. Anti-Displacement Measures: Adopt anti-displacement measures to address the potential displacement that can occur with changes in zoning.

A more in-depth description of the GMHB Order and its implications is provided in [AB 6838](#), which was presented to the City Council on January 16, 2026.

MODIFIED STATION SUBAREA BOUNDARY MAP

On January 16, 2026, the City Council directed the staff to prepare a Modified Station Subarea Boundary (see [AB 6838](#)). The Growth Management Act (GMA) defines the station planning area as the lots that are partially or fully located within a half-mile walking distance from light rail station entrances (RCW 36.70A.030 (36)). A Modified Station Subarea Boundary may be adopted, subject to Department of Commerce approval. The Modified Station Subarea Boundary is based on four guidelines:

- | | |
|--------------------|---|
| Guideline 1 | Exclude City parks, open space, and the Interstate 90 corridor from the half-mile walking distance area. |
| Guideline 2 | Exclude additional areas that would be non-contiguous after removing City parks, open space, and the I-90 corridor. |
| Guideline 3 | Align the remaining walking distance area with City streets. |
| Guideline 4 | Follow existing zoning boundaries if City streets do not make a logical boundary. |

The process for developing the Modified Station Subarea Boundary and a step-by-step description of the effect of each guideline is provided in ([AB 6865](#)), and was presented to the City Council on February 17, 2026. Figure 1 summarizes the step-by-step application of the guidelines as described above followed by Table 1, which quantifies the land in the Modified Station Subarea Boundary. On March 17, 2026, the City Council approved the Modified Station Area Boundary for the purposes of GMA compliance ([AB 6888](#)).

Figure 1. Step By Step Application of Station Area Modification Guidelines.

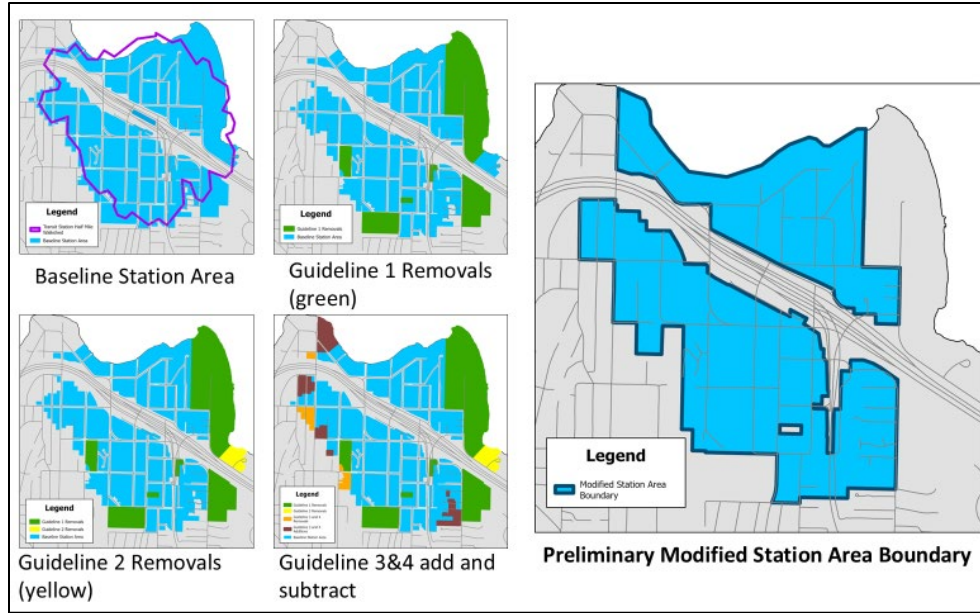


Table 1. Station Area Modification Summary

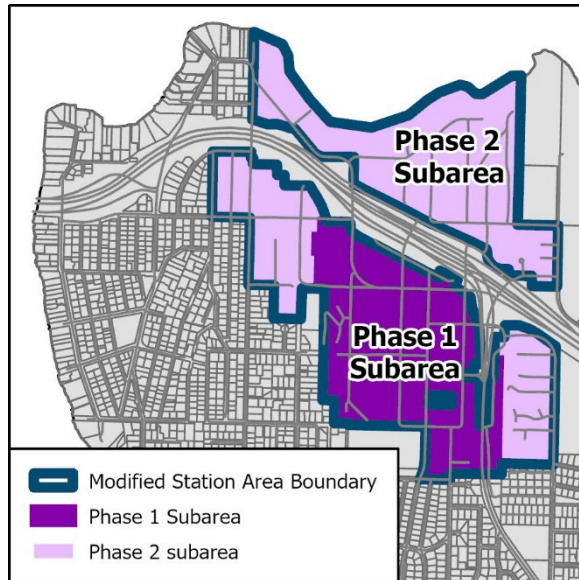
Baseline Station Area	341.6 acres
Area Removed By Guideline 1	100.4 acres
Area Removed by Guideline 2	6.85 acres
Area Removed by Guidelines 3 and 4	6.8 acres
Total Area Removed from the Baseline Station Area (Guidelines 1-4)	114.05 acres
Area Added by Guidelines 3 and 4	19.35 acres
Modified Station Area	246.9 acres

(Note: this total excludes rights of way)

LAND CAPACITY SCENARIOS

Coupled together with establishing the Modified Station Area Boundary is addressing the land capacity requirements of the GMHB Order and House Bill 1491 (2025). At the February 17, 2026 City Council meeting (see [AB 6865](#)), the Council directed that a two-phase approach be pursued to address land capacity changes. The first phase would establish the required transit station subarea and apply required upzones and additional development capacity to comply with the GMHB Order by July 31, 2026. The second phase of work, which would commence after July 31, 2026, would apply upzones and resulting development capacity increases to the rest of the station area to comply with the TOD bill implementation deadline in 2029. This second phase of work is referred to as the “Phase 2 Subarea”. The Phase 1 and 2 subareas are shown in Map 1.

Map 1. Phase 1 and 2 Subareas.



HOUSE BILL 1491 (TRANSIT-ORIENTED DEVELOPMENT (TOD) BILL)

Although compliance with the TOD bill will be pursued in the second phase of work, the background information is included in the agenda materials for continuity.

In 2025, the WA Legislature adopted House Bill 1491, also referred to as the TOD Bill. The TOD Bill requires cities and counties in Washington to designate station areas around light rail stations. Within the designated station area, cities and counties must allow “transit-oriented development” or (TOD). Cities in King County must comply with the TOD Bill by December 31, 2029. The planning requirements for the TOD Bill are established in RCW 36.70A.840 and require the following:

- Allow a Floor Area Ratio (FAR) of 3.5 throughout the station area (RCW 36.70A.840(2)(a)(i)).
- Allow multifamily and mixed-use development throughout the station area (RCW 36.70A.840(2)(a)).
- Cities may adopt a modification to a station area designation, but only after consultation with and approval by the WA Department of Commerce (RCW 36.70A.840(2)(b)).
- Cities may vary the maximum FAR throughout the station area provided the average does not fall below 3.5 (RCW 36.70A.840(6)).
- Require a percentage of affordable housing in multifamily and mixed-use development (RCW 36.70A.840(7)),
- Enact a multifamily tax exemption (MFTE) for affordable housing (RCW 36.70A.840(8)).
- Critical areas, critical area buffers, and the shoreline jurisdiction may be exempted from the requirements of RCW 36.70A.840.
- Cities may not require parking to be provided for residential development in the station area unless an empirical study reviewed and certified by the WA Department of Commerce demonstrates that the removal of parking minimums makes roads significantly less safe for automobile drivers or passengers, pedestrians, or bicyclists (RCW 36.70A.842).

The planning work related to compliance with the TOD bill will likely commence in 2027.

ISSUE/DISCUSSION

Policy direction from the City Council is needed to prepare draft Comprehensive Plan and Development Code amendments to address compliance work under the GMHB Order. The policy briefs included with this agenda bill outline the policy direction needed and analysis for each. The policy briefs are organized into three topics:

- Inclusionary Zoning (Exhibit 1)
- Town Center Zoning Amendments (Exhibit 2)
- Town Center Design Standards (Exhibit 3)

Inclusionary Zoning

Inclusionary zoning is a type of zoning that requires a set percentage of housing units to be income-restricted affordable housing units. There are two variables of inclusionary zoning that can be adjusted: (1) the percentage of units that must be affordable, and (2) the affordability level for the required affordable units. During the land capacity analysis and review of a potential fee in lieu affordable housing program, staff have identified the preferred percentage and affordability level as follows: require 10 percent of units be affordable at 50 percent of the Area Median Income (AMI). The analysis found that this rate and affordability level are the ideal levels to produce the needed units at 50 percent of the AMI and generate funding for lower-income units through participation in the fee in lieu program. More information on the analysis is provided in Exhibit 1.

To proceed with drafting the inclusionary zoning development code, staff need City Council direction on the rate and affordability level to be required by the inclusionary zoning.

Alternatives

- A. Set the inclusionary zoning requirement at 10 percent of units to be affordable at 50 percent AMI (Recommended).**
- B. Set the inclusionary zoning requirement at 15 percent of units to be affordable at 50 percent AMI

Town Center Zoning Amendments.

The City Council directed staff to prepare zoning amendments that would change the Town Center zone for Phase 1 of the Station Subarea Plan. This direction would amend the Town Center zone from six existing subareas to two: one subarea would be an eight-story mixed-use subarea called TC-8 and the other would be a six-story multifamily zone called TCMF-6. The TC-8 subarea will cover the existing Town Center zone, and the TCMF-6 subarea would cover the multifamily zones adjacent to the Town Center. The following City Council direction regarding the allowed uses in the new TC-8 subarea is needed before the updated development code can be drafted. Should adult entertainment and warehousing be allowed in the TC-8 subarea?

Allowed Uses

In order to amend the zoning in Town Center as directed, the tables established in MICC 19.11.020 – Land Uses will need to be amended. The land use tables establish what uses are allowed in the subarea and what permit process is required. Nearly all of the uses allowed in the TC subareas are the same except for “adult entertainment” and “warehousing”. Adult entertainment is allowed by conditional use permit in the existing TC-7 subarea and prohibited in the other subareas. Warehousing is allowed by conditional use permit in the TC-5 and TC-5 Plus subareas and prohibited in the TC-7 and TC-3 subareas.

Direction is needed on whether adult entertainment and warehousing should each be allowed in the TC-8 subarea. Further discussion of the issue is provided in Exhibit 2.

Alternatives

- A. Allow adult entertainment by conditional use permit in the TC-8 subarea
- B. Prohibit adult entertainment in the TC-8 subarea (recommended)**
- C. Allow Warehousing by conditional use permit in the TC-8 subarea
- D. Prohibit warehousing in the TC-8 subarea (recommended)**

Town Center Design Standards

Direction on whether the requirement for average daylight plane, major site features, and major façade modulation be removed during Station Subarea Plan Phase 1 or Phase 2 is needed. Further discussion of this issue is provided in Exhibit 3.

Average Daylight Plane

The requirement for average daylight plane reduces the ability for developers to achieve higher FAR by requiring upper story step backs at a 45-degree angle up to the maximum allowed building height. Requiring upper-story step backs reduces the maximum FAR allowed because it constrains overall building size. The average daylight plane standard will need to be reviewed for its impact on building FAR during the Station Subarea Plan Phase 2 because the City needs to allow an average minimum FAR throughout the station area.

Major Site Features

The development code requires at least one major site feature for major new development. The major site feature requirement reduces the allowed FAR by requiring major new construction to provide either a through-block connection or public open space, both of which would limit how much of the site can be developed.

Major Façade Modulation

The requirement for major façade modulation reduces the ability for developers to achieve higher FARs by requiring major new construction to provide vertical and horizontal modulation at intervals no greater than 120 feet.

Alternatives

- A. Remove the requirement for average daylight plane, major site features, and major façade modulation during Station Subarea Plan Phase 1.
- B. Keep the requirement for average daylight plane, major site features, and major façade modulation and adopt a policy to review these standards during Station Subarea Plan Phase 2 (recommended).**

NEXT STEPS

The GMA Compliance Legislative Review Schedule, presented as a separate agenda item (see AB 6911) at the April 21, 2026 City Council meeting, includes further details on next steps.

Master Schedule:

- April 29 – June 10: Planning Commission legislative review, public hearings and recommendations for City Council.
- June 16 – July 21: City Council review of Planning Commission recommendations, deliberation, and adoption.
- July 31: GMHB Order deadline.

September 15: Compliance hearing on GMHB Order.

BACKGROUND MATERIALS & REFERENCES

Background materials and previous agenda information is provided on the City’s Let’s Talk page (see [Comprehensive Plan GMA Compliance](#).) Summary of previous agenda materials:

January 16, 2026

- [AB 6838](#): Compliance with [Growth Management Hearings Board Final Decision and Order](#) related to the City of Mercer Island Periodic Update to the Comprehensive Plan Overview of City Council Planning Session.

February 17, 2026

- [AB 6865](#): Compliance with Growth Management Hearings Board Final Decision and Order Related to the City of Mercer Island Periodic Update to the Comprehensive Plan
- [AB 6866](#): GMA Compliance Public Engagement Plan
- [AB 6871](#): Legislative Review Alternatives to Help City Meet GMHB Order Compliance Deadline (Ordinance No. 26C-03 First Reading)

March 3, 2026

- [AB 6893](#): Compliance with Growth Management Hearings Board Order – Follow-Up Discussion on Financing Affordable Housing
- [AB 6890](#): Legislative Review Alternatives to Help City Meet GMHB Order Compliance Deadline (Ordinance No. 26C-03 Second Reading)

March 17, 2026

- [AB 6888](#): Final Approval of the Modified Station Subarea Boundary
- [AB 6894](#): Update on the Growth Management Hearings Board Order – GMA Compliance Work Plan

RECOMMENDED ACTION

1. Direct staff to set the inclusionary zoning requirements at 10 percent of units to be affordable at 50 percent AMI when drafting code amendments to comply with the GMHB Order.
2. Direct staff to prohibit adult entertainment and warehousing in the TC-8 subarea when drafting code amendments to comply with the GMHB Order.
3. Direct staff to include policy direction in the Station Subarea Plan to review the requirement for average daylight plane, major site features, and major façade modulation during Station Subarea Plan Phase 2.