ORDINANCE NO. 4006

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, THAT REMOVES THE SUNSET CLAUSE FROM THE REGULATIONS INITALLY ADOPTED WITH INTERIM ZONING ORDINANCE 3992, REMOVING THE SUNSET CLAUSE FROM THE PROVISIONS RELATING TO DEEMED WITHDRAWAL IN THE CASE OF IRRECONCILABLE DEVELOPMENT APPLICATIONS AND RECODIFICATION OF THE SECTION RELATED TO RESUBMITTAL OF DEVELOPMENT APPLICATIONS AFTER DENIAL.

WHEREAS, the Washington courts have stated that land use applications are subject to the legal doctrine of res judicata which affords every party one, but not more than one, fair adjudication of his or her application, Lejeune v. Clallam County, 64 Wn. App. 257, 266, 823 P.2d 1144, 1149 (1992); and

WHEREAS, it would not be in the public interest for the city staff to process multiple irreconcilable applications to develop the same property when it would be physically possible to construct only one such development; and

WHEREAS, the Edmonds Community Development Code had been silent on the legal effect of filing multiple irreconcilable applications to develop the same property; and

WHEREAS, in fairness to both the city and future applicants, the city council sought to clarify the legal effect of filing a subsequent irreconcilable application for development; and

WHEREAS, the city council adopted interim zoning ordinance 3992 on March 17, 2015, which adopted regulations clarifying the legal effect of submitting multiple irreconcilable applications to develop the same property; and

WHEREAS, the city council held a public hearing on interim ordinance 3992 on June 2, 2015; and

WHEREAS, the city council adopted findings of fact justifying interim ordinance 3992 with Resolution 1336, which was adopted on June 2, 2015; and

WHEREAS, the planning board considered these regulations during a work session on June 10, 2015 and a public hearing on July 8, 2015; and

WHEREAS, on July 8, 2015, the planning board voted unanimously to recommend that the city council adopt the irreconcilable applications regulations;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 20.02.004 of the Edmonds Community Development Code, entitled "Effect of irreconcilable applications on the same property," which was initially adopted with interim ordinance 3992 is hereby re-adopted without a sunset clause to read as follows:

ECDC 20.02.004. Effect of irreconcilable applications on the same property.

A. If an applicant submits an application that cannot be reconciled with a previously submitted application on the same property, the previously submitted application shall be deemed withdrawn by the applicant and it shall be rendered null and void. The director shall notify the applicant that the previously submitted application has been deemed withdrawn and will not be processed any further. Withdrawal shall be deemed to occur even when the city has finished processing the previously submitted application.

B. Many inconsistencies between applications can be reconciled through corrections that are made during the development review process. This section is not intended to treat all inconsistencies as effecting a withdrawal of the earlier application.

C. Without limiting the generality of subsection A, above, the following examples are intended to illustrate whether a subsequent application shall be deemed irreconcilable with an earlier application.

1. *Examples of irreconcilable applications that result in withdrawal.*

   a. Applicant submits an application for a four-lot short plat on a particular property. Subsequently, another application is submitted for a three-lot short plat on the same property. Assuming there is not enough land area for seven

lots, the two applications are irreconcilable because one could not construct both short plats. Hence, the four-lot short plat is deemed withdrawn.

b. Applicant submits a design review application for a twenty-unit multi-family housing development. Subsequently, another design review application is submitted for a thirty-unit multi-family housing development whose footprint would substantially overlap with the footprint of the structure shown for the twenty-unit application. Because both structures would occupy substantially the same space they are irreconcilable and the twenty-unit application would be deemed withdrawn.

2. *Examples of applications that may be inconsistent but are not irreconcilable resulting in withdrawal.*

a. Applicant submits an application for a four-lot short plat on a particular property. Subsequently, a building permit application is submitted for a single-family home the footprint of which would encroach into the setbacks as measured from the proposed short plat lot lines. Because the building permit application could be corrected to properly locate the footprint, the applications are reconcilable and do not effect a withdrawal of the short plat application.

b. Applicant submits a landscaping plan that is inconsistent in an insignificant way with civil site-improvement plans that are submitted for the same property. If the two sets of plans can be reconciled by submitting a corrected version of at least one of the two plans, then city staff would seek corrections and withdrawal would not be deemed to occur.

Section 2. Section 20.07.007 of the Edmonds Community Development Code, entitled "Resubmission of application," which was initially recodified as Section 20.02.006 with interim ordinance 3992 is hereby recodified without a sunset clause to read as follows (new text is shown in underline; deleted text is shown in ~~strike-through~~):

ECDC 20.02.006. Resubmission of application after denial.

Any permit application or other request for approval submitted pursuant to this title that is denied shall not be resubmitted or accepted by the director for review for a period of twelve months from the date of the last action by the city on the application or request unless, in the opinion of the director, there has been a significant change in the application or a significant change in conditions related to the impacts of the proposed project.

Section 3. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

MAYOR DAVE EARLING

ATTEST/AUTHENTICATED:

CITY CLERK, SCOTT PASSEY

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY

JEFF TARADAY

FILED WITH THE CITY CLERK:	August 14, 2015
PASSED BY THE CITY COUNCIL:	August 18, 2015
PUBLISHED:	August 23, 2015
EFFECTIVE DATE:	August 28, 2015
ORDINANCE NO.	4006

SUMMARY OF ORDINANCE NO. 4006

of the City of Edmonds, Washington

On the 18th day of August, 2015, the City Council of the City of Edmonds, passed Ordinance No. 4006. A summary of the content of said ordinance, consisting of the title, provides as follows:

> AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, THAT REMOVES THE SUNSET CLAUSE FROM THE REGULATIONS INITALLY ADOPTED WITH INTERIM ZONING ORDINANCE 3992, REMOVING THE SUNSET CLAUSE FROM THE PROVISIONS RELATING TO DEEMED WITHDRAWAL IN THE CASE OF IRRECONCILABLE DEVELOPMENT APPLICATIONS AND RECODIFICATION OF THE SECTION RELATED TO RESUBMITTAL OF DEVELOPMENT APPLICATIONS AFTER DENIAL.

The full text of this Ordinance will be mailed upon request.

DATED this 19th day of August, 2015.

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CITY CLERK, SCOTT PASSEY

Everett Daily Herald

Affidavit of Publication

State of Washington }
County of Snohomish } ss

Dicy Sheppard being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH653322 ORD 4005 & 4006 as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 08/23/2015 and ending on 08/23/2015 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is $46.44.

Dicy Sheppard

Subscribed and sworn before me on this 21 day of October 2015.

Debra Ann Grigg

Notary Public in and for the State of Washington.

City of Edmonds - LEGAL ADS | 14101416
SCOTT PASSEY

DEBRA ANN GRIGG
Notary Public
State of Washington
My Commission Expires
October 31, 2017

SUMMARY OF ORDINANCES
of the City of Edmonds, Washington

On the 18th day of August, 2015, the City Council of the City of Edmonds, passed the following Ordinances. Summaries of the content of said ordinances consisting of titles are provided as follows:

ORDINANCE NO. 4005

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING ECC SECTION 2.15.040 RELATING TO THE SALARY FOR THE MUNICIPAL COURT JUDGE; SETTING THE JUDGE'S SALARY AT NINETY-FIVE PERCENT OF A DISTRICT COURT JUDGE SALARY, PRO-RATED TO ACCOUNT FOR THE FTE LEVEL ESTABLISHED BY THE CITY COUNCIL.

ORDINANCE NO. 4006

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, THAT REMOVES THE SUNSET CLAUSE FROM THE REGULATIONS INITALLY ADOPTED WITH INTERIM ZONING ORDINANCE 3992, REMOVING THE SUNSET CLAUSE FROM THE PROVISIONS RELATING TO DEEMED WITHDRAWAL IN THE CASE OF IRRECONCILABLE DEVELOPMENT APPLICATIONS AND RECODIFICATION OF THE SECTION RELATED TO RESUBMITTAL OF DEVELOPMENT APPLICATIONS AFTER DENIAL.

The full text of these Ordinances will be mailed upon request.

DATED this 19th day of August, 2015.

CITY CLERK, SCOTT PASSEY