

AGENDA

Finance and Economic Development Committee Meeting
Thursday, June 8 2017
6:00 p.m. – 6:50 p.m.
South Conference Room

1. **Call to Order**
2. **Approval of the April 13th, 2017 meeting minutes**
3. **Sound Transit Update**
Staff will provide an update on the design elements on the FWLE project

DRAFT MINUTES

Finance and Economic Development Committee Meeting
Thursday April 13, 2017
6:15 p.m. – 6:45 p.m.
South Conference Room

Council Members

Chair Jeremy Nutting
Vic Pennington
Matt Pina

City Staff

Michael Matthias – City Manager
Dan Brewer – Chief Operations Officer
Denise Lathrop – Community Development Mgr.
Brandon Carver – Public Works Director
Dunyelle Mason – Finance Director
Grant Fredricks – Consultant

Guests:

Traci Buxton
Bob Pond

1. Call to Order

Chair Jeremy Nutting called the meeting to order at 6:20 p.m.

2. Approval of the March 9, 2017 meeting minutes

Minutes approved as submitted.

3. Potential Zoning Changes in Pacific Ridge (Resulting from Sound Transit Right-of-Way Acquisitions)

COO Dan Brewer presented a current zoning map for Pacific Ridge (PR) with a focus on PR-Commercial (PR-C) and PR-Residential (PR-R). Over the last decade zoning updates for Pacific Ridge were made in order to streamline the requirements for development. With Sound Transit extensions of light rail systems aligned with SR99 and WSDOT starting to acquire property for the SR509 improvements, this may be the appropriate time to consider making changes in the PR-R Zone especially south of South 224th Street.

Considerations:

- Previous PR Neighborhood Improvement Plan concentrated housing growth in this area to meet GMA (Growth Management Act) requirements
- If zoning changes are made from PR-R to PR-C, high density housing must be accommodated elsewhere
- Updating the SEPA Planned Action
- Defining a new zoning boundary between PR-R and PR-C

Benefits:

- Commercial opportunities
- Sound Transit noise buffering wall
- New businesses to support the community

Direction/Action:

The committee requested additional Sound Transit information as it becomes available. Additionally, the committee asked staff for another opportunity to review the PR Zoning Map.

The next meeting is scheduled for June 8, 5:30-6:20 pm in the South Conference room.

Adjourned at 6:45 p.m.

Respectfully submitted by,

Jodi Grager, Community Development Assistant

DRAFT

CITY ATTORNEY'S FIRST DRAFT 6/1/2017

DRAFT ORDINANCE NO. 17-073

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the Zoning Code and City land use and development regulations, and amending chapters 18.15, 18.20, 18.135, 18.190 and 18.195 DMMC to minimize the impact on property owners and tenants affected by the acquisition of right of way by Sound Transit and project design for the Federal Way Link Extension through Des Moines, a regional essential public transportation facility.

WHEREAS, the City Council acting through its standing committees directed City staff to prepare an ordinance for its consideration that both minimizes the impact of the acquisition of private property for the Federal Way Link Extension (FWLE), a regional essential public transportation facility, while helping to facilitate the project, engage the Pacific Ridge Neighborhood and minimize project costs, and

WHEREAS, the DMMC requires a twenty-five foot landscape buffer and a five foot berm for the portions of the FWLE adjacent to freeways, and

WHEREAS, a five foot berm with Sound Transit standard three to one side slopes would result in a thirty-five foot width exceeding the twenty-five foot width currently required, and

WHEREAS, the FWLE guideway design includes a concrete noise wall throughout most of Pacific Ridge with a minimum height of six feet to buffer the measured noise from the light rail train, SR 509 extension and I-5 traffic, and

WHEREAS, Sound Transit prefers a guideway edge design that includes a sound wall with architectural treatment, a five foot cleared maintenance access strip, a ten foot Sound Transit-maintained landscaped strip with a security fence on the western edge, and

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Draft Ordinance No. 17-073.4.1

WHEREAS, Sound Transit prefers a reduced landscape width to minimize the amount of right of way to be acquired from abutting property owners and also minimize project costs, and

WHEREAS, the City Council notes that Pacific Ridge is the most heavily impacted neighborhood along the entire FWLE project in terms of private property acquisitions and desires to minimize to the extent possible the impacts of right of way acquisitions on single and multi-family properties, and

WHEREAS, the City Council desires that the design represents the highest possible quality of urban and landscape design as validated by affected property owners and the Pacific Ridge Neighborhood, that it is a strong, complementary and integrating amenity of the Pacific Ridge Neighborhood, and that the landscape be tall and dense while incorporating Crime Prevention Through Environmental Design (CPTED) principles and features, and

WHEREAS, each of the 44 residential parcels acquired in whole or in part along the Des Moines portion of the FWLE are uniquely impacted by the right of way acquisition and design requiring administrative flexibility in the application of the DMMC and design of the FWLE, and

WHEREAS, at the May 18, 2017 City Council Public Safety and Transportation Committee, the June 8, 2017 Finance and Economic Development Committee, and the June 22, 2017 Municipal Facilities Committee meetings, staff discussed how the City's development regulations currently in effect would affect the acquisition of private property and property remaining after the acquisitions, and

WHEREAS, the City's Chief Operations Officer, acting as the SEPA responsible official, reviewed this proposed non-project action and determined that the proposed textual code amendments are within the scope of the existing environmental documents and fulfilled the SEPA requirements established by chapter 197-11 WAC and DMMC 16.05.04 pursuant to WAC 197-11-600 and DMMC 16.05.28, and

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Draft Ordinance No. 17-073.4.1

WHEREAS, the Chief Operations Officer, acting as the SEPA responsible official, determined this proposed project action is consistent with the FWLE EIS which satisfies the City's SEPA responsibilities, consistent with WAC 197-11-600 and DMMC 16.05.080 (2), and has adopted this document as being appropriate for this proposal pursuant to WAC 197-11-630, and

WHEREAS, the City Council set the date for the public hearing by Resolution No. 17-083, fixing the public hearing for _____, 2017 as required by DMMC 18.30.070, and

WHEREAS, the textual code amendments proposed in this Draft Ordinance were provided to the Department of Commerce as required by RCW 36.70A.106, and

WHEREAS, notice of the public hearing was issued on _____, 2017 in accordance with the DMMC, and

WHEREAS, a public hearing was held on _____, 2017 where all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the Title 18 DMMC amendments contained in this Ordinance comply with the requirements of chapter 36.70A RCW and are appropriate and necessary; now therefore,

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. DMMC 18.15.020, *Nonconforming Building and Uses Application* and section 3 of Ordinance No. 1655 and section 38 of Ordinance No. 1591 shown below, are each amended as follows:

18.15.020 Application.

(1) The foregoing regulations set forth in this Title shall be subject to the general provisions, conditions, and exceptions contained in this chapter.

(2) 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, 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.

(3) If a building, structure or land becomes non-conforming solely because of governmental acquisition of a portion of the property for an essential public transportation facility, the property will be considered legal non-conforming and the building, structure or use may continue.

Sec. 2. DMMC 18.15.030, *Nonconforming Building and Uses Purpose* and section 39 of Ordinance No. 1591 shown below, are each amended as follows:

18.15.030 Purpose.

This chapter regulates legal nonconforming lots, structures, uses, and other development situations, which were made nonconforming through the adoption of, or amendments to this code, or from governmental acquisition of property for right-of-way expansion for the

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Draft Ordinance No. 17-073.4.1

construction of essential public transportation facilities. This chapter also specifies those circumstances, conditions, and procedures under which such nonconformities may be permitted to continue, expand, or be modified.

Sec. 3. DMMC 18.190.200, *Location and height of wall, fence, or hedge*, and section 400 of Ordinance No. 1591 as amended by section 14 of Ordinance No. 1655 shall be amended to read as follows:

18.190.200 Location and height of wall, fence or hedge. In any Residential Zone a wall, fence, or hedge is permitted under the following conditions:

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(9) The height restrictions in this section may be modified by the Planning, Building and Public Works Director in accordance with DMMC 18.190.280 when the need for such modification results from governmental acquisition of property for right-of-way expansion or construction of essential public transportation facilities.

Sec. 4. DMMC 18.190.280, *Substandard or nonconforming lots in Single-Family Residential Zones*, and section 408 of Ordinance No. 1591 as amended by section 14 of Ordinance No. 1655 shall be amended to read as follows:

18.190.280 Substandard or nonconforming lots in ~~Single-Family Residential residential or Commercial Zones~~ zones.

In any ~~Single-Family Residential~~ residential or commercial Zonezone, a ~~single-family~~ dwelling or building may be established on a lot which cannot satisfy the lot area requirements of the zone; provided that:

~~(1i.)~~ All other bulk regulations shall apply, and

~~(2ii.)~~ The owner of such nonconforming lot does not own any adjoining vacant lots of record of continuous boundary to which the nonconforming or substandard lot can be merged in title or with which the lot lines can be adjusted to create lots of record which satisfy the lot area requirements of the zone or create a lot of record of greater area, and

~~(3iii.)~~ The owner of such nonconforming lot or lots has not received a fee interest in such lot or lots from a party who at any time subsequent to April 25, 1988, ~~or~~ held a fee interest in any adjoining lot of continuous boundary; and further provided, that limitation ~~(3)iii.~~ above shall not apply to a party who either (A) acquires a fee interest by enforcement of a security interest in such property where the security interest was created prior to April 25, 1988, or (B) has acquired such fee interest as the result of a judicial decree of partition by a court of competent jurisdiction-
, or

iv. In any residential or commercial zone, the owners of lots may request that the Planning Building and Public Works Director modify the environmental performance standards, general limitations and dimensional standards where those zone standards cannot be met solely because of the governmental acquisition of property for right-of-way expansion or construction of essential public transportation facilities.

Sec. 5. DMMC 18.195.140, *Landscaping adjacent to freeways* and section 425 of Ordinance No. 1591, shall be amended to read as follows:

18.195.140 Landscaping adjacent to freeways.

A Type II landscaping strip with a minimum width of 25 feet ~~and containing an earthen berm with a minimum height of five feet~~ shall be provided adjacent to freeways within all zones except Single-Family Residential and R-SE Zones. ~~A portion of the 25-foot strip may be partially located in the freeway right-of-way if permitted by the Washington State Department of Transportation and approved by the Planning, Building and Public Works Department.~~

Sec. 6. DMMC 18.195.420, *Modification of Landscaping Requirement(s)*, and section 453 of Ordinance No. 1591, shall be amended to read as follows:

18.195.420 Modification of landscaping requirement(s).

(1) The Planning, Building and Public Works ~~Department~~Director may authorize reduced width of plantings or waive some or all landscaping requirements in the following instances:

.....

(b) When architectural barriers or berms are incorporated into the design of the landscaping and contribute to the intent of the type of landscaping required and the minimum width of planting is not reduced by more than 50 percent, except that a reduction of more than 50 percent is allowed for construction of essential public transportation facilities in conjunction with governmental acquisition of property for right-of-way expansion;

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(d) When the inclusion of significant existing or proposed vegetation for located on the site would result in as good as or better satisfaction of the purposes of this chapter;

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(f) When conditions on or adjacent to the site, including differences in elevation, existing vegetation, location of existing structures or utilities, continuity of design concepts within a zone, emergency vehicle access or proposed noise walls would render application of requirements of this chapter ineffective or result in scenic view obstruction.

(g) When supported by a crime prevention assessment of their property or proposed project using principles from the crime prevention through environmental design (CPTED) program to see

or be seen to reduce opportunities for criminal activity to occur.

(h) When supported by landscape design plans submitted by an essential public transportation facility designer.

(2) An application for adjustment of landscaping requirements shall be filed on forms prescribed by the City, executed and sworn to by the owner or tenant of the property concerned or by duly authorized agents, or in landscape design plans submitted by the essential public transportation facility designer. Such application or landscape design shall clearly and in detail state what adjustments of requirements are being requested and the reasons such adjustments are warranted, and shall be accompanied with such supplementary data, such as sketches, surveys, and statistical information, as deemed necessary to substantiate the adjustment.

(a) The applicant shall give all owners of property located within 100 feet of any boundary of the subject property written notice of the proposed alternative landscaping within 20 days of filing an application or finalizing the design of the essential public transportation facility unless an alternate public review and notice process is provided for in a development agreement as covered in (3) below. The Planning, Building and Public Works Department shall allow 15 days for comment before making a decision.

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(3) The provisions of this section do not apply to regional essential public transportation facilities when the City and the project agree to process the project with a development agreement pursuant to RCW 36.70B.

Sec. 7. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 8. Effective date. This Ordinance shall take effect and be in full force five (5) days after its final approval by the Des Moines City Council in accordance with law.

PASSED BY the City Council of the City of Des Moines this _____ day of _____ and signed in authentication thereof this _____ day of _____, 2017.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____