

AGENDA

Finance and Economic Development Committee Meeting
Thursday October 8, 2015
5:30 p.m. – 6:50 p.m.
South Conference Room

- 1. Call to Order**
- 2. Approval of the September 17, 2015 meeting minutes**
- 3. Non Conformance Code**
Staff will provide a discussion and update on issues with the current Non-Conformance code, and seek direction from the Committee on a Draft Ordinance.
- 4. Economic Development Update**
Staff will provide an update on current and proposed Development.
- 5. Pacific Ridge Mixed Use Requirements**
Staff will provide a discussion on issues with the current mixed use requirements in Pacific Ridge, and seek direction from the Committee on a Draft Ordinance.

MINUTES

FINANCE & ECONOMIC DEVELOPMENT COMMITTEE MEETING

Thursday, September 17, 2015

South Conference Room

Council Members

Chair Matt Pina

Jeremy Nutting

Vic Pennington

City Staff

Tony Piasecki - City Manager

Michael Matthias – Asst. City Manager

Tim George – Asst. City Attorney

Denise Lathrop – Com. Development Mgr.

Autumn Lingle- Exec. Admin. Asst.

1. Call to Order

Chair Matt Pina called the meeting to order at 5:35 p.m.

2. Approval of the July 9, 2015 meeting minutes

Minutes approved as submitted

3. Approval of the August 13, 2015 meeting minutes

Minutes approved as submitted

4. Temporary Homeless Encampment Ordinance

Community Development Manager Lathrop gave an update on the Draft Ordinance changes related to Temporary Homeless Encampments.

- Added references to SKFR for inspections
- Removed “daily inspection” language
- Changed setback limits to 40’ from residential and 20’ from all other zones
- Changed quiet time to 7pm – 7am
- Changed violation notice to 5 days
- Limited the number of encampments to 1 per 365 days
- Removed “new locations” language for notice requirements

Next step is SEPA and a Public Hearing set for November 5.

Assistant City Attorney Tim George provided comparisons with other cities ordinances and advised the committee on state law parameters.

5. Adult Entertainment Ordinance

Assistant City Attorney Time George provided an update on the Draft Ordinance related to Adult Entertainment locations.

- Staff will work to eliminate ambiguous language from the ordinance to avoid confusion.
- Information regarding regulations and court decisions on adult entertainment that provide a history on municipal regulations.
- Verify distance between performer and customer
- Reminded the committee of the federal and state constitutional guarantees regarding freedom of expression as it pertains to adult entertainment.

6. Roof Top Structures

Community Development Manager Denise Lathrop lead the discussion on the City Council's Direction related to roof top structures on buildings located along Marine View Drive and seek further direction from the Committee. Topics discussed

- Zones affected
- Floor to area ratios
- Elevator equipment
- HVAC equipment
- Gardens
- Structural enhancements
- Acceptable vs. not acceptable
- Unintended consequences
- Camouflaging cell towers for blending

7. Non Conformance Code

Staff will provide a discussion on issues with the current Non-Conformance code, and seek direction from the Committee on a Draft Ordinance. Topics included

- Is application subjective
- Is it out of date
- Review City of SeaTac code
- Amend non-conforming language
- Renovation staying within original footprint

8. Marina/Port Options

Assistant City Manager Michael Matthias gave an update on Marina/Port Options

- Preliminary discussion with the Port of Seattle
 - Engaging with local development
 - Partnering with the City of Des Moines
- Determine Development area
- Parking/parking structures
- Storm water
- Rooftop gardens
- Boutique hotel
- Micro brewery
- Utilities
- Easements
- Workable marina
- Sustainability
- Create revenue stream
- Boating friendly
- Master plan development changes to code

The next meeting is scheduled for October 8, from 5:30-6:50p.m. in the South Conference room.

Adjourned at 6:50 p.m.

Respectfully submitted by,
Autumn Lingle, Executive Administrative Assistant

DRAFT

Chapter 18.15 NONCONFORMANCE

Sections

- [18.15.010](#) Title.
- [18.15.020](#) Application.
- [18.15.030](#) Purpose.
- [18.15.040](#) Authority.
- [18.15.050](#) Abatement of illegal uses, structures or site development
- [18.15.060](#) Special provisions for compliance with governmental regulations.
- [18.15.070](#) Substandard lots.
- [18.15.080](#) Nonconforming uses.
- [18.15.090](#) Nonconforming buildings, structures, or site development
- [18.15.100](#) Appeals.

18.15.010 Title.

This chapter shall be entitled "Nonconformance".

18.15.020 Application.

- (1) All nonconformance issues including, but not limited to, buildings, structures, lands, and uses shall be subject to the general provisions, conditions, and exceptions of this chapter.
- (2) Nothing in this chapter in any way supersedes or relieves the applicant from compliance with the requirements of the city's building codes, the International Building Code, the International Fire Code, and other construction-related codes as adopted and amended from time to time by the city.
- (3) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any nonconforming building, structure, or site development declared to be unsafe by order of any City official charged with protecting the public safety.
- (4) The provisions of this chapter shall apply to buildings, structures, land, and uses which become nonconforming as a result of the application of this Title to them, or from classification or reclassification of the property under this Title or any subsequent amendments thereto. If a use originally authorized by a variance, conditional use permit, or other valid use permit prior to August 3, 1964, is located within a zone in which such use is not permitted by the terms of this Title, such use shall be a nonconforming use. Uses

validly established prior to August 3, 1964, shall not be deemed nonconforming only because of failure to secure a conditional use permit required under this Title. |

Commented [D1]: How or should we modify this section?

18.15.030 Purpose.

The purpose of this chapter is to establish the legal status of a nonconformance by creating provisions through which a nonconformance may be established, maintained, altered, reconstructed, expanded or terminated, and the circumstances in which a nonconformance must be brought into compliance with the provisions of this Title. In particular, the intent of this chapter is to:

- (1) Ensure a reasonable opportunity for use of legally created lots which do not meet the minimum code requirements for the zone in which they are located.
- (2) Ensure a reasonable opportunity for use, maintenance and minor improvement of legally constructed buildings, structures and site development features, encourage a reasonable opportunity for a change of tenants using such buildings, structures, or features, even where those building, structures and features do not comply with development regulations prescribed by this Title, and provide more flexibility relative to structures and developments that were built in accordance with the codes and laws in effect at the time of construction.
- (3) Ensure a reasonable opportunity for continuation of legally established uses which do not conform to use regulations for the zone in which they are located.
- (4) Encourage the replacement of nonconforming uses having potentially undesirable impacts on conforming uses.
- (5) Encourage the upgrading of nonconforming buildings, structures, and site development features which do not comply with development regulations prescribed by this Title.

18.15.040 Authority.

This chapter is adopted pursuant to the authority set forth in DMMC [18.01.040](#).

18.15.050 Abatement of illegal uses, structures, or site development.

Any use, structure or site improvement that did not comply with the Zoning Code requirements in effect at the time it was established or constructed, and does not comply with the provisions of this Title, is illegal and shall be discontinued, terminated or brought into conformance with the provisions of this Title.

18.15.060 Special provisions for compliance with government regulations.

The provisions of this section will be followed regardless of any conflicting regulations of this chapter. Any regulations of this chapter which do not conflict with the provisions of this section are unaffected by this section.

(1) *Oil tanks.* Any excavation, development activity or construction performed to comply with the "Underground Storage Tanks; Technical Requirements and State Program Approval; Final Rules" ([40 CFR 280](#) and [281](#)), as now existing or as hereafter amended or with the provisions of Chapter [90.76](#) RCW, or any regulations adopted thereunder, may not be used as the basis, or part of the basis, for requiring that nonconformance on the subject property be corrected.

(2) *Governmental acquisition of property for right-of-way expansion.* A proposal for structural alterations or change in use shall not trigger a requirement otherwise applicable under [DMMC XX.XX.XXX \(FWRC 19.30.090\)](#) that an applicant correct an existing nonconformance as to lot coverage, minimum lot size, parking, landscaping, or setback requirements, if the nonconformance was created solely by a local, state, or federal government acquisition of property for right-of-way expansion, and if the proposal meets the following requirements:

- (a) The nonconformity is not, in any way, enlarged, expanded, increased, intensified, compounded, or in any other way made greater;
- (b) The applicant is making any alterations or changes or doing any work, other than tenant improvements, and the fair market value of the alteration, change or other work, in any one consecutive 12-month period, does not exceed 75 percent of the assessed or appraised value of the improvement. The appraisal must be from a state-certified real estate appraiser. For purposes of determining value under this subsection, improvements required pursuant to [DMMC XX.XX.XXX FWRC 19.30.090 \(nonconforming development\)](#) and/or [DMMC XX.XX.XXX \(19.30.110\) \(street/sidewalk improvements\)](#) shall not be counted towards the 75 percent threshold which would trigger application of this subsection; and
- (c) The proposal is otherwise consistent with the public health, safety, and welfare.

18.15.070 Substandard lots.

A. A lot, as defined in **DMMC XX.XX.XXX (TMC 18.06.500)**, which does not meet the minimum standard for average lot width for the zone in which it is located, may still be developed as a separate lot if the proposed use is one which is permitted in the zone, and the proposed development can comply with the remaining requirements of this Title regarding basic development standards for the applicable zone and other applicable land use and environmental requirements.

B. A lot, as defined in **DMMC XX.XX.XXX (TMC 18.06.500)**, which cannot meet the basic development standards (other than lot width) for the applicable zone and other applicable land use and environmental requirements, may be developed only if it is combined with adjacent lot(s) in a manner which allows the combined lots to be developed in a manner which does comply with the basic development standards for the applicable zone and other applicable land use and environmental requirements. In the event lots are combined in order to comply with the requirements of this subsection, a boundary line adjustment shall occur so that the combined lots are henceforth considered a single lot.

C. Nothing in this subsection shall be deemed to prevent the owner of a sub-standard lot from applying for or receiving approval of variances pursuant to **DMMC XX.XX.XXX (TMC Chapter 18.72)**.

18.15.080 Nonconforming uses.

Any preexisting lawful use of land made nonconforming under the terms of this Title may be continued as a nonconforming use, defined in **DMMC XX.XX.XXX (TMC Chapter 18.06)**, so long as that use remains lawful, subject to the following:

1. No such nonconforming use shall be enlarged, intensified, increased or extended to occupy a greater use of the land, structure or combination of the two, than was occupied at the effective date of adoption of this Ordinance;
2. No nonconforming use shall be moved or extended in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption of this Ordinance;
3. If any such nonconforming use ceases for any reason for a period of more than six consecutive months, any subsequent use shall conform to the regulations specified by this Title for the zone in which such use is located;
4. No existing structure devoted to a use not permitted by this Title in the zone in which it is located shall be structurally altered, except in changing the use of the structure to a use permitted in the zone in which it is located; except where minor alterations are made, pursuant to **DMMC XX.XX.XXX [TMC 18.70.050(1), TMC 18.70.060]**;
5. If a change of use is proposed to a use determined to be nonconforming by application of provisions in this Title, the proposed new use must be a permitted use in its zone or a use approved under a Conditional Use or Unclassified Use Permit process. For purposes of implementing this section, a change of use constitutes a change from one Permitted, Conditional or Unclassified Use category to another such use category as listed within this Title.
6. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone in which such structure is located, and the nonconforming use may not thereafter be resumed.
7. If a use existed on August 3, 1964, and such use is nonconforming only because it does not meet the requirements of this Title with respect to improvement of outside areas used for storage, parking, or outside activities, or if the property on which any use is located has a property line common with

residential property and no wall, fence, or hedge exists on such property line where required by this Title, such use shall be made to conform to the requirements of this Title with respect to such features within a period of not to exceed two years from the date of notification as required in DMMC [18.15.110](#).

Commented [D2]: Should we include this or not?

What about churches, schools, and other public uses - like in a commercial zone Are there "use" exceptions to the this rules?

18.15.090 Nonconforming building, structure, or site development.

Where a lawful building, structure or site development exists at the effective date of adoption of this Ordinance that could not be built under the terms of this Title by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure, it may be continued so long as the structure remains otherwise lawful, subject to the following provisions:

1. No such building, structure, or site development may be enlarged or altered in such a way that increases its degree of nonconformity.
2. Alterations to such building, structure or site development may be permitted, except as prohibited by subsection 6 of this section; provided that the alteration does not increase the area, height, or degree of an existing nonconformity. Complete plans shall be required of all work contemplated under this subsection.
3. Ordinary maintenance of a nonconforming building, structure, or site development is permitted, including but not limited to painting, roof repair and replacement, plumbing, wiring, mechanical equipment repair/replacement and weatherization. These and other alterations, additions or enlargements may be allowed as long as the work done does not extend further into any required yard or violate any other portion of this Title. When applicable, complete plans shall be required of all work contemplated under this section.
4. Should such building, structure, or site development be destroyed by any means to an extent of more than 50% of the King County assessed value of the improvements at the time of destruction, it shall not be reconstructed except in conformity with provisions of this Title.
 - a) This subsection shall not apply to reconstruction necessitated by a criminal act involving the property owner, including but not limited to arson.
5. Should such building, structure, or site development be moved for any reason or any distance whatsoever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.
6. Except for ordinary maintenance, as described in subsection 3 of this section, no structural alterations shall be made to a building, structure, or site development occupied by a nonconforming use except when made:
 - A. In order to comply with requirements of law; or
 - B. In order to accommodate a conforming use.

18.15.100 Appeals.

Notwithstanding and other provision of this Title, a decision of the Planning, Building and Public Works Director with respect to the application of any provision of this chapter shall be considered a Type 1 land use action, which is subject to appeal to the Hearing Examiner as provided in DMMC [18.20.150](#).

**Pacific Ridge Mixed Use Requirements
Option 1**

50. Mixed Use. This regulation applies to all parts of Table 18.52.010B that have a [50]. Mixed use shall be permitted in the PR-C Zone, except:

(a) In that part of PR-C fronting on Pacific Highway South and/or South 216th Street, dwellings may be located on the ground floor; provided, that they are accessed from the rear of the property; and provided, that the commercial uses in that portion of the building must front and be accessed from Pacific Highway South or South 216th Street;

~~(b) When a project fronting Pacific Highway South or South 216th Street contains more than one building, these buildings not fronting on Pacific Highway South or South 216th Street may be single purpose multifamily residential buildings; and~~ At least ___ % of the first floor of any mixed use building in PR-C south of South 216th Street shall contain a commercial use or at least ___ % of the entire building shall contain a commercial use.

(c) No residential use is permitted north of South 216th Street.

18.135.060 Environmental performance standards and general limitations.

Every use permitted within the PR Zone shall conform to the following general limitations and standards:

(1) Provisions Applicable to All PR Zones.

(a) Accessory uses are permitted that are customarily appurtenant or incidental to the principally permitted uses.

(b) Landscaping and screening are required in accordance with chapter [18.195](#) DMMC.

(c) Off-street parking and loading areas are required in accordance with chapter [18.210](#) DMMC.

(d) Mixed-use development shall conform to the following limitations and standards:

(i) Within the PR-C Zone, structures containing only residential uses are not allowed; and

(ii) On-site multifamily recreation area is required for developments with four or more dwelling units as provided by chapter [18.155](#) DMMC, except the minimum area of common recreation space per dwelling unit shall be 50 square feet and the private recreation space per dwelling unit shall be 40 square feet for buildings over 35 feet.

(e) New construction shall conform to applicable Federal Aviation Administration regulations, including Part 77, Federal Aviation Regulations, Objects Affecting Navigable Airspace, as presently constituted or as may be subsequently amended.

**Pacific Ridge Mixed Use Requirements
Option 2**

50. Mixed Use. This regulation applies to all parts of Table 18.52.010B that have a [50]. Mixed use shall be permitted in the PR-C Zone, except:

(a) In that part of PR-C fronting on Pacific Highway South and/or South 216th Street, dwellings may not be located on the ground floor. That part of the ground floor fronting on Pacific Highway South and/or South 216th Street must be commercial, but may contain lobby space serving any residential floors above. Parts of the ground floor behind the commercial space may contain uses supporting upper residential floors; provided, that they are accessed from the rear of the property; and provided, that the commercial uses in that portion of the building must front and be accessed from Pacific Highway South or South 216th Street;

~~(b) When a project fronting Pacific Highway South or South 216th Street contains more than one building, those buildings not fronting on Pacific Highway South or South 216th Street may be single purpose multifamily residential buildings;~~

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