



Per Johnson < >

Thank you for your note (00015825)

Mike McGinn < >

Tue, Jul 19, 2011 at 3:47 PM

To: "

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Dear Per Johnson:

Thank you for writing to me about the location of an adult cabaret on Lake City Way. I understand your concerns, and agree with you that we need to balance the location of these cabarets with other community uses.

Exotic dancing or strip clubs, as adult cabarets are more familiarly called, are a form of expression that is protected under the United States Constitution and must be allowed within the city. While Seattle may not unilaterally choose to exclude these establishments, courts have held that a community may tailor regulations, such as zoning, to address such adult establishments.

In 2007, the City Council, after extensive public review and comment, and upon the advice of legal counsel and the Seattle Planning Commission, amended the City's Land Use Code to allow strip clubs in commercial and industrial areas around the city. The Council required that adult cabarets be no closer than 600 feet to any other similar establishment and 800 feet from any school, park, childcare or community center.

I believe that the Council appropriately addressed the concerns of many opponents to strip clubs in an effort to ensure that these forms of adult-oriented businesses are located in places that minimize their possible impact on the broader community. The locations of established parks, schools, community centers and childcare facilities were identified and mapped, to ensure that the City was not imposing rules that would preclude a reasonable number of sites from qualifying as a suitable location. Such de facto regulatory prohibitions would be frowned upon by the courts, and the City would risk losing not only its regulations, but could be subject to substantial financial penalties as well.

Regarding the Ryther Child Center, I am sympathetic to your concerns. Unfortunately, the Ryther Center is located outside the 800 foot radius from the site of the proposed adult cabaret. Once a permit has been requested, the City cannot legally change the code for the purpose of denying that permit. A permit must be adjudicated based on the code that is in place at the time the application is received.

While there are arguably other types of uses that one could identify as "inappropriate neighbors," it will likely never be possible to achieve consensus that we have identified all of them. The Land Use Code specifies what are believed to be the most sensitive uses where children are likely to be present, and carefully tailored the rules so that we have left adequate locations in consideration of first amendment guarantees.

Thank you for your work in the community. Please feel free to contact me again regarding this or any other concern.

Sincerely,

Mike McGinn
Mayor

Sign up for my newsletter:

Case #00015825

From: Per Johnson

Email: -----

Message:

To the honorable Mayor McGinn, Councilmember Conlin, Councilmember Clark, and the esteemed Diane Sugimura:

I am writing in regards to a permit that DPD has issued for an adult cabaret establishment at the former location of the Seven Seas Restaurant along Lake City Way in northwest Wedgwood. I know you have received many letters, emails, and phone calls about this proposed and constitutionally protected business. In fact, I have written before questioning why 'safe places' for children and adults recovering from sexual and emotional abuses, such as the Ryther Child Center, are not protected by the code from these adult cabaret's as schools and public space are.

However, I am writing to question what I believe is an inadequate interpretation of a vague section of the code regarding what "has been established by permit or otherwise recognized as a legally established use:..." I have recently become aware of a state-licensed daycare, located at 9118 20th Ave NE, Seattle, WA 98115.

This daycare, located 600 feet well within the 800 foot buffer or dispersion area of the proposed adult cabaret. Equally important is it is recognized by the State Department of Early Learning's Child Care Check database as fully-licensed child care facility since 2000 and has been approved to provide care for for up to 6 children from ages 1 month to 7 years. (<https://apps.del.wa.gov/check/LicenseView.aspx?id=237884>)

It has been explained to me by David Miller, the Land Use Committee chair for our friends to the west at the Maple Leaf Community Council, that DPD had interpreted the code such that in-home daycare's do not meet the definition of 'child care.' Assuming this interpretation, as it has been explained to me, is true, I believe this interpretation does not capture the intent of the code in this particular situation.

I believe I understand the rationale of DPD's aforementioned interpretation, which suggests that anyone caring for a child or their neighbors child in an adjunct fasion in their home wouldn't meet the intent of the code. In this case, we have a child care use that has been licensed by the state for over 10 years serving members of the community in what happens to be someone's home. I do not believe that a daycare that has been "established by permit or otherwise recognized as a legally established use" yet does not have separate, off-site facilities should not be given the full protection of the code. These particular type of child care facilities, in fact, often serve a particular section of our community that is indeed unable to pay for child care provided by those businesses with the overhead that's associated with off-site facilities. I find it hard to believe Councilmember Conlin and the Council majority which passed this code language in 2005 intended the protections within the code to not apply to these constituents.

In summary, I would appreciate an explanation of the code and DPD's interpretation that affords the constitutionally-protected reasonable use of private property for uses such as adult cabaret's yet protects those children served at child care facilities (in-home or otherwise) that "has been established by permit or otherwise recognized as a legally established use:..." as the judiciary system has approved and the code explicitly intends.

Thank you for your thoughtful review and prompt reply.

Per Johnson
Wedgwood Community Council
Land Use Committee Chair