

ORDINANCE NO. 1467

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, relating to regulation of automotive repair and maintenance uses in the PR-C-1 Zone of Des Moines Municipal Code, and amending DMMC 18.31.040.

WHEREAS, outright permitted uses for the PR-C-1 Zone are listed in DMMC 18.31.040, and

WHEREAS, there are provisions in DMMC 18.31.040 DMMC allowing for a maximum of three automotive repair and maintenance uses in the PR-C-1 Zone that are categorized under the North American Classification System (NAICS) use code numbers 811111, 811112, and 811191, and

WHEREAS, there are also provisions in DMMC 18.31.040 DMMC allowing for a maximum of one development with enclosed building area for automobile body, paint, interior and/or glass repair as categorized under the North American Classification System (NAICS) use code number 81112, and

WHEREAS, there are no provisions, however, in DMMC 18.31.040 that recognize the historical use of property and improvements made to property which support automotive repair and maintenance uses, and

WHEREAS, there are several business properties, including but not limited to property located at 22616 Pacific Highway South, which have been developed to serve and have been historically used for automotive repair, service, and maintenance purposes, but are unduly restricted in their ability to continue to operate under current zoning requirements, and

WHEREAS, the owner of property located at 22616 Pacific Highway South (Mr. Roy Dunn) has expressed to City staff that he has had difficulty obtaining business licenses for and leasing tenant spaces to businesses proposing certain automotive uses that his facility was specifically designed to serve, and

WHEREAS, the City Council received correspondence dated March 10, 2009 from Mr. Roy Dunn asking the City Council for assistance to resolve the conflict that exists between City use regulations and how his property was designed to function, and

WHEREAS, Mr. Dunn's property was developed with a newer, multi-tenant building designed to serve the automotive industry approximately three years prior to the enactment of current zoning laws limiting auto related uses in the Pacific Ridge Neighborhood area, and

WHEREAS, the City Council requested that City staff evaluate use regulations in City's PR-C-1 Zone and determine if a modifications to the existing code were necessary, and

WHEREAS, City staff researched the automotive repair and maintenance use issue, prepared a memorandum dated May 6, 2009 outlining circumstances surrounding this issue as it relates to Mr. Dunn's property, and identified a potential solution, and

WHEREAS, current use regulations in the PR-C-1 Zone appear to be unduly burdensome and make it difficult for Mr.

Dunn to fully use his property as it was designed and developed, and

WHEREAS, the City Council directed City staff to prepare an ordinance for its consideration which would reconcile the automotive repair and maintenance use regulation conflict, and

WHEREAS, notice of the public hearing was given to the public in accordance with law and a public hearing was opened on the September 10, 2009, and all persons wishing to be heard were heard, and

WHEREAS, the City Council stated that provisions in the Draft Ordinance presented at the September 10, 2009 meeting were not adequate and directed staff to make further modifications, and

WHEREAS, the City Council continued the public hearing to October 22, 2009 to allow changes to be made by City Staff, and

WHEREAS, the City Council clarified that it is not the intent of the Pacific Ridge zoning regulations to impede or eliminate the ability of property owners who previously and historically used their properties for general automotive maintenance and repair use from continuing to use those properties for such uses while the redevelopment of other properties in Pacific Ridge was occurring, and

WHEREAS, the City Council resumed the public hearing on October 22, 2009, provided additional opportunity for all persons wishing to be heard, and completed the public hearing, and

WHEREAS, pursuant to DMMC 18.56.080 amendment of the Zoning Code (Title 18 DMMC) is a legislative (Type VI) land use decision, and

WHEREAS, the textual code amendments proposed by this ordinance have been processed in accordance with the requirements of SEPA, a determination of nonsignificance (DNS) was issued on August 17, 2009 by the responsible official, and the applicable SEPA comment period has concluded, and

WHEREAS, the textual code amendments proposed in this ordinance were provided to the Department of Community, Trade and Economic Development as required by RCW 36.70A.106, and

WHEREAS, the City Council finds that the amendments contained in this ordinance are appropriate and necessary; now therefore,

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

Sec. 1. DMMC 18.31.040 and section 2 (part) of Ordinance No. 1267 are each amended as follows:

18.31.040 PR-C1 - Permitted uses. Only those uses listed below, and uses similar in nature as determined by the community development director, are permitted in the PR-C1 Zone. Uses are more fully described in the "North American Industrial Classification System". Listed uses may be otherwise conditioned in this code. The numbers in parentheses following each of the following listed uses refer to North American Industrial Classification System (NAICS) code numbers:

(1) Retail trade (44-45), except the following:

(a) Automobile dealers (4411);

(b) Other motor vehicle dealers (4412);

(c) Tire dealers (44132);

(d) Manufactured (mobile) home dealers (45393);

(e) Heating oil dealers (454311); and

(f) Other fuel dealers (454319);

(2) A maximum of one gasoline station (447) is permitted within the PR-C1 Zone. Buildings containing only a gasoline station are not subject to the minimum building height provisions contained in this chapter;

(3) Limousine service (485320) when primarily contained within an enclosed structure;

(4) Postal service (491);

(5) Couriers and messengers (492);

(6) Information establishments (51), except telecommunication (5133), which is regulated by Title 20 DMMC;

(7) Finance and insurance (52);

(8) Real estate and rental and leasing (53), except the following:

(a) Lessors of miniwarehouses and self-storage units (53113);

(b) Automotive equipment rental and leasing (5321); and

(c) Commercial and industrial machinery and equipment rental and leasing (5324);

(9) Professional, scientific, and technical services (54), except off-premises signs (billboards) which are regulated by chapter 18.42 DMMC;

(10) Management of companies and enterprises (55);

(11) Administrative and support services (56), except the following:

(a) Repossession services (561491);

(b) Services to buildings and dwellings (5617); and

(c) Waste management and remediation services (562);

(12) Educational services (61);

(13) Health care and social assistance (62), subject to the following limitations:

(a) The following uses are prohibited:

(i) Outpatient mental health and substance abuse centers (62142);

(ii) Hospitals (622);

(iii) Residential mental retardation, mental health, and substance abuse facilities (6232);

(b) Permitted nursing and residential care facilities (623) and community care facilities for the elderly (6233) are allowed only within the residential portion of a mixed-use building;

(14) Arts, entertainment, and recreation (71) subject to the following limitations:

(a) The following uses are prohibited:

(i) Spectator sports (7112);

(ii) Amusement, gambling, and recreation industries;

(b) Adult entertainment facilities and adult motion picture theaters (no NAICS code) are prohibited within 500 feet of the property lines of churches, common schools, day care centers, public facilities, or other adult entertainment facility or adult motion picture theater;

(15) Accommodation and food services (72), limited to the following:

(a) Hotels (72111), subject to the following:

(i) Casino hotels and motels are prohibited; and

(ii) Hotels and resort hotels are further allowed as follows:

(A) Hotels and resort hotels shall contain a minimum of 125 guest rooms; and

(B) Hotels and resort hotels shall contain meeting room facilities; and

(C) A maximum of six hotel and/or resort hotel developments shall be allowed within the PR-C1 Zone; and

(D) A maximum of 1,500 guestrooms shall be allowed within the PR-C1 Zone;

(b) Food services and drinking places (722), subject to the following provisions:

(i) Fast food restaurants (722211) are allowed only in conjunction with a permitted use;

(ii) Mobile food services (72233) are regulated by chapter 5.57 DMMC;

(iii) Drive-through facilities are prohibited;

(iv) Buildings containing only a full-service restaurant (72211) are not subject to the minimum building height provisions contained in this chapter;

(16) Other services (81), subject to the following limitations:

(a) The following uses are prohibited:

(i) Carwashes (811192), except automotive detail shops;

(ii) Other automotive repair and maintenance (811198);

(iii) Death care services (8122);

(iv) Industrial launderers (812332); and

(v) Commercial parking lots and garages (812930);

(b) Automobile body, paint, interior, and/or glass repair (81112), General automotive repair (811111), Automotive exhaust system repair (811112), Automotive transmission repair (811113), and Automotive oil change and lubrication shops (811191) shall be allowed in the PR-C1 Zone provided that all of the following requirements shall be met:

(i) The proposed use shall be located within a building constructed on or before October 30, 2009, and said building is or has been previously used for such use, and

(ii) The proposed use shall be fully located within an enclosed building area, and

(iii) Any building or structure that the proposed use is located or proposed to be located within shall not be expanded or enlarged in gross floor area or volume after October 30, 2009, and

(iv) Any business owner proposing to use a building or structure that the proposed use is located or proposed to be located within shall demonstrate to the City of Des Moines, South King Fire and Rescue, and Puget Sound Clean Air Agency that quantities, storage, and transport of hazardous materials are properly managed, work areas provide adequate containment to avoid pollution runoff, and facilities are equipped with proper pre-treatment devices to avoid discharge of pollutants to the air or public drainage systems;

(c) Pet boarding (812910) is allowed only in conjunction with a permitted use;

(17) Public administration (92), except the following:

(a) Correctional institutions (92214); and

(b) Parole offices and probation officers (92215);

(18) Mixed use (no NAICS code) when dwellings are located above the second story of the building;

(19) Public parks (No NAICS code); and

(20) Public utility facilities and appurtenances necessary for the distribution of

utility services to final customers within the immediate area.

Sec. 2. 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.

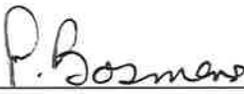
(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

Sec. 3. Effective date. This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

PASSED BY the City Council of the City of Des Moines this 22nd day of October, 2009 and signed in authentication thereof this 22nd day of October, 2009.


M A Y O R

APPROVED AS TO FORM:


City Attorney

ATTEST:


Interim City Clerk

Published: October 27, 2009

LEGAL NOTICE

SUMMARY OF ADOPTED ORDINANCE

CITY OF DES MOINES

ORDINANCE NO. 1467, Adopted October 22, 2009

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance relates to regulation of automotive repair and maintenance uses in the PR-C-1 Zone of Des Moines Municipal Code, and amends DMMC 18.31.040.

The full text of the ordinance will be mailed without cost upon request.

Autumn Lingle
Interim City Clerk

Published: October 27, 2009