

## AGENDA

**DES MOINES CITY COUNCIL  
REGULAR MEETING  
City Council Chambers  
21630 11<sup>th</sup> Avenue South, Des Moines**

**August 14, 2014 – 7:00 p.m.**

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### CORRESPONDENCE

### COMMENTS FROM THE PUBLIC

### EXECUTIVE SESSION

The purpose of the Executive Session is to discuss Labor Negotiations under RCW 42.30.140(4)(a). The Executive Session is expected to last 20 minutes.

### BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

### PRESIDING OFFICER'S REPORT

### ADMINISTRATION REPORT

Item 1: DESTINATION DES MOINES UPDATE

### CONSENT AGENDA

Page 1 Item 1: APPROVAL OF VOUCHERS

Motion is to approve for payment vouchers and payroll transfers included in the attached list and further described as follows:

Claim Checks: \$917,804.38

Payroll Fund Transfers: \$947,155.21

Total Certified Wire Transfers, Voids, A/P and Payroll Vouchers: \$1,864,959.59

Page 3 Item 2: DRAFT RESOLUTION NO. 14-153-A, OFFICIAL NAMING OF THE DES MOINES BEACH PARK HERITAGE TRAIL

Motion is to pass Draft Resolution No 14-153-A, naming and designating the Des Moines Beach Park Heritage Trail as the "Carmen L. Scott Des Moines Beach Park Heritage Trail."

Page 7 Item 3: INTERLOCAL AGREEMENT BETWEEN THE CITY OF DES MOINES AND THE HIGHLINE SCHOOL DISTRICT FOR A SCHOOL RESOURCE OFFICER AT MT. RAINIER HIGH SCHOOL

Motion is to approve the three year agreement between the City of Des Moines and the Highline School District for the City to provide a police officer to serve as a school resource officer and for the District to compensate the City \$65,000 a year for the ten months the officer will be assigned to the school as described in the Interlocal Agreement, and to authorize the City Manager to sign the Agreement substantially in the form as submitted.

Page 17 Item 4: INTERLOCAL COOPERATION AGREEMENT FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG)  
Motion is to approve the 2015-2017 Interlocal Cooperation Agreement for the Community Development Block Grant Program (CDBG) and to authorize the City Manager to sign the King County Interlocal Cooperation Agreement for the Community Development Block Grant Program (CDBG) for a three-year period, 2015, 2016 and 2017, substantially in the form as attached.

Page 31 Item 5: SOUTH KING COUNTY GAY PRIDE DAY PROCLAMATION  
Motion is to approve the Proclamation declaring September 14, 2014 as *South King County Gay Pride Day*.

Page 35 Item 6: INTERLOCAL COOPERATION AGREEMENT FOR THE REGIONAL AFFORDABLE HOUSING PROGRAM (RAHP)  
Motion is to approve the 2015-2017 King County Interlocal Cooperation Agreement for the Regional Affordable Housing Program and to authorize the City Manager to sign the King County Interlocal Cooperation Agreement for the Regional Affordable Housing Program for a three-year period, 2015, 2016 and 2017, substantially in the form as attached.

#### **PUBLIC HEARING**

Page 57 Item 1: DRAFT ORDINANCE NO. 14-143, MARINA DISTRICT BUILDING HEIGHTS  
Staff Presentation: Community Development Manager  
Denise Lathrop

Page 153 Item 2: DRAFT ORDINANCE NO. 14-137, STREET VACATION OF PUBLIC RIGHT OF WAY WITHIN THE CITY OF DES MOINES KNOWN AS 5<sup>TH</sup> PLACE SOUTH, SOUTH OF SOUTH 287<sup>TH</sup> STREET  
Staff Presentation: Civil Engineer I Tommy Owen

#### **OLD BUSINESS**

Page 183 Item 1: PACIFIC HIGHWAY SOUTH SUBAREA PLANNING – LAND USE OPTIONS  
Staff Presentation: Community Development Manager  
Denise Lathrop

#### **NEXT MEETING DATE**

September 4, 2014

#### **ADJOURNMENT**

## Consent Agenda Item #1

**CITY OF DES MOINES**  
**Voucher Certification Approval**

**14-Aug-14**

**Auditing Officer Certification**

Vouchers and Payroll transfers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing, which has been made available to the City Council.

As of **August 14, 2014** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the attached list and further described as follows:

The vouchers below have been reviewed and certified by individual departments and the City of Des Moines Auditing Officer.

<b>Claims Vouchers:</b>		<b>Numbers</b>				<b>Amounts</b>
Total A/P Checks/Vouchers		140135	-	140354	220	862,186.29
Electronic Wire Transfers	3	BANK OF AMERICA VISA, DEPT OF REVENUE				55,618.09
<b>Subtotal for this Council Packet</b>						<b>917,804.38</b>
Voided Claim Checks this check run:						0.00
Voided Claim Checks from <b>previous</b> check runs						0.00
<b>Total Claims/Wire Transfers/Voids</b>						<b>917,804.38</b>
<b>Payroll Vouchers:</b>						
<b>DISBURSED 07/21/14</b>						
Payroll Checks		18515	-	18523	= 9	12,469.93
Direct Deposit		290001	-	290168	= 168	292,937.16
Payroll Taxes						65,134.04
Wage/Garnishments						1,066.91
Voids					0	0.00
Electronic Wire Transfers						82,102.93
ICMA 401 Forfeitures						0.00
<b>Total Claims</b>						<b>453,710.97</b>
<b>Payroll Vouchers:</b>						
<b>DISBURSED 08/05/14</b>						
Payroll Checks		18524	-	18535	= 12	29,372.15
Direct Deposit		310001	-	310175	= 175	291,045.95
Payroll Taxes						73,528.66
Wage/Garnishments						1,066.91
Voids					0	0.00
Electronic Wire Transfers						98,430.57
ICMA 401 Forfeitures						0.00
<b>Total Claims</b>						<b>493,444.24</b>
<b>Total certified Wire Transfers, Voids, A/P &amp; Payroll vouchers for August 14, 2014</b>						<b>1,864,959.59</b>



**A G E N D A I T E M**

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Official Naming of the Des Moines  
Beach Park Heritage

FOR AGENDA OF: August 14, 2014

DEPT. OF ORIGIN: Mayor Kaplan

ATTACHMENTS:

- 1. Draft Resolution No. 14-153-A

DATE SUBMITTED: August 8, 2014

CLEARANCES: *PB*

- Legal *PB*
- Finance N/A
- Marina N/A
- Parks, Recreation & Senior Services *GO*
- Planning, Building & Public Works N/A
- Police N/A
- Courts N/A

APPROVED BY CITY MANAGER  
FOR SUBMITTAL *W. de / ACM*

**Purpose and Recommendation**

The purpose of Draft Resolution No. 14-153-A is to name and designate the Des Moines Beach Park Heritage Trail as the "Carmen L. Scott Des Moines Beach Park Heritage Trail."

**Suggested Motion**

Motion: "I move to pass Draft Resolution No. 14-153-A, naming and designating the Des Moines Beach Park Heritage Trail as the 'Carmen L. Scott Des Moines Beach Park Heritage Trail.'"

**Background**

Carmen L. Scott has served Des Moines community for twenty-two years as a member of the Des Moines Planning Agency and as a Des Moines City Councilmember. She is an outstanding citizen, dedicated community leader, steadfast historic advocate and revered photographer.

Carmen L. Scott was directly involved in many important projects in Des Moines, the most significant being her leadership to acquire the Covenant Beach Bible Camp for use as the Des Moines Beach Park in 1987.

Ms. Scott spearheaded the nomination of the Des Moines Beach Park for its listing on the State Historical Register in 1988 and provided extensive research and photographic work to support the listing of the Des Moines Beach Park on the Des Moines Historic Register in 2005 and on the National Historic Register in 2006.

Carmen's devotion to the protection, documentation, restoration, and interpretation of the Beach Park Historic District is credited for ensuring that this important cultural resource, the "Birthplace of Des Moines" is retained for future generations.

The Des Moines City Council wishes to express its heartfelt gratitude and honor the tremendous contributions Carmen L. Scott provided during her many years of distinguished service to our City.

### **Discussion**

The Des Moines City Council wishes to name and designate the Des Moines Beach Park Heritage Trail in honor of Carmen L. Scott to become known as the "Carmen L. Scott Des Moines Beach Park Heritage Trail" for her three decades of passionate work to save the Des Moines Beach Park Historic District for future generations.

### **Alternatives**

None Provided

### **Financial Impact**

No Impact

### **Recommendation or Conclusion**

None Provided

## CITY ATTORNEY'S FIRST DRAFT 08/08/2014

## DRAFT RESOLUTION NO. 14-153-A

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON**, honoring former Councilmember Carmen L. Scott for her service to the City of Des Moines by naming and designating the Des Moines Beach Park Heritage Trail as the "Carmen L. Scott Des Moines Beach Park Heritage Trail."

**WHEREAS**, Carmen L. Scott and her family became members of the Des Moines community and subsequently grew to be involved with every community event and a supporter of the programs and causes that benefit not only our youth and seniors, but the general Des Moines population as well, and

**WHEREAS**, Carmen L. Scott served the community as a member of the Des Moines Planning Commission for ten years from 1978 to 1987, and

**WHEREAS**, following ten years of service on the Planning Commission, Carmen L. Scott was elected to the Des Moines City Council for three four-year terms from January 1988-December 1991 and then again from January 2006-December 2009 and January 2010-December 2013, and

**WHEREAS**, during her tenure on the City Council, Carmen L. Scott was appointed by the Council to serve on the Finance and Economic Development Committee and as the Chair of the Municipal Facilities Committee, and

**WHEREAS**, Carmen L. Scott was designated by City Council as the City of Des Moines' official photographer, served on the City's 50<sup>th</sup> Anniversary Committee, and was the City Council's liaison to the Arts Commission and to the Des Moines Waterfront Farmers Market, and

**WHEREAS**, Carmen L. Scott served the community on the City's Landmarks Commission, on the Des Moines Historical Society, on the Des Moines Legacy Foundation and on Destination Des Moines, and

**WHEREAS**, Carmen L. Scott was directly involved in many important projects in Des Moines, the most significant being her leadership to acquire the Covenant Beach Bible Camp for use as the Des Moines Beach Park in 1987, and

**WHEREAS**, Carmen L. Scott spearheaded the nomination of the Des Moines Beach Park for its listing on the State Historical Register in 1988 and provided extensive research and photographic work to support the listing of the Des Moines Beach Park on the Des Moines Historic Register in 2005 and on the National Historic Register in 2006, and

Resolution No. 1273

Page 2 of 2

**WHEREAS,** Carmen L. Scott worked tirelessly to photographically document, protect and restore the Des Moines Beach Park's historic buildings for the last 26 years, and created the award winning Des Moines Beach Park Heritage Trail interpretive signage in 2010 that depicted the story of the Des Moines Beach Park as "The Birthplace of Des Moines", and

**WHEREAS,** on behalf of the all of the citizens of Des Moines, the City Council wishes to express its heartfelt gratitude and honor the tremendous contributions Carmen L. Scott provided during her many years of distinguished service to our City; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:**

**Sec. 1.** The City Council honors Carmen L. Scott for her service to the Des Moines community as an outstanding citizen, dedicated community leader, steadfast historic advocate, revered photographer, and for twenty two years of public service as a member of the Des Moines Planning Agency and as a Des Moines City Councilmember.

**Sec. 2.** The City's Des Moines Beach Park Heritage Trail shall be named and designated in honor of Carmen L. Scott and shall be known as the "Carmen L. Scott Des Moines Beach Park Heritage Trail" in recognition of her three decades of passionate work dedicated to the acquisition, protection, restoration, interpretation, and continued use of the Des Moines Beach Park Historic District for future generations.

**ADOPTED BY** the City Council of the City of Des Moines, Washington this 14th day of August, 2014 and signed in authentication thereof this 14th day of August, 2014.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

## A G E N D A I T E M

### BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

**SUBJECT:**

Interlocal Agreement between the City of Des Moines and the Highline School District for a School Resource Officer at Mt. Rainier High School

**ATTACHMENTS:**

- 1) Interlocal Agreement between the City of Des Moines and the Highline School District for a School Resource Officer at Mt. Rainier High School

**FOR AGENDA OF:** August 14, 2014
**DEPT. OF ORIGIN:** Police
**DATE SUBMITTED:** July 29, 2014
**CLEARANCES:**
 Legal JO
 Finance PL
 Marina N/A
 Parks, Recreation & Senior Services N/A
 Planning, Building & Public Works N/A
 Police COM
 Courts N/A
**APPROVED BY CITY MANAGER**
**FOR SUBMITTAL:** JMM/ACM
**Purpose**

This three (3) year agreement will allow for the continuation of the School Resource Officer program at Mount Rainier High School. The current agreement in place with the Highline School District expired on June 30, 2014. The District desires to continue the SRO program for another three (3) years and has informed the city it can contribute \$65,000 a year towards the annual expense of the ten months an officer is assigned to the School Resource Officer Program totaling \$195,000 related to this Agreement. The agreement would be in place for the 2014-2015, 2015-2016 and 2016-2017 school years.

**SUGGESTED MOTION:**

"I move to approve the three year agreement between the City of Des Moines and the Highline School District for the City to provide a police officer to serve as a school resource officer and for the District to compensate the city \$65,000 a year for the ten months the officer will be assigned to the school as described in the Interlocal Agreement, and to authorize the City Manager to sign the Agreement substantially in the form as submitted."

## **Background**

The City of Des Moines started the School Resource Officer Program at Mount Rainier High School in the year 2000 with a grant from the Federal Government. The funding and the obligation under the grant ended in 2004. In 2005 the City of Des Moines entered into an Interlocal Agreement with the Highline School District to continue the program with the District paying for ten months of an officer's salary and benefits each year of the agreement. These agreements have remained in place until this year. Both city staff and the district staff desire to continue this program.

## **Discussion**

Staff at Mount Rainier High School, the School District Administration, and the Police Department, believe this is a very beneficial program and would like to see it continue. Incidents of school violence continue to be a grave concern with all public schools. Incident of assault, drug and gang activity do occur at the school and this program helps serve as a deterrent. The program also allows and provides for a strong police nexus to the youth in our community at a time and place in their development when they can be influenced by many negative factors. It is helpful to have an officer in the school community who can develop a rapport with the youth in a non confrontational setting.

The existing program allows for the School Resource Officer to move between Highline School Campuses within the City of Des Moines to help deal with police related incidents and also permits the assigned officer to work on traffic related enforcement concerns near campuses. This has proven beneficial for the City because it allows additional traffic enforcement around the school zones. The School Resource Officer will continue to be based out of Mt. Rainier High School but maintains the flexibility to address other school campus' issues. In addition, if needed the police department still has the ability to temporarily re-assign the officer up to 20 hours a week to include holidays or school vacations.

## **Financial Impact**

The District agrees to compensate the City of Des Moines \$65,000 a year towards salary and benefits for the officer assigned to the School Resource Officer position for the ten months an officer is assigned as a School Resource Officer. The estimated annualized cost for salary and benefits is \$134,000 making the obligation to the city \$69,000 to continue the program. Funding for the city's portion of this program will be absorbed within our current adopted 2014 police department budget as well as from future police department budgets under the patrol division.

## **Recommendation or Conclusion**

The School District and the Police Department have developed a very positive relationship and are very supportive of this program. It is in the interest of both the City of Des Moines and the Highline School district to continue with this program. It is staff's recommendation for the Council to approve the agreement.

**INTERLOCAL AGREEMENT  
For  
SCHOOL RESOURCE OFFICER  
Between**

**THE CITY OF DES MOINES and HIGHLINE SCHOOL DISTRICT 401**

In Accordance with the Interlocal Cooperation Act (RCW 39.34), the City of Des Moines (“The City”), and Highline School District 401 (“The District”), each of which is a Washington Municipal Corporation, hereby enter into the following INTERLOCAL AGREEMENT:

**RECITALS**

**WHEREAS:**

- A. The District and the City desire to promote law enforcement and related services to Mount Rainier High School and other Highline District Schools within the City;
- B. A School Resource Officer Program has been proposed for Mount Rainier High School with additional services to other Highline District Schools within the City as hereinafter described;
- C. The District and the City recognize the potential benefits of the School Resource Officer Program to the citizens of the City and particularly to the students and staff of Mount Rainier High School; and
- D. It is in the best interest of the citizens and residents of the District and the City to establish this program,

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein contained, the Parties agree as follows:

**I. TERM of AGREEMENT and RENEWAL**

- 1.1 This Agreement shall be for three (3) school years.
- 1.2 This Agreement shall commence as of September 1, 2014 and shall terminate as of June 30, 2017.
- 1.3 This Agreement may be renewed by written agreement of all of the Parties.
- 1.4 This Agreement may be terminated by either party by 90 ninety (90) days written statement of termination directed to the other party. Should the Agreement be terminated by either party, the City will reimburse the District on a prorated basis for any months remaining on the Agreement that the District has previously paid at a rate of one-tenth of the annual fee for each full month.

## II. SCHOOL RESOURCE OFFICER PROGRAM CONTINUED

2.1 A School Resource Officer Program has been established between the City of Des Moines Police Department (“Des Moines PD”) and Mount Rainier High School (“the High School”), with additional services to other Highline District Schools located within the City of Des Moines. Said program is hereby continued for the term of this Agreement.

2.2 Through the School Resource Officer Program, the High School and the Des Moines PD have committed to providing a safe, fun environment that promotes education and interaction with the students in a positive caring manner. This is accomplished with a committed partnership among the school, students, staff, parents, police department, and neighbors to enhance the schools and the community.

## III. RIGHTS AND DUTIES OF THE DES MOINES PD

3.1 The Chief of the Des Moines PD (“the Chief”) shall assign one (1) regularly employed police officer as a School Resource Officer (“SRO”) to the High School who will also provide additional services to other Highline District Schools located within the City of Des Moines.

3.2 The SRO shall be assigned to the school district for a minimum of twenty (20) hours per week while school is in session. Additional time may be authorized by the department at the request of the school district not to exceed a total of forty (40) hours per week subject to department approval and provided the SRO’s assistance is not required for other police activities away from the school. Absences from the school by the SRO during the school year for training or other Des Moines PD activities shall not exceed five (5) school days in duration at any one time. The Des Moines PD may temporarily reassign the SRO during school holidays and vacations.

3.3 The SRO shall also act as an instructor for specialized, short-term law enforcement related programs at the high school or other District schools within Des Moines when invited to do so by the principal or members of the faculty.

3.4 The SRO shall have the following additional duties and responsibilities:

3.4.1 When requested by the principal, the SRO shall attend parent/faculty meetings to solicit support and understanding of the program.

3.4.2 The SRO shall make himself/herself available for conferences with students, parents, and faculty members in order to assist them with problems of law enforcement or crime prevention in nature.

3.4.3 The SRO shall become familiar with all community agencies which offer assistance to youths and their families such as youth job placement assistance, mental health clinics, drug treatment centers, etc. The SRO shall make referrals to such agencies when necessary thereby acting as a resource person to the students, faculty, and staff of the school.

3.4.4 The SRO shall assist the principal in developing plans and strategies to prevent and/or minimize dangerous situations that may result in student unrest.

3.4.5 Should it become necessary to conduct formal police interviews with the students, the SRO shall adhere to the Police Department Policy and legal requirements with regard to such interviews.

3.4.6 The SRO shall take law enforcement action as required, including but not limited to appropriate law enforcement action against intruders and unwanted guests who may appear at the school and related school activities. As soon as practicable, the SRO shall make the principal of the school aware of any law enforcement action.

3.4.7 The SRO shall give assistance to other police officers in matters regarding his/her school assignment, whenever necessary.

3.4.8 The SRO shall patrol the assigned school and surrounding neighborhoods in order to identify, investigate, and prevent incidents involving weapons, violence, harassment, intimidation, and other law violations. The SRO may also be assigned investigations related to runaways, assaults, thefts, and truancy, provided such investigations relate to the students attending the school to which the SRO is assigned. The SRO may also be assigned or provide traffic enforcement duties at the schools and surrounding neighborhoods. Such duties may include school zone speed enforcement.

3.4.9 The SRO shall maintain detailed and accurate records of the operation of the School Resource Officer Program.

3.4.10 The SRO shall not act as a school disciplinarian, as disciplining students is a school responsibility. The SRO shall not perform any non-law enforcement functions. However, if the principal believes an incident is a violation of the law, the principal may contact the SRO and the SRO shall then determine whether law enforcement action is appropriate. School Resource Officers are not to be used for regularly assigned duties such as lunchroom duty. If there is a problem area, the SRO may assist the school until the problem is solved.

3.4.11 The SRO shall have a primary obligation to the City, not the School District. This contract and performance thereof by the City police officers shall not create any special relationship with any person or duties to protect any specific persons from harm or injury including the party signing this contract. The law enforcement/peacekeeping duties to be performed pursuant to this contract are the same in extent and scope as those provided by police officers to every member of the public.

3.4.12 Any exceptions to the above must be mutually agreed upon by the Chief of Police of the Des Moines PD, the School District, and the School Principal.

#### **IV. RIGHTS AND DUTIES OF THE DISTRICT**

4.1 The District shall provide the SRO with the materials and facilities necessary to the performance of the SRO duties at the High School.

4.2 The following materials and facilities are deemed necessary to the performance of the SRO's duties:

- 4.2.1 Access to a properly lighted private office with a telephone that may be used for general business purposes.
- 4.2.2 A location for files and records that can be properly locked and secured.
- 4.2.3 A desk with drawers, a chair, work table, filing cabinet, and officer supplies.
- 4.2.4 Access to a computer, and/or secretarial assistance.

#### **V. FINANCING OF THE SCHOOL RESOURCE OFFICER**

5.1 The District will compensate the City for a portion of the direct salary and benefits incurred for the assigned School Resource Officer for the ten month duration of the 2014-2015, 2015-2016 and 2016-2017 school years. The District will pay the City of Des Moines \$65,000 each school year for school resource officer services totaling \$195,000 related to this Agreement.

5.2 The City will invoice the District \$65,000 in salary and benefits to be incurred during the ten month period on or before the first day of each school year.

5.3 Any overtime hours requested and authorized by either party to this Agreement shall be paid by the party requesting and authorizing the additional overtime hours. If the District requests and authorizes the overtime hours, the District will be separately invoiced for the direct salary and related benefits for the overtime hours worked by the assigned School Resource Officer.

#### **VI. EMPLOYMENT STATUS OF SCHOOL RESOURCE OFFICER**

The SRO shall remain an employee of the Des Moines Police Department, and shall not be an employee of the School District. The School District and the Chief acknowledge that the SRO shall remain under the direct supervision of the City of Des Moines Police Department.

## **VII. APPOINTMENT OF SCHOOL RESOURCE OFFICER**

- 7.1 The SRO must be a volunteer for the position with a minimum of three (3) years of law enforcement service or experience.
- 7.2 The appointment of the SRO shall be at the discretion of the Chief based upon:
- 7.2.1 A written application to the Chief that outlines his/her qualifications; and
  - 7.2.2 Input from the High School principal or the principal's designee and the District's Director of Safety and Security.
- 7.3 Additional criteria for consideration by the Chief shall include job knowledge, training, education, appearance, attitude, communication skills, and bearing.

## **VIII. DISMISSAL OF SCHOOL RESOURCE OFFICER; REPLACEMENT**

- 8.1 In the event the principal of the High School feels that the SRO is not effectively performing his or her duties and responsibilities, the principal shall recommend to the Superintendent of the District that the SRO be removed from the program and shall state the reasons therefore in writing. Within a reasonable time after receiving the recommendation from the principal, the Superintendent or his/her designee shall advise the Chief or his/her designee of the principal's request. If the Chief desires, the Superintendent and Chief, or their designees, shall meet with the SRO to mediate or resolve any problems. At such meeting, specified members of the staff of the school may be required to be present. If, within a reasonable amount of time after commencement of such mediation the problem cannot be resolved or mediated or in the event mediation is not sought by the Chief, then the SRO shall be removed from the program and a replacement shall be obtained.
- 8.2 The Chief may dismiss or reassign the SRO based upon Des Moines PD Rules, Regulations and/or General Orders and when it is in the best interest of the Parties, the students and the citizens of the City of Des Moines.
- 8.3 In the event of the resignation, dismissal, or reassignment of the SRO, or in the case of long term absences by the SRO, the Chief shall provide a temporary replacement for the SRO within thirty (30) school days of receiving notice of such absence, dismissal, resignation, or reassignment. As soon as practicable, the Chief shall appoint a permanent replacement for the SRO position.

## **IX. LIABILITY**

Each party shall be responsible and liable for the consequences of any act or failure to act on the part of itself, its employees and its agents. Each party shall be responsible for its own negligence; neither party shall indemnify nor hold the other party harmless.

## X. MISCELLANEOUS PROVISIONS

9.1 Effective Date. This Agreement shall be effective upon ratification by resolution of the governing body and execution by the Chief Executive Officer of each of the Parties.

9.2 Amendment. This Agreement may be amended only upon consent of all Parties hereto. Any amendment hereto shall be in writing and shall be ratified and executed by the Parties in the same manner in which it was originally adopted.

9.3 Waiver. The waiver by any Party of any breach of any term, covenant, or condition of this Agreement shall not be deemed a waiver of any subsequent breach of the same term, covenant, or condition of this Agreement.

9.4 Severability. If any provision of this Agreement shall be held invalid, the remainder of this Agreement shall not be affected thereby.

9.5 Entire Agreement. This Agreement represents the entire understanding of the Parties and supersedes any oral representations that are inconsistent with or modify its terms and conditions.

9.6 Counterparts. This Agreement shall be effective whether signed by all Parties on the same document or whether signed in counterparts.

9.7 Notices. Except as otherwise provided in this Agreement, any notice required to be provided under the terms of this Agreement, shall be delivered by certified mail, return receipt requested or by personal service to:

Dr. Susan Enfield, Superintendent  
Highline School District No. 401  
15675 Ambaum Boulevard SW  
Burien WA 98166

George M. Delgado, Chief of Police  
City of Des Moines Police Department  
21900 11<sup>th</sup> Ave. S  
Des Moines WA 98198

EXECUTED and APPROVED by the Parties in identical counterparts of this Agreement, each of which shall be deemed an original hereof, on the dates set forth below.

APPROVED AS TO FORM this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

CITY OF DES MOINES

By \_\_\_\_\_  
City Attorney of Des Moines

By \_\_\_\_\_  
Anthony A. Piasecki, Its City Manager

At the direction of the Des Moines City Council at an open public meeting on \_\_\_\_\_, 2014.

APPROVED AS TO FORM this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

HIGHLINE SCHOOL DISTRICT NO. 401

By \_\_\_\_\_  
Attorney for Highline School Dist. No. 401

By \_\_\_\_\_  
Dr. Susan Enfield, Its Superintendent



## A G E N D A I T E M

### BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Interlocal Cooperation Agreement  
For the Community Development Block Grant Program  
(CDBG)

ATTACHMENTS:

1. CDBG Interlocal Cooperation Agreement

FOR AGENDA OF: August 14, 2014

DEPT. OF ORIGIN: Parks, Recreation, &  
Senior Services

DATE SUBMITTED: July 29, 2014

CLEARANCES:

- Legal 
- Finance N/A
- Marina N/A
- Parks, Recreation & Senior Services 
- Planning, Building & Public Works N/A
- Police N/A
- Courts N/A

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

### Purpose and Recommendation

The purpose of this agenda item is to seek City Council approval of the 2015-2017 Interlocal Cooperation Agreement for the Community Development Block Grant Program (CDBG). Without this agreement, the City of Des Moines will not have the opportunity to apply for funding or have a voice for decisions made for our community during this timeframe.

### Suggested Motion

**Motion:** "I move to approve the 2015-2017 Interlocal Cooperation Agreement for the Community Development Block Grant Program (CDBG) and to authorize the City Manager to sign the King County Interlocal Cooperation Agreement for the Community Development Block Grant Program (CDBG) for a three-year period, 2015, 2016 and 2017, substantially in the form as attached."

### Background

The City of Des Moines is currently a participant with the King County Community Development Block Grant (CDBG) Consortium through an Interlocal Cooperation Agreement between King County and its

partners the cities and towns located in the County. Partnership allows the City of Des Moines to receive United States Housing and Urban Development (HUD) funding and affordable housing funds established in Section 36.22.178 of the Revised Code of Washington (RCW).

The deadline for HUD to receive all the signed Interlocal Agreements was July 28, 2014. On behalf of the City of Des Moines, King County is asking for an extension until August 15, 2014 to submit the Agreement.

### **Discussion**

Our participation in all of the HUD formula grants received by King County on behalf of the Consortium- CDBG, HOME and Emergency Solutions Grant (ESG) is covered by the attached CDBG Interlocal Cooperation Agreement. Des Moines is a member of the a South Sub- Group that makes annual funding allocation recommendations for our collective cities to the interlocal Joint Recommendations Committee (JRC) that was established through the 2009-2011 CDBG/HOME Consortium Interlocal Agreement and through King County Code Chapter 24.13.

Des Moines participation is important so that King County can receive maximum HUD funding to support our King County communities and to become eligible to be<sup>3</sup> the recipient of funds for Home Repair and Capital Infrastructure Projects.

### **Alternatives**

None

### **Financial Impact**

None

### **Recommendation or Conclusion**

It is recommended that the Motion be carried. Not signing the ILA excludes the City of Des Moines from any inclusion regarding CDBG projects for years 2015-2017.

**INTERLOCAL COOPERATION AGREEMENT  
REGARDING THE  
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS AGREEMENT is entered into by and between King County (hereinafter the “County”) and the City of Des Moines, (hereinafter the “City”), said parties to this Agreement each being a unit of general local government in the State of Washington.

**WITNESSETH:**

WHEREAS, the federal government, through adoption and administration of the Housing and Community Development Act of 1974 (the “Act”), as amended, will make available to King County Community Development Block Grant funds, hereinafter referred to as “CDBG”, for expenditure during the **2015, 2016 and 2017** funding years; and

WHEREAS, the area encompassed by unincorporated King County and all participating cities, has been designated by the United States Department of Housing and Urban Development (“HUD”), as an urban county for the purpose of receiving CDBG funds; and

WHEREAS, the Act directs HUD to distribute to each urban county a share of the annual appropriation of CDBG funds based on formula, taking into consideration the social and economic characteristics of the urban county; and

WHEREAS, the Act allows participation of units of general government within an urban county in undertaking activities that further the goals of the CDBG program within the urban county; and

WHEREAS, the CDBG Regulations require the acceptance of the King County Consortium Consolidated Housing and Community Development Plan (“Consolidated Plan”) by participating jurisdictions; and

WHEREAS, King County is responsible to the federal government for all activities undertaken with CDBG funds and shall ensure that all CDBG assurances and certifications King County is required to submit to HUD with the Annual Action Plan are met; and

WHEREAS, King County and the participating jurisdictions agree that it is mutually desirable and beneficial to enter into a consortium arrangement pursuant to and authorized by the National Affordable Housing Act of 1990, as amended, 42 USC 12701 et. seq. and 24 CFR Part 92 for purposes of the HOME Investment Partnerships Program, hereinafter referred to as “HOME Program”, and to cooperate in undertaking HOME Program activities; and

WHEREAS, King County and the participating jurisdictions agree that it is mutually desirable and beneficial to enter into a consortium arrangement pursuant to and authorized by the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, for purposes of the Emergency Solutions Grant Program, hereinafter referred to as “ESG”, and to cooperate in undertaking ESG activities; and

WHEREAS, King County shall undertake CDBG, ESG and HOME Program-funded activities in participating incorporated jurisdictions as specified in the Consolidated Plan by granting funds to those jurisdictions and to other qualifying entities to carry out such activities; and

WHEREAS, King County and the participating jurisdictions are committed to targeting CDBG, ESG and HOME Program funds to ensure benefit for very low to moderate-income persons as defined by HUD; and

WHEREAS, King County and the participating jurisdictions recognize that needs of very low to moderate-income persons may cross jurisdictional boundaries and therefore can be considered regional and sub-regional needs as well as local needs; and

WHEREAS, King County, in conjunction with the participating jurisdictions, must submit an Annual Action Plan to HUD, which is a requirement to receive CDBG funds; and

WHEREAS, the purpose of this Interlocal Cooperation Agreement, entered into pursuant to and in accordance with the State Interlocal Cooperation Act, RCW Chap. 39.34, is to form an urban county consortium, (“Consortium”), for planning the distribution and administration of CDBG, ESG, HOME Program, and other federal funds received on behalf of the Consortium from HUD, and for execution of activities in accordance with and under authority of the Act:

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING CIRCUMSTANCES AND IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, IT IS AGREED THAT:

## **I. GENERAL AGREEMENT**

The County and City agree to cooperate to undertake, or assist in undertaking, activities which further the development of viable urban communities, including community renewal and lower-income housing assistance activities, funded from annual CDBG, ESG and HOME Program funds from federal fiscal years **2015, 2016 and 2017** appropriations, from recaptured funds and from any program income generated from the expenditure of such funds. These activities include the provision of decent housing, homeless assistance, and a suitable living environment and economic development opportunities, principally for persons with very low to moderate incomes.

## **II. DEFINITIONS**

- A. “JRC” means the inter-jurisdictional Joint Recommendations Committee as described in Section V of this Agreement.
- B. “CDBG Consortium Partners” means jurisdictions that are official HUD-recognized participants in the CDBG Consortium through a signed Interlocal Agreement.
- C. “Consolidated Plan” is the King County Consortium Consolidated Housing and Community Development Plan, a HUD-required plan that identifies needs and contains a strategic plan to guide the investment of HUD CDBG, HOME and ESG funds for a multi-year period not to exceed five years.

### III. GENERAL DISTRIBUTION OF FUNDS

The distribution of CDBG and HOME Program funds for the King County urban county Consortium shall be governed by the provisions below.

#### Planning and Administration

- A. The Administrative and Planning Set-asides for the CDBG and the HOME Programs, to be reserved by the County to meet the County's responsibility to meet all HUD requirements for planning and administration, shall be the maximum allowable by HUD [currently twenty (20) percent of the CDBG funds available from the annual entitlement and twenty (20) percent of program income, and ten (10) percent of the HOME Program funds available from the annual entitlement and ten (10) percent of program income]. If the current percentages for CDBG and/or HOME administration and planning are changed at the federal level, the Consortium may allow the percentage retained by the County to change, following review and recommendation by the Joint Recommendations Committee ("JRC"), as provided in Section V, and approval by the Metropolitan King County Council, as provided in Section VI.

#### Public/Human Services

- B. The Human Services Set-aside of CDBG shall be the maximum allowable by HUD for human services [currently fifteen (15) percent of the funds available from the CDBG annual entitlement and fifteen (15) percent of program income]. The Human Services Set-aside, including Housing Stability homeless prevention activities and other homeless activities, shall be determined by the CDBG Consortium Partners and approved by the JRC in the Consortium's most current Consolidated Housing and Community Development Plan.

#### Housing Repair

- C. The Housing Repair Program Set-aside shall be twenty (20) percent of the funds available from the CDBG entitlement and twenty (20) percent of program income (this percentage is discretionary and not required or limited by HUD). The JRC may periodically review and recommend increases or decreases to this percentage if, in its judgment, there has been a substantial change in the Consortium's overall funding or need for housing repair that justifies an increase or decrease.

#### Remaining Capital Funding

- D. The remaining entitlement and program income funds, as well as any recaptured or prior year funds, shall be divided into two separate funds for the two sub-regions of the county: 1) north/east sub-region; and 2) south sub-region. The percentage split between the two funds shall be equal to the percentage of low to moderate-income population represented by each sub-region. Each sub-region may propose funding priorities and allocate portions of the sub-region's funds to such priorities for separate competitive processes. Such competitive processes must be for eligible activities that are consistent with the King County Consortium Consolidated Housing and Community Development Plan. A sub-region may also

elect to allocate additional funds to the Consortium’s Housing Repair Program for the benefit of residents of the sub-region.

1. The north/east sub-region shall include those cities in the north and east and those portions of unincorporated King County that lie north of Interstate 90. The cities of Mercer Island, Newcastle, Issaquah, and North Bend, which are at or near the Interstate 90 border, along with their designated potential annexation areas, also shall be included in the north/east sub-region.
2. The south sub-region shall include those cities south of Interstate 90 and those portions of unincorporated King County that lie south of Interstate 90, except for the cities of Mercer Island, Newcastle, Issaquah, and North Bend and their potential annexation areas, which are part of the north/east sub-region.
3. The formula for dividing the funds between the two sub-regions shall be based on each sub-region’s share of the Consortium’s low to moderate-income population.

CDBG Guidelines to Address Programmatic Details:

- E. The CDBG Consortium Partners may propose King County Consortium CDBG, ESG and HOME Guidelines, for approval by the JRC, to guide the Consortium regarding details of program implementation, including, but not limited to, funding guidelines, frequency of application processes, Consortium procedures and goals for geographic equity in the distribution of funds over time.

**IV. USE OF FUNDS: GENERAL PROVISIONS**

- A. Funds shall be used to support the goals, objectives and strategies of the King County Consortium Consolidated Housing and Community Development Plan.
- B. Funds shall be used in accordance with the CDBG regulations at 24 CFR Part 570, ESG regulations at 24 CFR Part 576, Home Program regulations at 24 CFR Part 92, and all other applicable federal regulations.

**V. JOINT RECOMMENDATIONS COMMITTEE**

An inter-jurisdictional Joint Recommendations Committee (“JRC”) was established through the 2009 – 2011 CDBG/HOME Consortium Interlocal Cooperation Agreement and through King County Code Chapter 24.13, and is hereby adopted as part of this Agreement.

- A. Composition—The JRC for the CDBG/ESG/HOME Consortium shall be composed of three county representatives and eight cities representatives.
  1. The three county representatives shall be King County Executive staff with broad policy responsibilities and/or department directors. County representatives shall be specified in writing and, where possible, shall be consistently the same persons from meeting to meeting.

2. Four of the cities representatives shall be from those cities signing this interlocal cooperation agreement, two from each sub-region.
  3. The remaining four cities representatives shall be from cities that qualify to receive CDBG entitlement funds directly from HUD and that are not signing this agreement, but are signing either Joint Agreements or HOME Program-only agreements. These latter four representatives shall have no vote on matters specific to the jurisdictions that are parties to this Agreement.
  4. The chairperson and vice-chairperson of the JRC shall be chosen from among the members of the JRC by a majority vote of the members for a term of one year beginning with the first meeting of the calendar year. Attendance of five members of the entire body of eleven members of the JRC for the CDBG/HOME Consortium shall constitute a quorum for voting matters in which all members of the JRC are eligible to vote. For voting items of the Regular CDBG Consortium, in which only seven members may vote (those identified in sub-sections 1 and 2 of this section), four members shall constitute a quorum, made up of two King County representatives and two city representatives.
- B. Appointments—The King County Executive shall appoint the three county representatives. The participating cities shall provide for the appointment of their shared representatives in a manner to be determined by those cities through the Sound Cities Association or other agreed-upon mechanism for the execution of shared appointing authority. The Sound Cities Association or other agreed mechanism will select four jurisdictions of varying size from among those signing this Agreement, two from the north/east sub-region and two from the south sub-region. The cities representatives shall be elected officials, chief administrative officers, or persons who report directly to the chief administrative officer and who have broad policy responsibilities; e.g., planning directors, department directors, etc. Members of the JRC shall serve for two years, or at the pleasure of their respective appointing authorities.
- C. Powers and Duties—The JRC shall be empowered to:
1. Review and recommend to the King County Executive all policy matters concerning the Consortium CDBG, ESG and HOME Program, including but not limited to the Consolidated Plan and related plans and policies.
  2. Review and recommend to the King County Executive the projects and programs to be undertaken with CDBG funds, ESG funds and HOME Program funds, including the Administrative Set-aside.
  3. Monitor and ensure that all geographic areas and actively participating jurisdictions benefit from CDBG, ESG and HOME Program funded activities over time, so far as is feasible considering eligible applications submitted within the goals, objectives and strategies of the Consolidated Plan: 1) there is equity in distribution of funds pursuant to proportion of

the region's low to moderate-income population; and, 2) equity is achieved over time pursuant to Consortium Guidelines adopted by the JRC to the extent feasible.

- D. Advisory Committees to JRC—In fulfilling its duty to review and recommend projects and programs to be undertaken with the CDBG, ESG and HOME Program funds, the JRC shall consider the advice of sub-regional inter-jurisdictional advisory committees. Sub-regional advisory committees, made up of one representative from each participating jurisdiction in a sub-region that wishes to participate, shall be convened to assist in the review and recommendation of projects and programs to be undertaken in that sub-region. The JRC may also solicit recommendations from other inter-jurisdictional housing and community development committees.

## **VI. RESPONSIBILITIES AND POWERS OF KING COUNTY**

- A. Notwithstanding any other provision contained in this Agreement, the County as the applicant and grantee for CDBG, ESG and HOME Program funds has responsibility for and assumes all obligations in the execution of the CDBG, ESG and HOME Programs, including final responsibility for selecting and executing activities, and submitting to HUD the Consolidated Plan, Annual Action Plans, and related plans and reports, including the Analysis of Impediments to Fair Housing Choice and the Fair Housing Action Plan. Nothing contained in this Agreement shall be construed as an abdication of those responsibilities and obligations.
- B. The Metropolitan King County Council shall have authority and responsibility for all policy matters, including the Consolidated Plan, upon review and recommendation by the JRC.
- C. The Metropolitan King County Council shall have authority and responsibility for all fund allocation matters, including approval of the annual CDBG, ESG and HOME Program Administrative Set-asides and appropriation of all CDBG, ESG and HOME Program funds.
- D. The King County Executive, as administrator of the CDBG, ESG and HOME Programs, shall have authority and responsibility for all administrative requirements for which the County is responsible to the federal government.
- E. The King County Executive shall have authority and responsibility for all fund control and disbursements.
- F. The King County Executive shall have the authority and responsibility to staff the JRC and provide liaison between HUD and the urban county Consortium. County Executive staff shall prepare and present to the JRC evaluation reports or recommendations concerning specific proposals or policies, and any other material deemed necessary by the JRC to help it fulfill its powers and duties in IV. C., above.

- G. King County Executive staff shall have the authority and responsibility to communicate and consult with participating jurisdictions on CDBG, ESG and HOME Program policy and program matters in a timely manner.
- H. King County Executive staff shall have the authority and responsibility to convene sub-regional advisory committees made up of representatives from participating jurisdictions in the sub-region to advise the JRC on the allocation of the sub-regional funds.
- I. King County Executive staff shall provide periodic reports on clients served by jurisdictions in the Housing Stability and Housing Repair programs and on the status of CDBG, ESG and HOME Program funded projects and make them available to all participating jurisdictions and the JRC.
- J. King County Executive staff shall solicit proposals, administer contracts, and provide for technical assistance, both in the development of viable CDBG, ESG and HOME Program proposals and in complying with CDBG, ESG and HOME Program contractual requirements.
- K. King County shall have environmental review responsibility for purposes of fulfilling requirements of the National Environmental Policy Act, under which King County may require the local incorporated jurisdiction or contractor to furnish data, information, and assistance for King County's review and assessment in determining whether an Environmental Impact Statement is required.
- L. King County, as the official applicant, shall have the authority and responsibility to ensure that any property acquired or assisted with CDBG funds or HOME Program funds is disposed of or used in accordance with federal regulations.

## **VII. RESPONSIBILITIES OF THE PARTICIPATING CITIES**

- A. All participating cities shall cooperate in the development of the Consolidated Plan and related plans.
- B. All participating cities shall assign a staff person to be the primary contact for the County on CDBG, ESG and HOME Program issues. The assigned CDBG, ESG and HOME Program contact person is responsible for communicating relevant information to others at the participating city, including any representative the city may choose to send to the sub-regional advisory committee, if that representative is not the CDBG, ESG and HOME Program contact person.
- C. At its discretion, a participating city may assign a representative to attend meetings of the sub-regional advisory committee. This representative may or may not be the City's CDBG, ESG and HOME Program contact person. It may be the CDBG, ESG and HOME Program contact person, a different staff member, an elected official, or a citizen.
- D. If and when a participating city deems necessary or advisable, it may prepare applications for CDBG or HOME Program funds to address the needs of its residents, consistent with the Consolidated Plan.

- E. Each participating city shall obtain its council's authorization for any CDBG or HOME Program application submitted.
- F. All participating cities shall carry out CDBG or HOME Program funded projects in a manner that is timely and consistent with contractual requirements.
- G. All participating cities owning community facilities or other real property acquired or improved in whole or in part with CDBG or HOME Program funds shall comply with use restrictions as required by HUD and as required by any relevant policies adopted by the JRC.
  - 1. During the period of the use restriction, the participating cities shall notify King County prior to any modification or change in the use of real property acquired or improved in whole or in part with CDBG or HOME Program funds. This includes any modification or change in use from that planned at the time of the acquisition or improvement, including disposition.
  - 2. During the period of the use restriction, if the property acquired or improved with CDBG or HOME Program funds is sold or transferred for a use which does not qualify under the applicable regulations, the participating city shall reimburse King County in an amount equal to the current fair market value (less any portion thereof attributable to expenditures of funds other than CDBG or HOME Program funds).

### **VIII. RESPONSIBILITIES OF ALL PARTICIPATING JURISDICTIONS**

- A. All participating jurisdictions shall be considered to be those jurisdictions that have signed this Agreement.
- B. All participating jurisdiction shall fulfill to the County's reasonable satisfaction all relevant requirements of federal laws and regulations that apply to King County as applicant, including assurances and certifications described in Section VIII below.
- C. Each participating jurisdiction or cooperating unit of general local government certifies that it has adopted and is enforcing:
  - 1. A policy that prohibits the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
  - 2. A policy that enforces applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of non-violent civil rights demonstrations within jurisdiction.
- D. Pursuant to 24 CFR 570.501(b), all participating units of local governments are subject to the same requirements applicable to sub-recipients when they receive CDBG funds to implement an activity. The applicable requirements include, but are not limited to, a written agreement with the County that complies with 24 CFR 570.503 and includes provisions not limited to: statement of work; records and reports; program income; uniform administrative items; other program

requirements; conditions for religious organizations; suspension and termination; and reversion of assets.

- E. All participating units of local government understand that they may not apply for grants from appropriations under the federal Small Cities or State CDBG Programs during the period in which they participate in this Agreement.
- F. All participating units of local government understand that they may not sell, trade or otherwise transfer all or any portion of the urban county consortium CDBG funds to another metropolitan city, urban county unit of general local government, Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under Title I of the Act.
- G. All units of local government participating in the CDBG urban county consortium through this interlocal cooperation agreement understand that they are also part of the urban county for the HOME Program and that they may not participate in a HOME Program consortium except through the urban county, regardless of whether the urban county receives a HOME formula allocation; and also understand that they are part of the urban county for the ESG Program and may only receive a formula allocation for ESG through the urban county consortium.
- H. All participating units of local government hereby agree to affirmatively further fair housing and to ensure that no CDBG or HOME Program funds shall be expended for activities that do not affirmatively further fair housing within its jurisdiction or that impede the County's actions to comply with its fair housing certification. For purposes of this section, "affirmatively furthering fair housing" includes participation in the process of developing an Analysis of Impediments to Fair Housing Choice and a Fair Housing Action Plan. While King County has the primary responsibility for the development of these reports to HUD pursuant to Section VI.A. of this Agreement, upon request, the City shall provide assistance to the County in preparing such reports. All participating units of local government acknowledge that the urban county consortium is prohibited from funding activities in, or in support of, any cooperating unit of general local government that does not affirmatively further fair housing within its own jurisdiction or that impedes the county's actions to comply with the county's fair housing certification.
- I. Participating jurisdictions undertaking activities and/or projects with CDBG funds distributed under this Agreement shall retain full civil and criminal liability as though these funds were locally generated.
- J. Participating jurisdictions retain responsibility in fulfilling the requirements of the State Environmental Policy Act under which King County has review responsibility only.

## IX. GENERAL TERMS

- A. This Agreement shall extend through the **2015, 2016 and 2017** program years, and shall remain in effect until the CDBG funds, ESG funds, Home Program funds and program income received with respect to activities carried out during the three-year qualification period are expended and the funded activities completed. This Agreement shall be automatically renewed for participation in successive three-year qualification periods, unless the County or the City provides written notice that it wishes to amend this Agreement or elects not to participate in the new qualification period by the date set forth by the United States Department of Housing and Urban Development (HUD) in subsequent Urban County Qualification Notices. By the date specified in HUD's Urban County Qualification Notice for the next qualification period, King County will notify each participating city in writing of its right not to participate, and a copy of King County's written notification will be sent to HUD by the date specified in the urban county qualification schedule. Each party to this Agreement must adopt amendments necessary to meet the requirements for cooperation agreements as set forth in the Urban County Qualification Notice applicable for a subsequent three-year county qualification period, and to submit such amendment to HUD, as provided in the notice. Failure to comply with the notice will void the automatic renewal for such qualification period.
- B. Pursuant to 24 CFR Part 570.307(d)(2), during the period of qualification no included unit of general local government may terminate or withdraw from the cooperation agreement while it remains in effect.
- C. It is understood that by signing this Agreement, the City shall agree to comply with the policies, goals, objectives and strategies of the King County Consortium Consolidated Housing and Community Development Plan.
- D. Parties to this Agreement must take all required actions necessary to assure compliance with King County's certification under Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, regarding Title VI of the Civil Rights Act of 1964, (Title III of the Civil Rights Act), the Fair Housing Act as amended, affirmatively furthering fair housing, Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, which incorporates Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and other applicable laws.
- E. This Agreement shall be executed in three counterparts, each of which shall be deemed an original, by the chief executive officers of the County and the City, pursuant to the authority granted them by their respective governing bodies. One of the signed Agreements shall be filed by the County with the Region X office of HUD, one shall be filed with the City and one shall be filed with the County. Prior to its taking effect, the fully executed Agreement shall be filed with the County Auditor, or, alternatively, listed by subject on a public agency's web site or other electronically retrievable public source.

- F. It is recognized that amendment to the provisions of this Agreement may be appropriate, and such amendment shall take place when the parties to this Agreement have executed a written amendment to this Agreement.
- G. This Agreement is made and entered into for the sole protection and benefit of the parties hereto and their successors and assigns. No other person shall have any right of action based on any provision of this Agreement.

KING COUNTY, WASHINGTON

CITY OF DES MOINES

\_\_\_\_\_  
for King County Executive

\_\_\_\_\_  
By: Signature

\_\_\_\_\_  
Adrienne Quinn  
Printed Name

\_\_\_\_\_  
Anthony A. Piasecki  
Printed Name

\_\_\_\_\_  
Director, Department of Community and  
Human Services  
Title

\_\_\_\_\_  
City Manager  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date  
As Directed by the Des Moines City Council in  
Open Public Meeting on August 14, 2014.

Approved as to Form:  
OFFICE OF THE KING COUNTY  
PROSECUTING ATTORNEY

Approved as to Form:  
CITY OF DES MOINES

\_\_\_\_\_  
Assistant City Attorney

ATTEST:  
CITY OF DES MOINES

\_\_\_\_\_  
CITY CLERK



# AGENDA ITEM

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: SOUTH KING COUNTY GAY  
PRIDE DAY

ATTACHMENTS:  
1. Proclamation

AGENDA OF: August 14, 2014

DEPT. OF ORIGIN: Legislative

DATE SUBMITTED: August 1, 2014

CLEARANCES:

- Legal \_\_\_\_\_
- Finance \_\_\_\_\_
- Marina \_\_\_\_\_
- Parks, Recreation & Senior Services \_\_\_\_\_
- Planning, Building & Public Works \_\_\_\_\_
- Police \_\_\_\_\_

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: *Wille/ACM*

**Purpose and Recommendation:**

Over 40 years ago, Seattle held its first Gay, Lesbian, Bisexual and Transgender celebration to encourage residents to honor the history of the fight for equality, celebrate the distance come and recognize how far there is yet to go.

Two years ago the City of Kent was instrumental in helping to get “*Kent Pride*” off the ground. Even though the event is planned in Kent again this year, the name has been changed to South King County Pride with the hopes that the festival could rotate each year to a different South King County City.

South King County Gay Pride Day serves as an opportunity to celebrate with local communities and is a family-friendly, positive, nonpolitical event designed to build community, bring people together, have fun and generate economic activity.

**Suggested Motion**

**MOTION:** “I move to approve the Proclamation declaring September 14, 2014 as *South King County Gay Pride Day*”





## Proclamation

**WHEREAS**, the City of Des Moines strives to create a welcoming community for all people; and

**WHEREAS**, our gay, lesbian, bisexual and transgender residents contribute to the cultural fabric of our community, fortify the success of our employers and businesses through entrepreneurship, creativity, hard work, and innovation, and foster expressions of diversity; and

**WHEREAS**, gay, lesbian, bisexual and transgender individuals donate their time, talent, labor and financial resources to various community organizations, and express a full range of faith traditions, as do others in our community; and

**WHEREAS**, our neighboring community of Kent has hosted a celebration of Pride for the gay, lesbian, bisexual and transgender communities of South King County for the past two years, and have welcomed our residents' support; and

**WHEREAS**, the City of Des Moines looks forward to hosting a Pride event in the near future; and

**WHEREAS**, gay, lesbian, bisexual and transgender individuals throughout South King County invite each of you to join them in a celebration of diversity in the City of Kent on Sunday, September 14, 2014, from 11:00 a.m. to 3:00 p.m. at Burlington Green Park on Railroad Avenue North and East Meeker Street; and

**NOW, THEREFORE**, the City Council of Des Moines, Washington, does hereby declare September 14, 2014 as

### *“South King County Gay Pride Day”*

In the City of Des Moines and encourages everyone to recognize and applaud the numerous contributions of gay, lesbian, bisexual and transgender individuals in the City.

**SIGNED** this 14<sup>th</sup> day of August, 2014

---

Dave Kaplan, Mayor



**A G E N D A I T E M**

**BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA**

SUBJECT: Interlocal Cooperation Agreement  
For the Regional Affordable Housing Program  
(RAHP)

**ATTACHMENTS:**

- 1. RAHP Interlocal Cooperation Agreement
- 2. Exhibit 1- King County Regional Affordable Housing Program Administrative Guidelines

FOR AGENDA OF: August 14, 2014

DEPT. OF ORIGIN: Parks, Recreation, &  
Senior Services

DATE SUBMITTED: August 7, 2014

**CLEARANCES:**

- [ X ] Legal 
- [NA] Finance \_\_\_\_\_
- [NA] Marina \_\_\_\_\_
- [ X ] Parks, Recreation & Senior Services 
- [NA] Planning, Building & Public Works \_\_\_\_\_
- [NA] Police \_\_\_\_\_
- [NA] Courts \_\_\_\_\_

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: 

**Purpose and Recommendation**

The purpose of this agenda item is to seek City Council approval of the 2015-2017 Interlocal Cooperation Agreement for the Regional Affordable Housing Program (RAHP). Without this agreement, the City of Des Moines will not have a strong voice for decisions made on affordable housing plans for our community.

**Suggested Motion**

**Motion:** "I move to approve the 2015-2017 King County Interlocal Cooperation Agreement for the Regional Affordable Housing Program and to authorize the City Manager to sign the King County Interlocal Cooperation Agreement for the Regional Affordable Housing Program for a three-year period, 2015, 2016 and 2017, substantially in the form as attached."

**Background**

In 2002, the State Legislature created a surcharge on the document recording fee to support affordable housing projects at the state and local level. The County is allowed to keep 5% of this surcharge to

cover the cost of collection and administration. Of the remainder, 40% is remitted to the State and 60% is retained by the County for use in the Housing Opportunity fund. These dollars are allocated to affordable income housing projects pursuant to the attached interlocal agreement between King County and suburban cities.

The Joint Recommendations Committee (JRC) is an inter-jurisdictional body that provides specific funding recommendations and advice on guidelines and procedures for King County and its consortia city partners on a wide range of housing and community development issues. The JRC was created through the interlocal cooperation agreements that formed the King County Community Development Block Grant (CDBG) Consortium, the King County HOME Investment Partnerships (HOME) Consortium and the King County RAHP Consortium, and is now codified in the King County Code in Title 24, Chapter 24.13.

### **Discussion**

Our participation in the planning process for the RAHP dollars, through the attached interlocal agreement allows us to appoint a staff person to participate in the Interjurisdictional Advisory Group (IAG) and gives us the opportunity to influence the use of county, state and federal dollars for affordable housing and community development purposes. This person can work with the County Housing and Community Development staff to make funding recommendations to the JRC. The IAG reviews not only RAHP dollars, but the federal Community Development Block Grant Funds. It is those CDBG funds which Des Moines applies to annually to run the Minor Home Repair program.

The RAHP Interlocal agreement also addresses consortium coordination in the event of a declared disaster or emergency that displaces consortium residents from housing.

The RAHP is for a three year timeframe which is the same schedule as the CDBG agreements, with an automatic renewal clause to the agreement for successive three year periods.

### **Alternatives**

None

### **Financial Impact**

None

### **Recommendation or Conclusion**

It is recommended that the Motion be carried. Not signing the ILA excludes the City of Des Moines from any engagement regarding mixed income housing projects, shelters, or transitional housing projects in Des Moines as well as CDBG projects. While applicants could apply for projects in Des Moines, we would not be part of the IJAC planning group to decide the use of the funds and what priorities would guide funding and implementation decisions.

## REGIONAL AFFORDABLE HOUSING PROGRAM INTERLOCAL COOPERATION AGREEMENT

### An Agreement for the use of SHB 2060 Local Low Income Housing Funds in King County

THIS AGREEMENT is entered into between King County, a municipal corporation and political subdivision of the State of Washington, hereinafter referred to as the “county”, and the City of \_\_\_\_\_, hereinafter referred to as the “city”, said parties to the Agreement each being a unit of general local government of the State of Washington.

#### RECITALS

WHEREAS, the King County Countywide Planning Policies, hereinafter referred to as the “CPPs”, developed pursuant to the Washington State Growth Management Act, have established standards for cities to plan for their share of regional growth and affordable housing; and

WHEREAS, to implement the CPPs, the King County Growth Management Planning Council appointed a public-private Housing Finance Task Force in 1994, hereinafter referred to as the “HFTF,” to recommend potential fund sources for affordable housing for existing low income residents and for meeting the affordable housing targets for future growth; and

WHEREAS the HFTF recommended a document recording fee as a source of regional dollars for low-income housing development and support, and recommended that representatives of the county, cities and the housing community work together to make decisions about the use and administration of such a fund; and

WHEREAS RCW 36.22.178 provides, in pertinent part, that:

[A] surcharge of ten dollars per instrument shall be charged by the county auditor for each real property document recorded which will be in addition to any other charge authorized by law. The county may retain up to five percent of these funds collected solely for the collection, administration and local distribution of the funds. Of the remaining funds, forty percent of the revenue generated through this surcharge will be transmitted monthly to the state treasurer . . .

\* \* \*

All of the remaining funds generated by this surcharge will be retained by the county and deposited into a fund that must be used by the county and its cities and towns for eligible housing projects or units within housing projects that are affordable to very low-income households at or below fifty percent of the area median income. The portion of the surcharge retained by a county shall be allocated pursuant to eligible housing projects or units within such housing projects that serve extremely low and very low income households in the county and cities within the county, according to an interlocal agreement between the county and the cities within the county,

consistent with countywide and local housing needs and policies [and in accordance with the eligible activities listed in the RCW 36.22.178].

And

WHEREAS, existing Interlocal Cooperation Agreements or Joint Agreements between the county and cities in the King County Community Development Block Grant Consortium, hereinafter referred to as the “CDBG Consortium Agreements,” and/or existing Interlocal Cooperation Agreements between the county and cities in the King County HOME Investment Partnerships Program Consortium, hereinafter referred to as the “HOME Consortium Agreements,” are not modified by this Regional Affordable Housing Program Agreement; and

WHEREAS, the city and county agree that affordable housing is a regional issue, that cooperation between the cities and the county is beneficial to the region, and that a regional approach to utilizing the RCW 36.22.178 funds will allow those funds to be used in the most productive manner; and

WHEREAS, it is mutually beneficial and desirable to enter into a cooperative agreement in order to administer the RCW 36.22.178 revenue as a regional fund, as authorized by the Intergovernmental Cooperation Act, RCW 39.34, and, as required by RCW 36.22.178 ;

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING CIRCUMSTANCES AND IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

## **I. Definitions and Interpretation.**

Capitalized terms used herein shall have the following meanings unless the context in which they are used clearly requires otherwise.

**“Joint Recommendations Committee” or “JRC”** means the interjurisdictional body developed pursuant to and the CDBG and HOME Consortia Agreements as described in Section III of this Agreement.

**“Interjurisdictional Advisory Committee” or “Advisory Committee”** means the work group consisting of representatives from cities eligible to participate in the Regional Affordable Housing Program, and from the county. This group is advisory to the JRC.

**“RAHP/2060 Planning Group”** means the planning group consisting of representatives from the cities, from the county, and from housing and human services agencies serving King County, that will convene during the year the Regional Affordable Housing Program Guidelines expire to review the program and the guidelines and to recommend any changes or updates to the guidelines to the JRC.

## **II. General Agreement**

The purpose of this Agreement is to establish the Regional Affordable Housing Program (“RAHP”), to be administered by the county in cooperation with cities and towns within the county that are eligible to participate in the program. The local portion of RCW 36.22.178 revenue shall be administered as a regional fund by the King County Housing and Community Development Program in a manner that is consistent with countywide and local housing needs and policies. The city and the county agree to cooperate in undertaking RAHP activities as set forth herein.

### **III. Administration, Distribution and Use of the RAHP.**

#### **A. Joint Recommendations Committee**

An interjurisdictional Joint Recommendations Committee (JRC) has been established through the CDBG and HOME Consortia Interlocal Cooperation Agreements and is hereby adopted as part of this Agreement. Changes to the JRC that occur in the CDBG and HOME Consortia Interlocal Agreements are incorporated by reference into this Agreement.

1. Composition of the JRC. For RAHP purposes, the JRC shall be composed of cities’ representatives and county representatives as specified in the CDBG and HOME Consortia Agreements, with the addition of an appointment from the City of Seattle. The Seattle JRC representative will only attend JRC meetings that concern the RAHP funds and will be entitled to vote solely on RAHP issues and not on other King County Consortium matters coming before the JRC. The Seattle representative shall be an elected official, department director or comparable level staff.
2. Powers and Duties of the JRC. The JRC shall be empowered to:
  - a. Review and adopt annual RAHP fund allocations.
  - b. Review and adopt RAHP allocation policies.
  - c. Review and adopt any subsequent updates to the RAHP Administrative Guidelines, as needed (the most recent version of the RAHP Administrative Guidelines are attached to this Agreement as Exhibit 1 for illustrative purposes). A jurisdiction that is party to this Agreement may dispute a JRC decision concerning the RAHP Guidelines by informing the JRC Chair of the dispute, and the JRC Chair will schedule time on the JRC agenda to discuss and resolve the disputed issue. In carrying out its duties, the JRC shall make decisions that are consistent with the RCW 36.22.178, the Consolidated Housing and Community Development Plan of the King County Consortium and the City of Seattle, the Ten Year Plan to End Homelessness in King County and other local housing plans, as applicable.

3. Interjurisdictional Advisory Committee to the JRC. In fulfilling its duties under this Agreement, the JRC shall consider the advice of an Advisory Committee, made up of representatives from those jurisdictions eligible to participate in the RAHP that choose to send representation. The Advisory Committee will meet at least once per year with county staff to recommend projects for RAHP funding to the JRC and may monitor the distribution of RAHP funds to the sub-regions and make recommendations to the JRC concerning actions to achieve geographic equity. If the Advisory Committee considers issues other than the RAHP, the staff from the City of Seattle shall only participate for the purpose of making RAHP recommendations.

B. Administration of RAHP Programs. The King County Housing and Community Development Program (HCD) staff shall distribute RAHP funds pursuant to the allocations adopted annually by the JRC, and shall administer the program pursuant to the terms of this Agreement and the RAHP Administrative Guidelines.

County HCD staff shall provide the JRC and the Advisory Committee with an annual report that provides information about the capital housing projects that were awarded RAHP funds in that year, as well as the status of capital housing projects that were awarded RAHP funds in a prior year(s).

County HCD staff shall invite the representatives of cities that are a party to this Agreement to be involved in any work groups convened to update the RAHP Operations and Maintenance (O&M) Fund policies, and to be on the review panel that will recommend O&M funding awards to the JRC.

C. Administrative Costs. The county agrees to pay the costs of administering the RAHP out of the five percent (5%) of the funds collected by the county for expenses related to collection, administration and local distribution of the funds, pursuant to RCW 36.22.178. No portion of the sixty percent (60%) of the RCW 36.22.178 revenue retained by the county in a fund for the RAHP shall be utilized for RAHP administration.

D. Interest on the RAHP Fund. Interest accrued on the sixty percent (60%) of the RCW 36.22.178 revenue retained by the county in a fund for the RAHP shall remain with the RAHP fund and will be distributed to projects according to the subregional allocation target formula found in the RAHP Administrative Guidelines.

E. Sub-Regional Geographic Equity. The parties intend that the RAHP funds shall be awarded to projects throughout the county in a fair and equitable manner over the duration of this Agreement. Equity is to be achieved through sub-regional allocation targets, as follows: A fixed percentage of RAHP local funds will be allocated to each sub-region of the county identified in the RAHP Administrative Guidelines by the expiration of this Agreement. The percentage goals for each sub-region set by the formula in the RAHP Administrative Guidelines shall be updated by the JRC when new data is available.

- F. General Use of Funds. The local portion of the RCW 36.22.178 revenue shall be utilized to meet regional housing priorities for households at or below fifty percent (50%) of area median income, as established in the RAHP Administrative Guidelines.
- G. Compliance with Fair Housing Laws. Parties to this Agreement must take actions necessary to ensure compliance with the Federal Fair Housing Act, as amended, the Americans with Disabilities Act of 1990, and other applicable state and local fair housing laws.

#### IV. Effective Date

This Agreement shall be effective on January 1, 2015.

#### V. Agreement Duration

- A. This Agreement shall extend for a three-year period, through the **2015, 2016 and 2017** calendar years, and shall remain in effect until the RAHP funds allocated in this three-year period, including any recaptured funds received with respect to activities funded during this three-year period, are expended, and the funded activities completed.
- B. Renewal. In the final year of the three-year Agreement period, the county will initiate a review of the Agreement no later than March 1<sup>st</sup>, through an invitation to all eligible cities in the county, to determine whether a majority of cities favor automatic renewal without amendment for a successive three-year period, or whether there are potential amendments. This Agreement shall be automatically renewed for participation in a successive three-year Agreement period, unless the city official empowered to sign the Agreement provides written notice to the county that it elects not to participate in a new three-year Agreement period, or that it wishes to amend the Agreement, by the date set forth by the County in a letter to the city following the review process.

#### VI. General Matters and Recording

- A. No separate legal or administrative entity is created by this Agreement. It is not anticipated that the JRC, the Advisory Committee, nor the RAHP/2060 Planning Group will acquire or to hold any real or personal property pursuant to this Agreement. Any personal property utilized in the normal course of the work of such bodies shall remain the property of the person, entity or city initially offering such personal property for the use of any such body.
- B. The county may terminate this Agreement if at least forty percent (40%) of the jurisdictions in the county representing seventy-five percent (75%) of the population of the county have not signed this Agreement by February 1, 2015, and by February 1st of the first year of successive three-year periods.

- C. The parties to this agreement agree to convene the King County RAHP Consortium as rapidly as possible after a proclamation of a state of emergency by the King County Executive or when the King County Emergency Coordination Center activates Emergency Services Function 6 (ESF-6), which provides for mass care, emergency assistance, housing and human services. The RAHP Consortium will be convened through a meeting of the Joint Recommendations Committee (JRC) and any representatives of Consortium Cities that desire to attend. The meeting will be convened after the county has been able to gather adequate information regarding housing displacement and potential interim housing needs as a result of the emergency. The purpose of the JRC meeting will be to review the Post-Disaster Interim Housing Annex to the King County Comprehensive Emergency Management Plan, and other available information regarding the emergency, and to begin the process to acquire all federal, state, private or other disaster funding assistance for housing and related needs available to the Consortium. The JRC will also begin the process to determine if the Consortium can commit any RAHP Consortium funds or other Consortium funds (CDBG, Disaster CDBG, HOME or other federal funds that may be available to the King County Consortium through the U.S. Department of Housing and Urban Development) for disaster interim housing efforts.

D. Recording - Pursuant to RCW 39.34.040, this Agreement shall be filed with King County Records.

KING COUNTY, WASHINGTON

CITY OF \_\_\_\_\_

\_\_\_\_\_  
For King County Executive

\_\_\_\_\_  
By: Signature

Adrienne Quinn, Director

\_\_\_\_\_  
Printed Name

Printed Name

Department of Community and Human Services

\_\_\_\_\_  
Title

Date

\_\_\_\_\_  
Date

Approved as to Form:  
OFFICE OF THE KING COUNTY  
PROSECUTING ATTORNEY

Approved as to Form:  
CITY OF \_\_\_\_\_  
CITY ATTORNEY

\_\_\_\_\_  
Michael Sinsky, King County Senior Deputy  
Prosecuting Attorney

\_\_\_\_\_  
City Attorney

ATTEST:  
CITY OF \_\_\_\_\_

\_\_\_\_\_  
City Clerk



## EXHIBIT 1

### King County Regional Affordable Housing Program

#### Administrative Guidelines

#### I. Introduction

The provisions of Substitute House Bill (SHB) 2060 became effective in Washington State on June 13, 2002.

SHB 2060 created a document recording fee on certain documents to be utilized for low income housing. Administration of the fund is shared between local governments and the State. The local portion of SHB 2060 funds is to be administered pursuant to a cooperative agreement between the county and the cities and towns within King County.

The work of the Housing Finance Task Force (HFTF), appointed by the King County Growth Management Planning Council in 1994, led to the passage of SHB 2060. In recognition of the recommendations made by the HFTF, a Regional Affordable Housing Program (RAHP)/2060 Planning Group convenes to plan for the use of King County SHB 2060 funds. The King County RAHP/2060 Planning Group<sup>1</sup> is made up of city representatives, county representatives, and representatives from a variety of private housing and services organizations in King County.

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<sup>1</sup> City representatives have included staff from the cities of: Burien, Tukwila, Kent, Federal Way, Redmond, Kirkland, Issaquah, Shoreline, Covington, Seatac, Auburn, Seattle, Bellevue and ARCH

Housing and services organization representatives included staff from the following: Seattle-King County Housing Development Consortium, Impact Capital, South King County Multi-Service Center, Hopelink, Fremont Public Association, Seattle Habitat for Humanity, South King County Habitat for Humanity, Friends of Youth, the Salvation Army, Community Psychiatric Clinic, Lifelong Aids Alliance, St. Andrews Housing Group, Housing Resource Group, EDVP, YWCA, Mental Health Housing Foundation, Rental Housing Association, Highline-West Mental Health, Valley Cities Counseling, Seattle Emergency Housing Service, Common Ground, and Vietnam Veterans. Leadership Program, Compass Center, Catholic Community Services, the King County Housing Authority, Seattle Mental Health, and the Committee to End Homelessness

The King County RAHP/2060 Planning Group has designed a regional low income housing fund source, to be administered by the King County Housing and Community Development Program (HCD) in the Department of Community and Human Services.

## **II. Duration of the Guidelines**

The RAHP Guidelines shall take effect on January 1, 2007, and shall remain in effect until updated through the interjurisdictional Joint Recommendations Committee (JRC).

## **III. Review and Update of the Guidelines**

Beginning in 2010, the Guidelines may be updated through the JRC pursuant to the RAHP Interlocal Cooperation Agreement, hereinafter “RAHP Agreement”, as needed. The RAHP/2060 Planning Group will be convened to recommend any proposed changes to the Guidelines for presentation to the JRC for adoption.

## **IV. Decision-Making Structure and Regional Allocation Method**

### **A. Approving Body – Joint Recommendations Committee.**

The JRC, as defined in the RAHP Agreement, shall be the body that reviews and updates the RAHP Guidelines beginning in 2010, and reviews and adopts annual RAHP funding allocations and related allocation policies. The JRC will be expanded, pursuant to the RAHP Agreement, to include representation from the City of Seattle on RAHP matters.

Allocations and related policies adopted by the JRC must be consistent with these RAHP Guidelines, the Consolidated Plans of the King County Consortium and the City of Seattle, other local housing plans, as applicable, and the Ten Year Plan to End Homelessness in King County.

### **1. Appeal Process for JRC Decisions**

#### **a. Cities – Adoption of Guidelines**

Pursuant to the RAHP Interlocal Agreement, a participating jurisdiction may appeal a JRC decision concerning the update of RAHP Guidelines. The jurisdiction must inform the Chair of the JRC, and the JRC chair will schedule time on the JRC agenda to discuss the appeal issue.

b. Applicants – Annual Fund Allocations

Applicants for RAHP funds may appeal a JRC allocation decision if they have grounds based on substantial violation of a fair allocation process, such as bias, discrimination, conflict of interest, or failure to follow the RAHP Guidelines. Appeals by applicants will receive initial review for adequate grounds by the Director of the King County DCHS. If adequate grounds for an appeal are found, the DCHS director will put the appeal on the JRC agenda for review.

B. Annual Fund Allocation Recommendations

An interjurisdictional advisory committee to the JRC, made up representatives from participating jurisdictions in the RAHP Consortium, will work with the King County Housing Finance Program (HFP) staff of King County HCD to make RAHP allocation recommendations and related program policy recommendations to the JRC. While the advisory committee may make recommendations concerning several fund sources for affordable housing in the King County Consortium, the City of Seattle staff will participate on the committee solely for the purpose of making RAHP recommendations.

The review process for RAHP allocations will proceed as follows:

- King County HCD staff will review all RAHP applications and make preliminary funding recommendations.
- Cities' staff will review applications for projects in their jurisdiction and make preliminary recommendations on those applications.

- Cities' staff will receive information on all RAHP applications to review prior to the advisory committee meeting at which final funding recommendations are formulated for transmittal to the JRC.
- Advisory committee participants will meet together at least annually to decide upon RAHP funding recommendations to the JRC, and may meet at other times during the year, as necessary, to discuss RAHP issues and make recommendations to the JRC.

C. Subregional Allocation Targets

The RAHP Fund will be a flexible fund that can address regional and subregional housing needs. The fund will use subregional allocation targets as a means to achieve geographic equity in the distribution of SHB 2060 funds by the end of each Interlocal Cooperation Agreement period.

1. Subregional Areas:
  - a. City of Seattle Subregion
  - b. North/East Subregion – north and east urban and rural areas, including 34 percent of unincorporated King County<sup>2</sup>
  - c. South Subregion – south urban and rural areas, including 66 percent of unincorporated King County
2. Formula for Subregional Allocation Targets

Each subregion will have a targeted percentage of the RAHP funds, including the interest on the RAHP funds, allocated to projects within the subregion over the period of time that the RAHP Guidelines are in effect. Each subregion will receive allocations to

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<sup>2</sup> Percent of unincorporated King County attributed to the North/East and South Subregions is based on the 2000 census data for households in the unincorporated portions of the King County Community Planning Areas, as listed in the 2002 Annual Growth Report.

projects within the subregion that are equal to or greater than 95 percent, of the subregions' allocation target by the end of each Interlocal Cooperation Agreement period.

The formula for allocating RAHP funds to the subregions is as follows:

- One half of the RAHP funds shall be targeted for allocation among the three subregions based on each subregion's relative share of total existing need for affordable housing. Existing need shall be determined by the percentage of low-income households paying more than 30 percent of their income for housing in the subregion, according to the 2000 U.S. Census data.
- One half of the RAHP funds shall be targeted for allocation amongst the three subregions based on the subregions' growth targets for future need, as established through the Growth Management Planning Council. Future need shall be determined by the subregions' relative share of total future need for affordable housing in the County. A subregion's relative share of future need is the percentage of the subregion's affordable housing target for low-income households relative to the cumulative affordable housing target for low-income households of all jurisdictions in the county, including unincorporated King County<sup>3</sup>. Based upon the RAHP formula, the sub-regional allocation targets are as follows:

City of Seattle:	37.9 percent
South:	32.7 percent
North/East:	29.4 percent

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<sup>3</sup> The percentage of a subregion's target relative to the cumulative target is derived by averaging the target percentages of the jurisdictions within that subregion. For each jurisdiction, the target percentage is calculated in the following manner: the number of households that a jurisdiction must anticipate, per the 2002-2022 Countywide Planning Policy (CPP) Growth Target, is multiplied by .24 or .20 (depending on the ratio of low wage jobs to low cost housing for the jurisdiction in Appendix 3 of the CPPs); that number is divided by the cumulative affordable housing target for low income households of all King County jurisdictions, including unincorporated King County.

3. Interjurisdictional Advisory Committee to Monitor Subregional Allocation Targets

The advisory committee will monitor the subregional distribution of RAHP funds every year, determining if any subregion(s) received allocations below 95 percent of the subregion's allocation target.

If any subregion received allocations under 95 percent of the target allocation after several funding cycles, the HCD staff will work with the advisory committee to adjust the allocation targets of such subregion(s) in the subsequent funding cycles, as needed. In addition, the advisory committee may propose strategies and actions, for review by the JRC, that are designed to increase the percentage of RAHP funds spent in those subregion(s). Staff of the jurisdictions that are parties to the RAHP Agreement will assist in implementing actions that will aid in achieving geographic equity in RAHP allocations by the end of each Interlocal Cooperation Agreement period.

V. Use of the RAHP Funds in King County

A. RAHP Priorities

1. Top Priority:
  - Capital funds for the acquisition, rehabilitation and/or new construction of units of eligible housing types. New construction is not eligible if the low-income housing vacancy rate for all of King County exceeds 10 percent<sup>4</sup>.
2. Second Priority:
  - Operations & Maintenance ("O&M") fund program for existing homeless housing<sup>5</sup>. This program provides O&M funding for existing<sup>6</sup> transitional

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<sup>4</sup> The low income housing vacancy rate for each county will be established by the state, pursuant to the SHB 2060 legislation.

housing and transition in place<sup>7</sup> units. The housing units must be eligible for the Washington State Housing Trust Fund, and must show that they require RAHP O&M funds in order to cover ongoing building operating expenses.

3. Third Priority:

- O& M funds for existing emergency shelters and licensed overnight youth shelters.

4. Last priority:

- Rental assistance vouchers to be administered by a local housing authority in conformity with the Section 8 program.

B. RAHP Eligibility

1. Eligible Housing Types

a. Capital Funds

- Permanent rental housing units
- Transition in place and transitional housing units; units that are not time-limited are encouraged.
- Emergency shelter and licensed overnight youth shelter<sup>8</sup>
- Ownership housing

b. O&M Funds:

- Existing transitional and transition in place housing units

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<sup>5</sup> The O&M fund for the guidelines, beginning in 2007, is set at approximately 22 percent of \$3,222,000 (the average of the RAHP collections in 2004 and 2005), which is \$700,000 per year for the four year period of the guidelines.

<sup>6</sup> Existing housing is defined as housing that exists as of the date of an application for RAHP funds.

<sup>7</sup> Transition in place units are permanent rental units where supportive services are provided for a period of time, as needed by a household. Households do not need to move when the supportive services are phased out.

- Existing emergency shelters and licensed overnight youth shelters

## 2. Eligible Populations Served by Housing Units

- All units funded with RAHP funds must serve households at or below 50 percent of area median income. Projects that include units for households at or below 30 percent of area median income are encouraged.
- Homeless households<sup>9</sup>, including youth.
- Households at risk of homelessness.<sup>10</sup>
- Disabled households or households with a disabled member.
- Families.
- Special needs populations, including seniors.

## 3. Eligible Applicants

- Nonprofit organizations
- Housing Authorities
- Local governments
- For-profit entities are only eligible for capital funds in the top priority.

This is due to the language of the SHB 2060 legislation, which restricts building operations and maintenance funds to projects “eligible for the Washington State Housing Trust Fund.” For-profit entities are not eligible for the Washington State Housing Trust Fund.

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<sup>8</sup> RAHP funds are limited to 50 percent of the development cost of any project; consequently, if a shelter project cannot secure adequate funding for the entire cost of development, the RAHP cannot prioritize the project.

<sup>9</sup> Homeless households include: households that lack a fixed, regular and adequate residence; households that reside in a publicly or privately operated shelter designed to provide temporary living accommodations; households that reside in time-limited housing; and households that currently reside in an institution and will be exiting the institution without a fixed, regular and adequate residence.

<sup>10</sup> Households at risk of homelessness include: households paying 50 percent or more of their income for rent, households that have a history of homelessness and are currently unstable, households living in overcrowded or substandard housing, households

#### 4. Eligible use of RAHP Funds by Priority

##### a. Capital funds:

- Acquisition of land for eligible housing.
- New construction of eligible housing.
- Acquisition of building(s) for eligible housing.
- Rehabilitation of units of eligible housing or to create new units of eligible housing.
- Capitalization of a replacement reserve in connection with a capital investment for new or existing eligible housing units.
- Capitalization of O&M rent buy-down reserves for new eligible housing units to serve households below 50 percent of AMI that are primarily homeless<sup>11</sup>, or at risk of homelessness<sup>12</sup>. Capitalized O&M reserves may only be used to write down rents to very affordable rent levels, below 30 percent of AMI and below 50 percent of AMI (i.e. between 30 percent and 50 percent of AMI,) for units that do not have debt service. Capitalized O&M reserves must be used for expenses directly related to running the building and may not be used for services to the tenants or to cover debt service<sup>13</sup>. This eligible use may not exceed 20 percent of the RAHP capital funds in any funding cycle.

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that are substantially behind on their monthly housing payment or have a pending eviction, households with a disability whose housing is at risk due to aging relatives or other factors.

<sup>11</sup> See Note 6.

<sup>12</sup> See Note 7.

<sup>13</sup> Other requirements for capitalized O&M reserves include: 1) projects will not be eligible for these funds unless they have either applied first to CTED for O&M and been denied, or have not received Housing Trust Fund capital dollars and are, therefore, not eligible for O&M from CTED; 2) funds will be awarded only in appropriate amounts as needed pursuant to review

b. O&M Funds:

- Existing transition in place or transitional housing units are eligible for O&M for ongoing building operations and maintenance expenses that cannot be covered by the rental income of the project, and may not include the cost of services to tenants or debt service.
- Existing emergency shelters and licensed, overnight youth shelters are eligible for O&M for general operating expenses, including services.

c. Vouchers:

- Rental assistance vouchers must be administered by a local housing authority in conformity with the Section 8 program.

**VI. RAHP Administration**

The RAHP funds shall be administered as a regional fund by the King County HCD Program.

A. RAHP Capital Funds

RAHP capital funds, including capitalized O&M reserves for new projects and maintenance reserves, will be administered by HFP in conjunction with other fund sources administered by HFP.

The HFP will staff the interjurisdictional advisory committee and will work with the committee to develop RAHP funding allocation recommendations and related policy recommendations for JRC review and adoption.

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by the Housing Finance Program, and will be subject to negotiated modifications; and 3) capitalized reserves will be committed for a maximum of five years' rent buy-down subsidy.

The HFP will distribute RAHP funds through contracts pursuant to the allocations adopted by the JRC, and will generate an annual RAHP report that provides information about the projects that received funding in the current year, as well as the status of projects awarded RAHP funds in prior year(s).

The terms of the King County Housing Opportunity Fund (HOF) will apply to RAHP contracts, with the exception of the following:

- To the extent that there are differences between the HOF guidelines and RAHP guidelines, the RAHP guidelines will apply.
- A financial match by the local government where a housing project is to be located is not required, but is encouraged.
- RAHP funds will have no maximum subsidy per unit, but the development portion of the award (not including O&M rent buy-down reserves) will be limited to 50 percent of the total development cost of a project.

B. RAHP Operating and Maintenance Funds

The RAHP O&M funds will be administered through the King County HCD Program's Homeless Housing Programs (HHP) Section.

The priority for RAHP O&M funds is existing projects that have been unsuccessful in receiving State 2060 O&M funds or ESAP funds.

HHP will work with the Committee to End Homelessness to ensure that the uses of RAHP O&M funds are consistent with the priorities of the Ten Year Plan to End Homelessness.

HHP will invite city staff and other stakeholders to participate in updating the RFP parameters for O&M funds, if and when updates are necessary, and will invite the same to

participate on the panel to review applications for the RAHP O&M funds. The review panel will recommend O&M fund awards to the JRC for final adoption.

## A G E N D A I T E M

### BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Public Hearing on Draft Ordinance  
No. 14-143 Marina District Building Heights

FOR AGENDA OF: August 14, 2014

DEPT. OF ORIGIN: Planning, Building & Public  
Works

ATTACHMENTS:

DATE SUBMITTED: August 7, 2014

1. Draft Ordinance No. 14-143
2. Downtown Commercial Height Areas
3. Model of Building Heights
4. Photo's by Carmen Scott
5. Letters and Comments on the Marina  
District Neighborhood
6. Letter Tryg Fortun
7. Marina District Planning: Summary of  
Stakeholder Meeting #3
8. DNS and SEPA adoption
9. Public Comment Letter's on DNS
10. City Response

CLEARANCES:

- Legal PB
- Finance N/A
- Marina N/A
- Parks, Recreation & Senior Services N/A
- Planning, Building & Public Works DJB
- Police N/A
- Courts N/A
- Economic Development N/A

APPROVED BY CITY MANAGER

FOR SUBMITTAL: Wdu/ACH

**Purpose and Recommendation**

The purpose of this agenda item is for City Council to conduct a public hearing to consider Draft Ordinance No. 14-143 (refer to Attachment 1), relating to the building heights in the D-C Downtown Commercial Zone and amending the boundary of "Area 2 on Figure 1 Downtown Commercial Height Areas" as codified in DMMC 18.115.060(1)(b).

### Suggested Motions:

**Motion 1:** “I move to suspend Rule 26(a) in order to enact Draft Ordinance No 14-143 on first reading.”

**Motion 2:** “I move to enact Draft Ordinance No. 14-143 amending the boundary of Area 2 on Figure 1 Downtown Commercial Height Areas to include the properties located at 703 S 226<sup>th</sup> Street (PIN 2006600960) and 22607 Marine View Drive S (PIN 2006601040) in Area 2 shown on Figure 1 Downtown Commercial Height Areas as codified in DMMC 18.115.060(1)(b).”

### Background

Since March 2008, Des Moines City Council has met numerous times to discuss planning for the Marina District Neighborhood. A number of recurring themes related to the Marina District have come up through the many Council discussions, input from property owners and the development community, UW Storefront Studio Project, Mayor’s Leadership Summit (2005), and previous studies such as the *City of Des Moines Economic Development Strategy Final Report* (Ravenhurst Development, Inc., 2005) and *Des Moines Revitalization Study* (R.W. Thorpe & Associates, 1982). Recurring themes include:

- Invest City resources and priorities in the Marina District and along the waterfront
- Create and promote a business marketing program and funding strategy, including business attraction/retention/expansion
- Survey businesses and property owners in Marina District and broader community
- Evaluate changes to the zoning and building codes to stimulate development:
  - increase building heights
  - reduce parking requirements
  - update sign code
- Establish Design Guidelines
- Create an integrated transportation system that addresses:
  - parking and circulation
  - access between the business district, the Marina and Beach Park
  - pedestrian and bicycle network
  - gateways, wayfinding and streetscape improvements
- Public outreach – provide improved citywide communication/information sharing

In January 2009, City Council adopted a vision and mission statement for the Marina District that captures the work program elements associated with Council goals and priorities, and provides the context and framework for more specific projects that Council wants to emphasize. The Vision and Mission adopted for the Marina District are intended to:

1. Focus public investments in opportunity areas to stimulate economic development:
  - Central gateway – S 223<sup>rd</sup> Street & 7<sup>th</sup> Avenue S
  - North gateway – S 216<sup>th</sup> & Marine View Drive
  - South gateway – S 227<sup>th</sup> Street & Marine View Drive

2. Facilitate and/or incentivize development of economically viable mixed-use projects to:
  - Increase the number of people living in and using the area
  - Foster the creation of independent local businesses
  - Increase retail, restaurant and entertainment opportunities
3. Enhance the identity of the area through branding (i.e., “Marina District”)
4. Market existing and future assets – Marina, Historic Beach Park, Des Moines Elementary School, the variety of shops, restaurants, and other businesses, Highline Community College, and interesting views.

To date, Council has implemented seven textual code amendments to sections of Title 18 DMMC, and one to sections of Title 14 DMMC that were aimed at easing development regulation and promoting economic investment in the Marina District. A Determination of Nonsignificance (DNS) was issued for all of the textual code amendments for Title 18 DMMC and the amendments were forwarded to the Washington State Department of Commerce (formerly Community Trade and Economic Development) as required by chapter 36.70A RCW. Below is a list of the previous eight Ordinances:

Ordinance No. 1453	Amends DMMC 18.44.040 by removing the employee parking requirement from the parking exemption established for commercial uses in the Downtown Commercial Zone
Ordinance No. 1475	Amends DMMC 18.44.040 to extend the parking exemption established for commercial uses in the Downtown Commercial Zone
Ordinance No. 1486	Amends DMMC 18.27.050, 18.27.060, 18.58.020, and 18.58.090; adopting <i>Marina District Design Guidelines</i> ; and adds new sections to chapter 18.16 (“General design requirements”) and 18.18 (“General design requirements”) DMMC.
Ordinance No. 1493	Amends chapters 18.27 and 18.32 DMMC, to amend permitted uses, performance standards and uses requiring unclassified us permits
Ordinance No. 1514	Amends DMMC 18.27.010, .020, .030, .040, .050, .060, and 18.40.030, repeals DMMC 18.27.070, and adds a new definition to chapter 18.04 DMMC, to amend zoning requirements regulating building heights, setbacks, and parking; establishes floor area ratios within the Downtown Commercial Zone of the Marina District
Ordinance No. 1592	Amends DMMC 18.210.070, the “Parking Code”
Ordinance No. 1594	Amends chapter 18.115 DMMC by modifying zoning requirements regulating commercial space requirements for the Marina District
Ordinance No. 1602	Amends DMMC 14.05.130 (“Five-story Wood Frame Buildings”) and DMMC 14.05.190 (“Heights”).

The textual code amendment proposed in Draft Ordinance No. 14-143 adopts the same textual code amendment process as the last seven ordinances amending text in Title 18 DMMC. The prior amendment (Ordinance No. 1514) and the current Draft Ordinance 14-143 are textual code amendments to the existing D-C Zone. The applicants for the above referenced ordinances, as with Draft Ordinance 14-143, were not and are not seeking to “rezone” properties from the D-C Zone, to another zone but rather to modify development regulations for the existing zone.

Through the course of reviewing and amending the development regulations for the D-C Zone the City has provided many opportunities for citizens to learn about and weigh in on the Marina District planning efforts. These efforts have included City Council and Planning Agency meetings, stakeholder group meetings, community workshops and open houses, the City's website, and printed media such as the City Currents newsletter which is published quarterly and distributed to all residents, businesses and post office box holders in the City.

### **Discussion**

As stated above the applicable development standards in Title 18 have been amended seven times for textual code changes. Building heights were specifically amended by Ordinance 1514 in 2011 and by Ordinance 1602 in 2014 for textual code changes regarding height requirements. The text code amendments in Ordinance 1514 were the subject of a thorough SEPA review with an ultimate determination of nonsignificance. The purpose of the 2011 SEPA review was to review "Text code amendments to the Downtown Commercial (D-C) Zone regulating building heights, setbacks, parking, and establishment of floor area ratios." The 2011 SEPA review associated with Ordinance 1514 is the basis for the SEPA review for Draft Ordinance 14-143, as generally provided in WAC 197-11-630. The City was the applicant for both the 2011 and 2014 SEPA review for the textual code amendments to an existing zone. Neither the 2011 or the 2014 textual code amendments seek to rezone the property at 703 S. 226<sup>th</sup> Street or 22607 Marine View Drive S. Both properties will remain in the D-C Zone.

In Ordinance No. 1475, the 2011 textual code change to the D-C Zone, the dimensional standards in DMMC 18.115.060(1) (formerly DMMC 18.27.040(1)) were amended to raise the building heights in the D-C Zone as indicated on Figure 1 Downtown Commercial Height Areas (refer to Attachment 2). Per DMMC 18.115.060(1)(b), Area 2 on Figure 1, the maximum building height is 45 feet as measured from the highest sidewalk grade of the north-south roadway adjacent to the property line; provided, that building heights shall not be measured from the alleys. Modeling of building heights in was also completed to better understand height, bulk, scale, and visual implications. Images of this work are provided as Attachment 3. Model images show:

- Views from 8<sup>th</sup> Avenue S/S 226<sup>th</sup> looking toward South 226th/Marine View Drive under current conditions and with model buildings at 35' and 45' as measured from the highest sidewalk grade on Marine View Drive.
- Views from a home near 10<sup>th</sup> Avenue S/S 226th looking west towards this area with models at 45' and 65' building heights shown.

A series of photographs by former Councilmember Carmen Scott are provided as Attachment 4 which are intended to show the relative impact of a 45 foot tall building at this location.

Public concern about the appearance and overall decline of the Marina District has been expressed in letters sent to the City as well as comments received at public meetings (refer to Attachment 5). City Council continues to solicit input from the community and stakeholders and identify ways to facilitate economic investment in the Marina District.

On June 12, 2014 the City received a letter from the owner of the vacant property located at 22607 Marine View Drive (PIN 2006601040) requesting that the City Council consider allowing a 45 foot building height for their property (refer to Attachment 6). The basis of the request is to enable the property owner to build a better quality building that is also financially viable as there would be more units or space upon which to amortize fixed construction costs, and there would also be other economies of scale. Data provided show that average rents Des Moines are about 30 percent lower than the King

County average while the cost of labor and materials associated with construction is typically the same for the region as a whole. During the 2011 analysis of building heights, the Marina District Stakeholder Group identified this property and several others as needing higher building heights in order for significant development to occur (refer to Attachment 7). In addition, the group recommended a special review process to enable the City to monitor change incrementally.

The property located at 703 S 226<sup>th</sup> Street (PIN 2006600960) is also proposed to be added to create a more contiguous area. Draft Ordinance No. 14-143 proposes to extend Area 2 to include both properties as shown on Figure 1 Downtown Commercial Height Areas of Attachment 1.

A DNS and SEPA adoption for Draft Ordinance No. 14-143 was issued on July 17, 2014 (refer to Attachment 8) and published in the Seattle Times newspaper. This decision was made after review of a completed environmental checklist and other information on file related to the analysis of building heights in the D-C zone. Pursuant to WAC 197-11-630, existing environmental documents meeting the City's environmental review standards and needs for the proposal can be adopted; however, a document is not required to meet the adopting agency's own procedures for circulation, commenting, and hearing requirements. The DNS notice provided for a 15-day public comment period and 10-day appeal period.

The public comment period concluded on August 1, 2014 and 13 comment letters were received. The comment letters and a map showing the locations of where the comments originated are provided as Attachment 9. The appeal period will lapse on August 11, 2014. Key issues addressed in the comment letters are summarized below:

- Lack of proper notice of the Determination of Nonsignificance (i.e., no sign posted on properties, no mailing to property owners within 300 feet)
- Improper classification of the proposed action as a "text code amendment" versus a "site specific rezone" or
- City is attempting to "spot zone"
- Proposed amendment is inconsistent with Comprehensive Plan Marina District Element Policy 10-03-05 which states that "Building heights should not adversely impact the adjacent street environment or nearby land uses."
- View impacts to residential/commercial properties to the east
- Barriers/connections to Marina District
- Negative impact on the property values of surrounding commercial and residential properties

Pursuant to WAC 197-11-550(1), public comments should be as specific as possible regarding the adequacy of the environmental document that was the basis of the decision. While a formal response to comments received for a DNS is not required, a City response to the comments regarding the noticing requirements is provided in Attachment 10.

### Alternatives

The City Council may:

1. Enact the proposed Draft Ordinance No. 14-143.
2. Enact the proposed Draft Ordinance No. 14-143 with amendments.
3. Set the proposed Draft Ordinance No. 12-143 over for a second reading; or
4. Decline to enact the Draft Ordinance No. 14-143.

**Financial Impact**

The subject property has been vacant for many years and is partially excavated and fenced from a previous development project that was abandoned. Enabling the property to develop would help to revitalize the Marina District and stimulate economic development in the business core through the creation of new jobs, new housing, a stronger tax base and new tax revenues for the City of Des Moines. This in turn will help to increase tourism and foster more vital shopping and dining experiences and support existing businesses in the Marina District.

**Recommendation**

Staff recommends Council enact Draft Ordinance 14-143 on first reading.

## CITY ATTORNEY'S FIRST DRAFT 08/04/14

## DRAFT ORDINANCE NO. 14-143

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON**, amending the boundary of "Area 2 on Figure 1 Downtown Commercial Height Areas" in the Marina District Neighborhood as codified in DMMC 18.115.060(1)(b) to include the properties located at 703 S 226<sup>th</sup> Street (PIN 2006600960) and 22607 Marine View Drive S (PIN 2006601040).

**WHEREAS**, approximately 53 acres of land area exists in the City's Marina District adjacent to Marine View Drive, 7<sup>th</sup> Avenue South, and within the City's Marina that is zoned DC, Downtown Commercial, and

**WHEREAS**, the Marina District neighborhood serves as the City's downtown core providing for multi-family residential, commercial and mixed use development, and

**WHEREAS**, the City Council finds that land in the Marina District is highly underutilized and that growth and vitality in the neighborhood is linked to providing for, accommodating, and encouraging property owners to develop to the highest and best use for, and

**WHEREAS**, the City Council finds that amending DMMC expanding Area 2 on Figure 1 to include the properties located at 703 S 226<sup>th</sup> Street (PIN 2006600960) and 22607 Marine View Drive S (PIN 2006601040) would help to spur economic investment within the Marina District Neighborhood, and

**WHEREAS**, Comprehensive Plan Land Use policy 2-03-08 (1) and (2) promote new development and redevelopment in the Marina District to create a vibrant district with a quality mix of businesses that will enhance the waterfront and serve as a destination for local residents and visitors, and

**WHEREAS**, the Comprehensive Plan Marina District Element vision and goals are aimed at creating a revitalized neighborhood that is inviting to new businesses, development shoppers and residents, and

**WHEREAS**, Marina District Element policy 10-03-05 states that building height should not adversely impact the adjacent street environment or nearby land uses, and

Ordinance No. \_\_\_\_  
Page 2 of \_\_\_\_

**WHEREAS**, the intent of Marina District Element strategy 10-04-10 is to ensure that new development or redevelopment in the Marina District exhibits design excellence by paying particular attention to site design, building form, architecture and public space as described in the *Marina District Design Guidelines* (2009), and

**WHEREAS**, the building heights for the subject properties were modeled during the 2009 and 2010 timeframe to demonstrate that adverse impacts to adjacent street environment or nearby land uses are not anticipated, and

**WHEREAS**, the textual code amendments proposed by this ordinance have been processed in accordance with the requirements of SEPA, and

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

**WHEREAS**, pursuant to DMMC 18.20.080 amendment of the zoning code (Title 18 DMMC) is a legislative (Type VI) land use decision, and

**WHEREAS**, pursuant to DMMC 18.20.210 amendments to the Zoning Code (Title 18 DMMC) require the City Council to conduct a public hearing to receive public comment regarding this proposal, and

**WHEREAS**, DMMC 18.30.100(3) requires that the date of the public hearing to consider amendments to Title 18 DMMC be set by motion of the City Council, and

**WHEREAS**, the City Council set the date for the public hearing by Resolution No. 14-143, fixing the public hearing for August 14, 2014, and

**WHEREAS**, notice of the public hearing was issued on July 30, 2014 in accordance with the DMMC, and

**WHEREAS**, a public hearing was held on August 14, 2014 and all persons wishing to be heard were heard, and

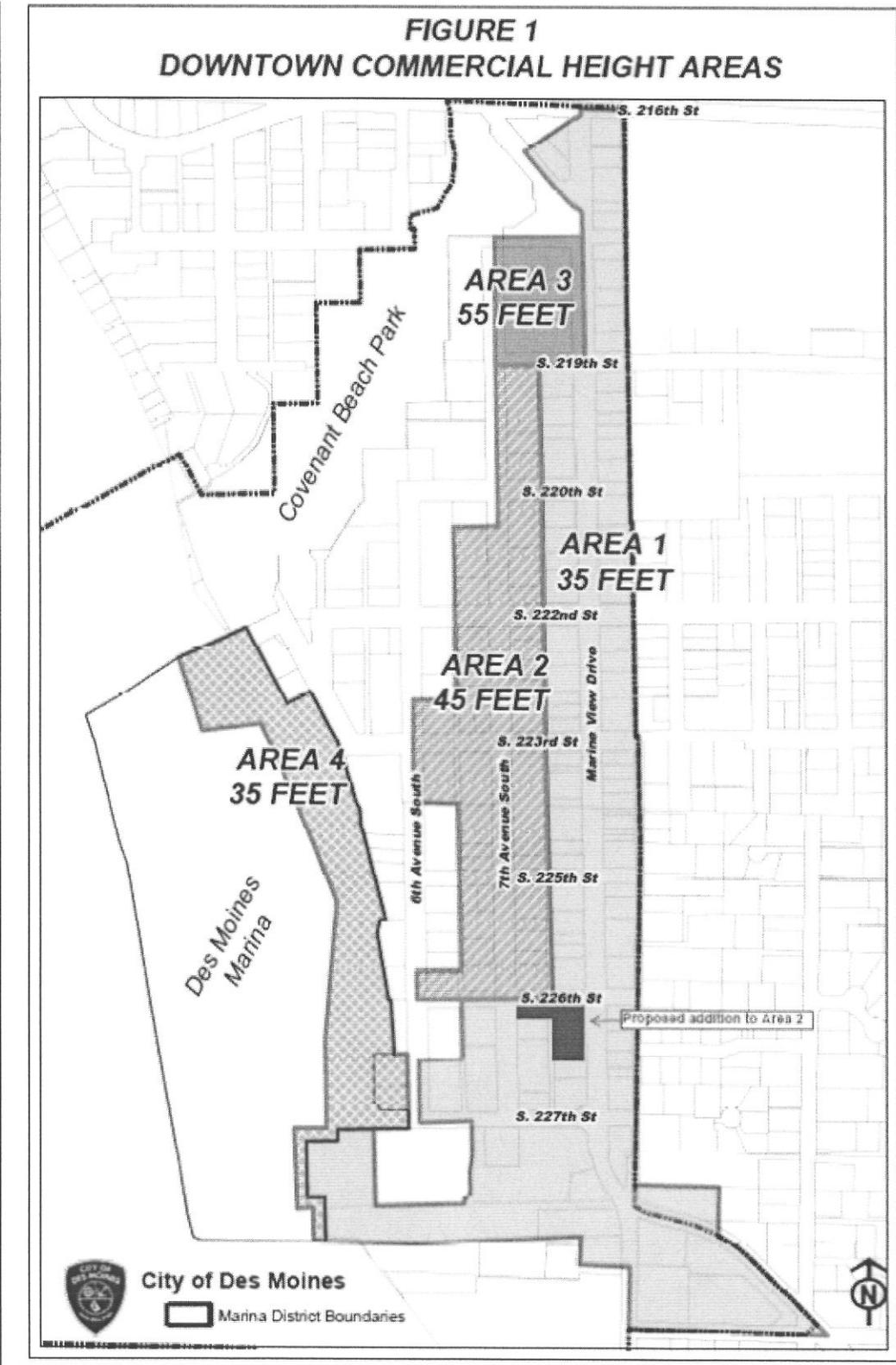
Ordinance No. \_\_\_\_  
Page 3 of \_\_\_\_

**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 18.115.060(1)(b) Area 2 on Figure 1 and Section 278 of Ordinance No. 1591 are amended as follows:

Ordinance No. \_\_\_\_  
Page 4 of \_\_\_\_



Ordinance No. \_\_\_\_  
Page 5 of \_\_\_\_

**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 thirty (30) days after its passage, approval, and publication in accordance with law.

**PASSED BY** the City Council of the City of Des Moines this \_\_\_\_ day of \_\_\_\_, 2014 and signed in authentication thereof this \_\_\_\_ day of \_\_\_\_, 2014.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

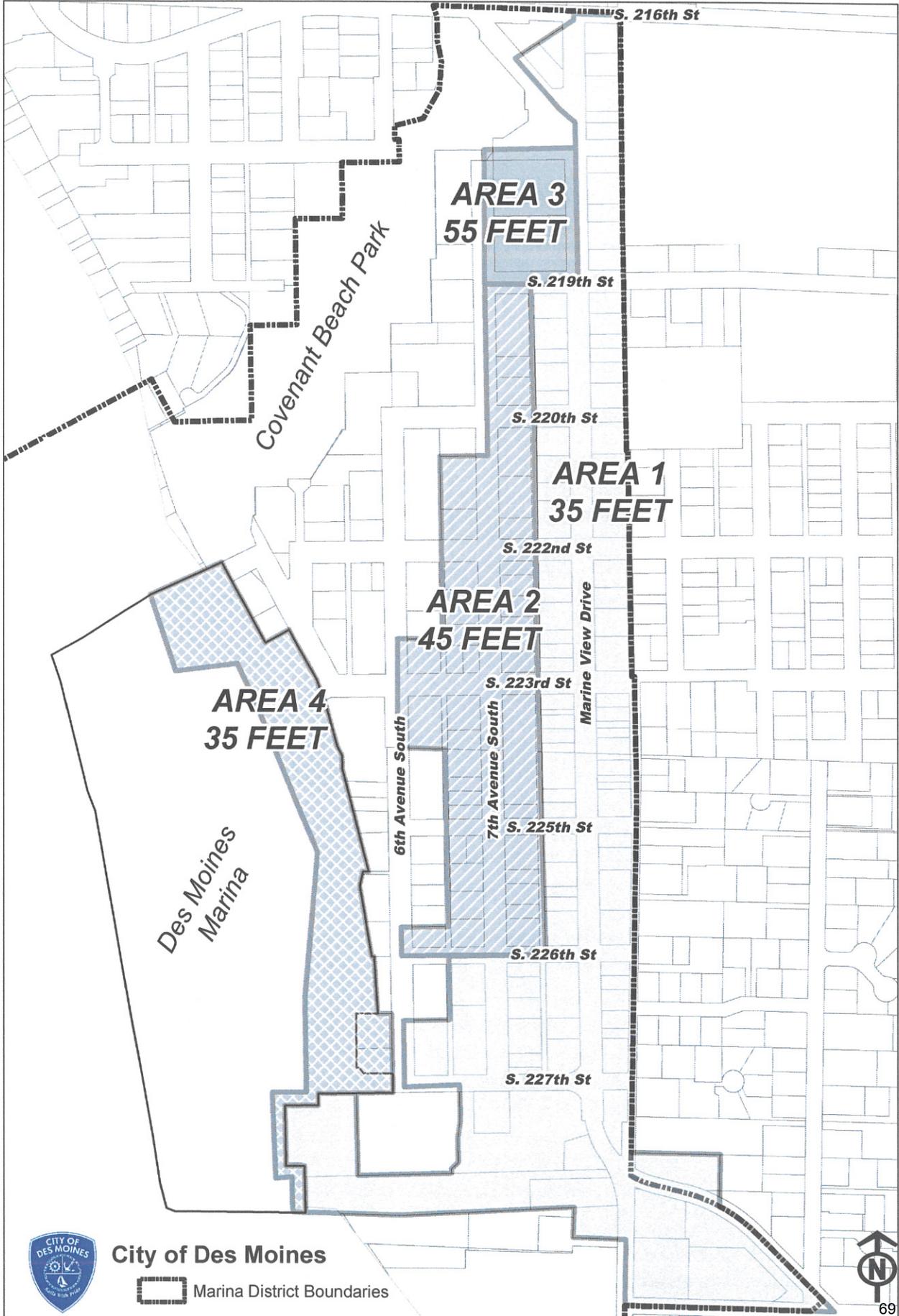
ATTEST:

\_\_\_\_\_  
City Clerk

Published:

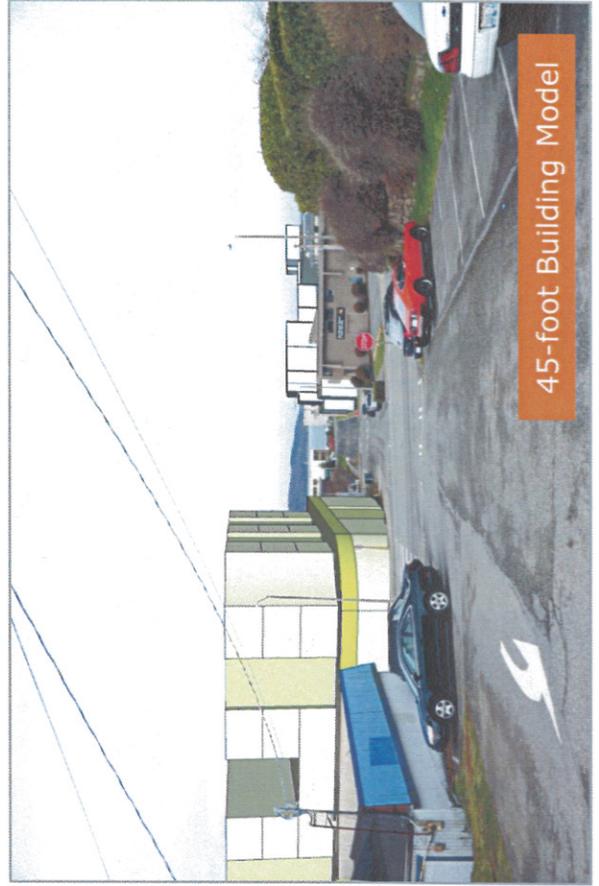
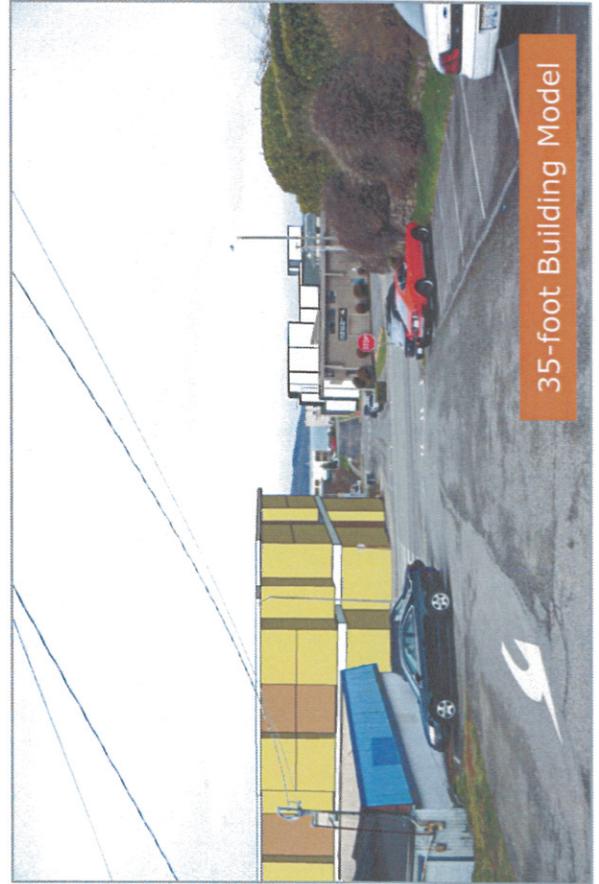


**FIGURE 1**  
**DOWNTOWN COMMERCIAL HEIGHT AREAS**

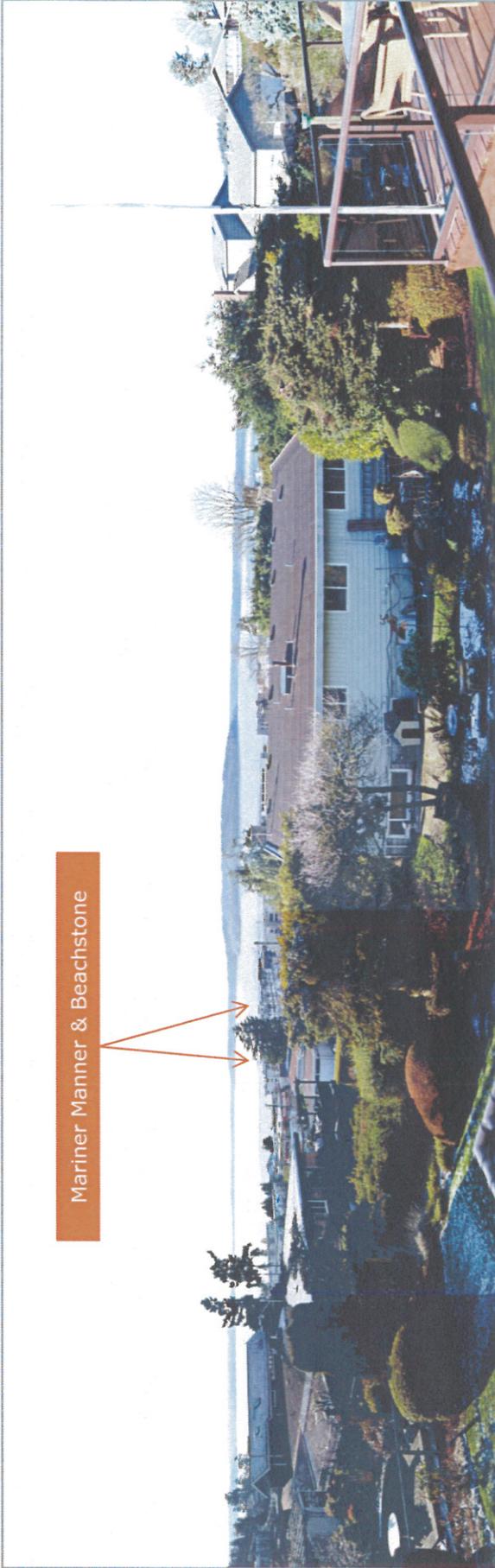




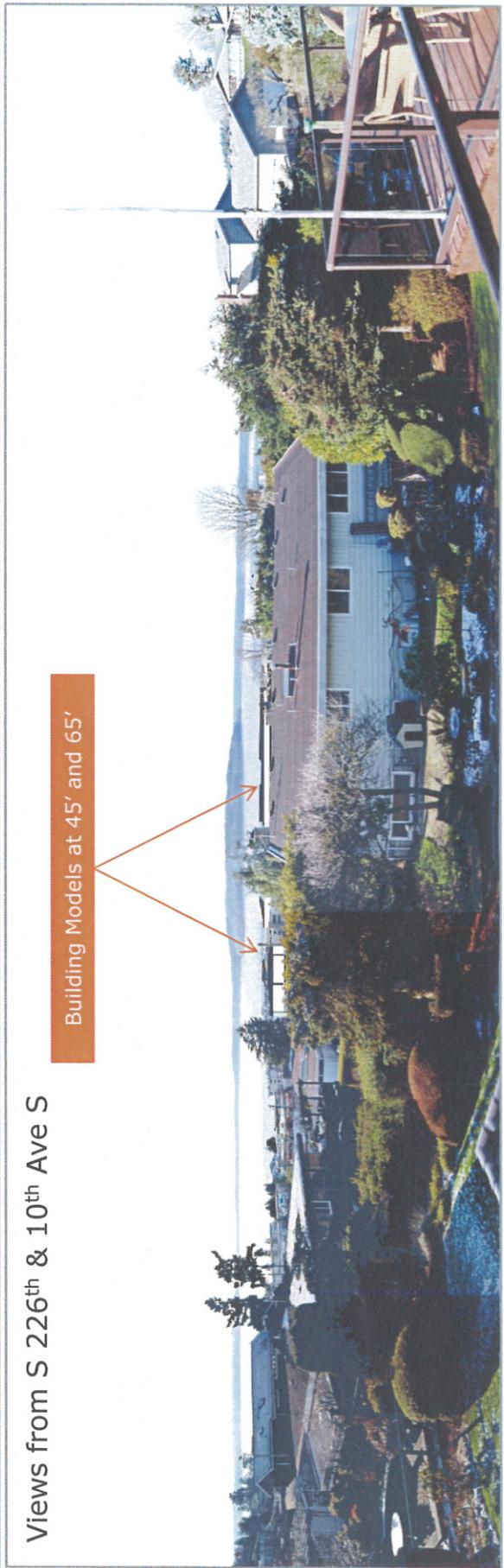
# View Analysis



# Residential View Panorama



Views from S 226<sup>th</sup> & 10<sup>th</sup> Ave S









75



This statement needs clarification to provide an accurate answer. I SECOND THAT - THIS QUESTION IS REALLY EASY WALK TO DOWNTOWN! 2 QUESTIONS

UPDATE RS ZONING - FLIMINATE MULTI-FAMILIES LIVING IN SINGLE FAMILY RESIDENCES

CONVERT THE RS-15000 TO RS-7200 TO ALLOW THOROUGHLY SIZED SUB DIVISIONS ON MARINE VIEW DRIVE - ENFORCE - CODES

THIS QUESTION IS ACTUALLY 2 QUESTIONS - "PRESERVE AND ENHANCE" ARE DIFFERENT ENDEAVORS

# What Are Your Priorities?

Green = High  
Blue = Medium  
Yellow = Low



Create vibrant business districts and promote economic development.	
Preserve and enhance residential neighborhoods.	
Protect environmentally critical areas from damage caused by encroachment and development.	
Provide a street network that serves the needs of residents, businesses, emergency services, and visitors.	
Provide a connected network of non-motorized transportation facilities to provide access to local and regional destinations and to support a healthy lifestyle.	
Provide adequate and accessible recreational facilities and programs that are responsive to the diverse interests and needs of people of all ages, income levels, cultural or educational backgrounds, or physical abilities.	
Ensure that park and recreation areas of local significance (cultural, historical, environmental, natural, wildlife, waterfront, tidal, special use or other) are identified and protected.	
Encourage the development, preservation, or replacement of housing stock that is affordable to all economic segments of the community.	
Strengthen community sustainability, pedestrian accessibility, livability and downtown business vitality.	
Optimize Des Moines' prime waterfront location and City views through the enhancement of cultural opportunities and experiences.	

Protect Single Family Zoning



Write one word to describe Des Moines today?

Confused  
 VACANT  
 VACANT  
 Seedy  
 CAN'T GET ITS ACT-TOGETHER  
 a city in decline  
 DOWNTOWN empty  
 "VISUAL"  
 STILL STRUGGLING BUT GOING IN THE RIGHT DIRECTION!

Write one word to describe your future Des Moines?

(Desired Future)  
 VIBRANT  
 Vibrant  
 Lively  
 Involved  
 Empty (Business)  
 MERGE W/ KENT  
 BECOME  
 Destination  
 Vacation  
 GOVE  
 WILL BE MORE BUSINESS HERE.  
 THE WATERFRONT IS BEAUTIFUL.  
 LOVE THE FARMERS MARKET  
 POINT MERGE W/ KENT  
 Enjoyable  
 Lack of funding  
 Higher Property TAXS  
 Bond Measures

# Land Use

Where should the City expand commercial land uses in the next 20 years?

MARINE VIEW DRIVE - 7<sup>TH</sup> AVE

PAC. HWY AREAS

PAC Hwy 216 to K.D. ROAD

Highway 99

Leave as is no new commercial zoning

agreed

Highway 99 216<sup>th</sup>

PAC HWY 200 214 DITTO

Where should the City focus housing growth in the next 20 years?

HIGHLINK COLLECTOR AREA

East of MVD

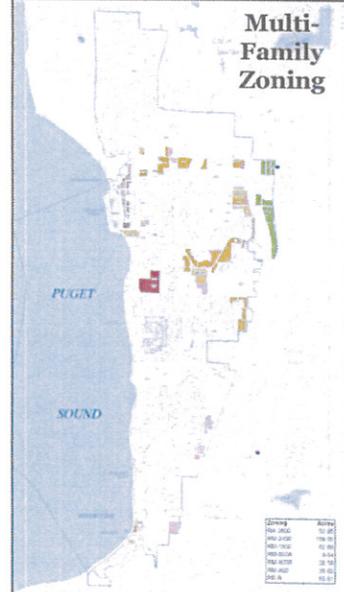
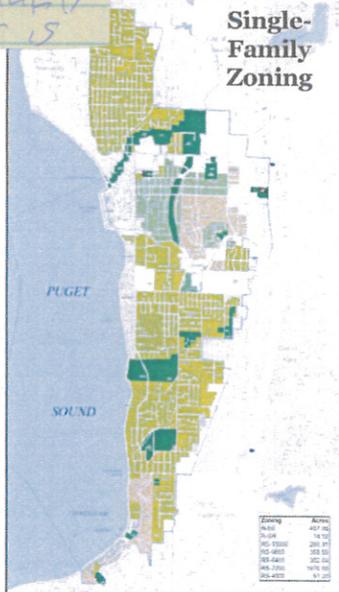
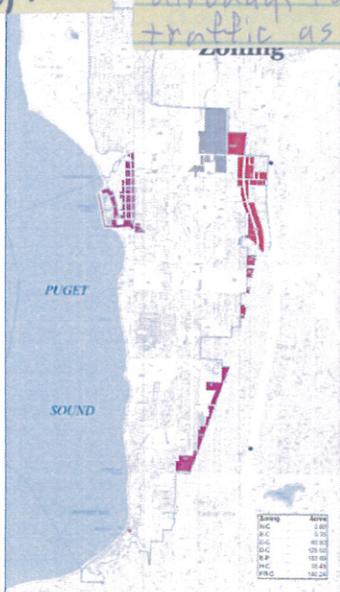
RS-15000 changed to RS 7200

Creative Single Family Options

Makes property available to more and allows for 2x homes on same

I SECURE THIS!

We are too crowded already, to much traffic as it is



# Environment

**The Natural Environment** - R...  
fundamental to the...  
Plan. Conservation...  
aspects of Des Moines...  
and natural hazards i...  
may be addressed inc...

the environment is...  
ines' Comprehensive...  
Plan apply to many...  
d, wetlands, streams...  
reas. Other areas that

Compact Neighborhood = Good  
Yes, I agree  
More upscale condos & sub-divisions (not cheap apartments)

yes Agree

## How do we create a community that responds to climate change? Agree, Disagree, Comments?

Build compact neighborhoods with shops, services and amenities close to where people live and work. ● ●

Agree agree agree!! agree yes!

Make buildings exceptionally energy efficient. ●

Protect and enhance the urban forest and natural areas. ●

agree agree

Foster low-carbon development and ensure built, natural and human systems become more resilient and adaptable to the impacts of a changing climate.

agree agree

Prepare for the impacts of climate change such as sea level rise, and for temperature and precipitation changes.

agree Agree AGREE

Other?

Align building codes for business but DON'T MAKE IT AN impossible hurdle

No such thing as global warming I like my house + car

educate

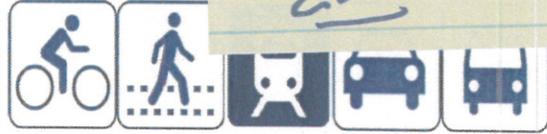
DEFINITELY:  
VEGETATION =  
OXYGEN  
&  
WILDLIFE





FIX ANY ROAD THAT REQUIRES IT! RD ??? 223

# Transportation



**How We Get Around** - Coordinating population growth and transit service is fundamental to comprehensive planning. People in Des Moines currently rely on driving versus walking, biking, and taking transit to travel in and out of the city.

How do you get around Des Moines? The region?

walk  
drive  
boat  
DRIVE  
Walk, Jog  
Drive  
Drive  
DRIVE  
WALK A LITTLE  
Drive

Should we prioritize city transportation funds on neighborhoods that are adding jobs and housing?

Need Parking? YES!  
Transit locations No spend funds  
else where

Should we make it easier for people to walk and bike to transit service?

yes / OF COURSE!  
NO

How should we capitalize on the future Link Light Rail stations in or near the City of Des Moines?

yes  
parking will be needed  
yes ← ditto  
Yes - light rail to 272nd is key

place needed services right there - groceries cleaners / drag

SUFFICIENT PARKING AT LIGHT RAIL TERMINAL  
Tax the crap out of them for city funding

ALLOW HI-DENSITY WITHIN WALKING DISTANCE OF STATIONS



GET A THEME!  
(TAKE A LOOK AT EDWARDS)

# Quality of Life

Investing in Des Moines housing will Ridge Neighb

Fix & Create sm. bus development in our core downtown  
ALLOW moderate NATIONAL CHAIN STORES/shops AS Anchors

ENCOURAGE BUSINESS ALONG PAC-HWY  
ADVERTISE  
ADVERTISE  
ADVERTISE

Quality of life for in jobs and and Pacific reas. What in livability

Promote HCC graduates strained work force

How can we help create family wage jobs and attract new businesses to growing neighborhoods?

Loosen up some OF THE Regulations

Encourage Business Development in Pac Ridge

Should we locate shops, services, and institutions close to where people live and work?

Yes, lower rents and lease fees to keep tenants in the building. A vacant shop does not give good

yes/or travel hubs OF COURSE! Duh.

THIS IS A TRICK QUESTION RIGHT?

yes. of course.. obviously

Should we encourage high economic development such as tourism?

you have to have things that attract tourism 1st - OUR DOWNTOWN is pathetic & UNATTRACTIVE

No YES! yes

PROMOTE THE MARINA! IT COULD BE A 'GEM'

How can we enhance the natural beauty, character and culture of Des Moines as we grow?

We need shops & other attractions on MVD & the marina district. Our town is dead. There is little reason to go there.

Develop a theme (like Leavenworth)

OUR WATERFRONT IS OUR GEM - enhance it by REVITALIZING DOWNTOWN w/ more shops, restaurants art galleries etc.

Preserve character Don't sell out on building heights

## Denise Lathrop

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**From:** Tina Hickey on behalf of PBPW Generic  
**Sent:** Friday, April 18, 2014 8:16 AM  
**To:** Dan Brewer; Denise Lathrop  
**Subject:** FW: Improving our area - a citizen's perspective

This was in the PBPW Generic email. You may have seen it already, but I thought I'd pass it on just to be sure.  
 Tina

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**From:** Carl Dombek [<mailto:carldombek@sbcglobal.net>]  
**Sent:** Thursday, April 17, 2014 4:16 PM  
**To:** Dave Kaplan; Matt Pina; Jeanette Burrage; Vic Pennington; Jeremy Nutting; Melissa Musser; Bob Sheckler; CityCouncil  
**Cc:** Tony Piasecki; Marion Yoshino; Patrice Thorell; PBPW Generic  
**Subject:** Improving our area - a citizen's perspective

Dear Mayor Kaplan and members of the City Council,

My wife and I have lived in Des Moines for approximately 14 years in total, and we love it here! When we returned to the Pacific Northwest in 2010 after a 17-year absence, we considered carefully where we wanted to settle, and Des Moines was our choice. However, our love for the area does not blind us to some things that need to be improved.

Many of those improvements may require, shall we say, a "nudge" from city leaders. With that in mind, I have prepared the attached presentation of what this resident thinks needs to be updated or upgraded to make our city the best it can be.

I invite you to forward this presentation to anyone else within the city you think appropriate, and I thank you in advance for taking the time to review it. Finally, I would be pleased to meet with any member of city leadership to further explain or discuss my thoughts and suggestions for improvement.

Respectfully submitted,  
 Carl Dombek  
 206-249-8662 (home)  
 317-459-3924 (cell)



Dombek Des  
 Moines Proposal.pdf

Letter excerpted from the document "Enhancing Downtown Des Moines" that was attached to the April 18, 2014 e-mail to City Council:

## INTRODUCTION

Ladies and gentlemen:

I have lived in Des Moines for a total of approximately 14 years: from 1983 to 1993, when I left Washington, and again from my return in 2010 to the present.

My wife and I love Des Moines. In choosing where to make our home when we returned to the Pacific Northwest in 2010, we spent two full months investigating communities from Lake Oswego, Oregon to Bellingham, ultimately deciding to return to Des Moines. After renting an apartment in the Marina District for over a year, we purchased a home on the North Hill.

However, in all the time I have been associated with Des Moines, the city has never quite "found its feet" and become all it could be, as other communities including Kirkland and Edmonds have done.

In my observation, the area lacks a development plan designed to bring more consistency and appeal to the area. Further, blight is being allowed to creep in on several fronts, inhibiting increased investment in the downtown area and dragging down some of the city's residential areas.

The point of this presentation is to identify the areas that I believe need to be addressed so that Des Moines in general, and the Marina District/downtown in particular, can realize its full potential, and to present solutions from the perspective of a concerned citizen.

Considering that, to benefit and protect its citizens, the city has enacted rules that require permits to replace roofs and other rules that set sound transmission standards for new windows, I believe city leaders have the political will necessary to enact whatever additional measures might be needed – including laws, regulations, and zoning standards – to give our city the tools it needs to compel certain actions by landlords, tenants, and property owners.

Finally, while "green field" development projects like the one being considered for the area along Pacific Highway South near S. 240<sup>th</sup> are important, it is equally important – and I would argue *more* important – to take measures to maintain and enhance established areas for the betterment of our city.

This packet details my vision for the changes that should take place. I ask only that you read it and consider my recommendations, which I believe would improve our city and the lives of the people who call it home.

I would be pleased to discuss this plan and my ideas further with anyone who wishes to do so.

Respectfully submitted,

*Carl R. Dombek*

Carl Dombek

## **ACTIONS NEEDED**

### **Action #1 – Enhance the appeal of the Marina District**

The downtown, or Marina District, currently lacks the appeal necessary to attract new businesses, which would in turn draw people to the area who would support those businesses. Absent actions to change that, the area will continue to deteriorate.

In my observation, there are at least three tiers of changes that need to be made to facilitate the area's rehabilitation and make it more appealing to new businesses and the people who will patronize them.

- 1) Rehabilitation or removal of disused buildings.
- 2) More consistency in the “look and feel” of downtown, including signage and building design.
- 3) Better land use planning to encourage residential and retail development.

### **Action #2 – Restrict open storage of recreational vehicles in residential areas**

The statement of the issues and recommended solutions are discussed further in the body of this document.

**Dan Brewer**

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**From:** Michael Matthias  
**Sent:** Thursday, July 31, 2014 11:22 AM  
**To:** 'Michealene Corlett'; CityCouncil  
**Cc:** Tony Piasecki; Dan Brewer  
**Subject:** RE: Our city

Dear Ms. Corlett,

Thank you so much for taking the time to express your view. I agree with your assessment of Des Moines regarding those aspects that make this community attractive and valuable to its residents. I also agree that more development that enhances those elements you outline is desirable. The challenge in our primarily suburban communities throughout Puget Sound and elsewhere, is to retain those aspects that have historical and community value, while adding opportunities for economic growth and development to expand our economic base, draw in more visitors and potential residents and help our local businesses be successful and thrive.

I know that the City Council has been working diligently to try and accomplish these goals. I will be happy to update you going forward and thank you again for your comments.

Best,

*Michael Matthias*  
*Asst. City Manager / Economic Development Director*  
*City of Des Moines, WA*  
*206.870.6554*  
[mmatthias@desmoineswa.gov](mailto:mmatthias@desmoineswa.gov)

**From:** Michealene Corlett [<mailto:michealenec@gmail.com>]  
**Sent:** Thursday, July 31, 2014 8:16 AM  
**To:** Michael Matthias; CityCouncil  
**Subject:** Our city

Good morning.

I am a citizen of Des Moines and am concerned with it's lack of vitality. Myself and many others in the area feel as though it is "dying".

I am curious to know if there is something in the works to draw in more young people to help our city thrive.

In my opinion Des Moines should consider building new condos or mixed use buildings to draw in young professionals. It is the perfect place for someone working downtown to live. There is ease of access to bus lines, a direct highway (509) to downtown, close access to the central link light rail and it is much more affordable than living in Seattle city limits. The condos don't need to be skyscrapers or anything like that. They can be similar to those that are already in place (3-4 story buildings, etc.).

In May the city of Seattle was dubbed the fastest growing city in the nation. We need to take advantage of that!!

We need change. With good planning we can keep the cute, quaintness of the city (which is one of the things people love) while allowing her to flourish.

If we can bring in more young professionals or families our existing businesses will thrive and new businesses will be more likely to set up camp in Des Moines. We need more options. I hate to say it but I don't shop or dine much in Des Moines due to lack of selection.

I love our city. It's set in a beautiful surrounding landscape. I love going to the Saturday Farmers Market. I love the parks and the people. But the city is not thriving like it has so much potential to do.

Obviously I am not an expert on city matters but I wanted to share my opinion and ask the questions.

I appreciate you taking the time to read this.

Sincerely,  
Michealene Corlett  
(206) 351-9774

**Dan Brewer**

---

**From:** Pat Bosmans  
**Sent:** Thursday, August 07, 2014 9:56 AM  
**To:** Dan Brewer  
**Subject:** FW: Public Hearing Aug. 14, 2014 Comments  
**Attachments:** City Rezone.docx

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**From:** BOB [<mailto:shecklers@comcast.net>]  
**Sent:** Wednesday, August 06, 2014 5:50 PM  
**To:** Pat Bosmans; Tim George  
**Subject:** Fwd: Public Hearing Aug. 14, 2014 Comments

FYI - This email was sent to City Councilmembers, Tony and Denise at 4:37 Wednesday from Dan Sherman.

---

**From:** "Sherman, Dan" <[dan@dansherman.org](mailto:dan@dansherman.org)>  
**To:** [citycouncil@desmoineswa.gov](mailto:citycouncil@desmoineswa.gov), "Piasecki, Tony" <[tpiasecki@desmoineswa.gov](mailto:tpiasecki@desmoineswa.gov)>, [dlathrop@desmoineswa.gov](mailto:dlathrop@desmoineswa.gov)  
**Cc:** [eustis@aramburu-eustis.com](mailto:eustis@aramburu-eustis.com)  
**Sent:** Wednesday, August 6, 2014 4:37:16 PM  
**Subject:** Public Hearing Aug. 14, 2014 Comments

Dear City Council,

I am attaching comments for the Public Hearing currently scheduled for Aug. 14, 2014 which I am unable to attend due to prior commitments. Please note that I also forwarded separate comments on the DNS (as did many others) to the Planning Department and I expect those will be available to you as well as part of the Public Hearing/DNS process. Attorney Jeffrey Eustis has also forwarded comments on the DNS and we will be filing an appeal of the DNS which may not be available at the time the meeting packets are prepared on Friday but will be filed in a timely fashion. Some public comments on the DNS might not have been received by Aug. 1 but should also be included for your attention as this whole process was improperly noticed so that citizens were not aware of what is being proposed in a timely manner.

Sincerely,  
 Daniel A Sherman

August 11, 2014

Dear City Council,

I am writing to state my opposition to the proposed rezone for property at 22607 Marine View Drive South just north of the Jack in the Box property.

The proposed rezone appears to be a spot rezone to satisfy a particular property owner clearly demonstrated by the letter included in the packet with your ordinance.

The rezone increases building height completely out of proportion to the envisioned build out for Marine View Drive South. The rezone is contradictory to the Comprehensive Plan which properly states that downtown development needs to be compatible with the adjacent single family residential neighborhood as well as surrounding businesses. It is also contradictory to the recent (2011) area wide rezone done for the downtown (Marina District) area.

Your ordinance states that modeling done in 2009 and 2010 revealed no incompatibility due to heights but those conclusions were based on a 35 foot height limit for Marine View Drive South south of S.219<sup>th</sup> St. (and parts of 7<sup>th</sup> Ave. S.) and a newly created 45 foot height for sections of 7<sup>th</sup> Ave. S. where it is at a lower elevation than Marine View Drive South. Consequently, the 35 foot height limit for Marine View Drive South was maintained at the end of the entire rezone process, as the modeling showed that taller structures would indeed be incompatible along that road. Implying that previous modeling justifies this spot rezone is a factual misrepresentation and goes to the heart of the matter in question. Additionally, your modeling did not include the excess height any modern building would require due to rooftop HVAC and elevator shaft and so understated actual building height.

The new 45 foot height limit for 7<sup>th</sup> Ave. S. was created at the request of some property owners on that street making the same financial hardship arguments made by the current applicant and despite the passage of years, an improved economy, an improved building environment, and subsequent additional zoning changes favorable to those properties (relating to parking, building materials, mixed use requirements, signage), there is no promised building boom on that street. The frequent zoning changes made in the past few years have, if anything, created an unstable environment of uncertainty for the building community. Additionally, city officials have acknowledged in open meetings that any substantial new increased revenues for the city will primarily come from the build out of the Business Park and the Pacific Ridge area going on now and that sales tax and other revenues from the downtown area should not be expected to represent significant net revenues.

Page 2

The harm to the community clearly outweighs any purported financial benefit to the city as it will result in loss of both value (and thus property taxes paid to the city) and enjoyment of personal property from the negatively impacted properties in that area. There will be more residential and commercial properties negatively impacted by loss of views than will be created by this requested zoning change. The impression by anyone wanting to live or start a business in Des Moines is that of chaos with new rules for every new project.

If there is any property in the downtown corridor that does not need city assistance with a rezone it is the property under evaluation here. This is one of the larger properties downtown, making site development relatively easy. There are multiple access points to the property. There is already excavation for a basement level parking area leaving a large amount of square footage above parking for commercial and residential development compared to lot size and not necessitating loss of footage to surface parking which can be used for rental space. There will be full water views from the top story with the current zoning of 35 feet and this is part of the current zoning plan in the area to afford some views from as many properties as possible utilizing the natural slope of the land. There are multiple properties in the downtown zone that have been built, including recently, to 35 feet even properties that do not have the benefit of this site for ready-made underground parking which demonstrates the feasibility of construction at the currently zoned height. If the city expects this applicant will not build anything on the site if he does not get this zoning concession and it remains concerned about the appearance of the property and the injury risk of its current state, there are remedies available to the city other than acquiescing to this spot zone change. The city can require the excavation be filled with dirt if it represents a community hazard. It can require a more secure and aesthetic fencing around the property if the owner intends to leave it in its current state.

Do not approve this rezone request.

Sincerely,

Daniel A. Sherman



**TRYG FORTUN**

16019 Inglewood Road NE  
Kenmore, WA 98028-3905  
Home: 425-488-6519  
Cell: 206-948-3111  
Fax: 425-488-6799  
email: brentlate@aol.com

June 12, 2014

Tony Piasecki  
Des Moines City Manager  
21630 11<sup>th</sup> Avenue South  
Des Moines, WA, 98198

Via email

Dear Mr. Tony Piasecki,

Barb (my wife) and I own the vacant property located at 22607 Marine View Drive. We request that the City Council consider allowing a 45 foot building height for our property.

We have built many apartments in the past, and we continue to own most of them. We investigated constructing a quality mixed-use building with underground parking, commercial space on the main floor, and apartments on the upper floors on our property. Such a structure is not financially viable with a 35' high building. Dupre and Scott, the most highly regarded rent researcher in the Puget Sound area, states in their April 2014 report that King County rents average \$1.55 per foot, and \$1270 per unit. The rents in Des Moines, however, average only \$1.13 per foot and \$897 per unit. If the height limits were raised to 45', the economics would be more favorable, and we would immediately have our architects move as quickly as possible to obtain a permit. When the permit is issued, we would begin building the following spring, hopefully the spring of 2015.

A 45' limit is important to us for several reasons. The main benefit of a 45' building is that we can build a better building for less money per square foot. It costs about the same amount of money to build a foundation, a roof, an elevator, etc. for a 35' building as it does for a 45' building. There are also other economies of scale when building a larger building; for instance, you can buy cabinets for less per unit if you buy more of them. Amenities that we would include in the building, such as stone countertops, wood floors, roof decks, unit decks, awnings, etc. are more difficult to include when building a smaller building. A 45' height limit would allow us to build a better quality building that is

also financially viable as there would be more units or space upon which to amortize fixed construction costs, and there would also be other economies of scale.

A 45' building is also more economical to operate. If constructed in the same manner, a 45' building is inherently more energy efficient than a 35' building as the 45' box has less surface area relative to the space inside the box. This results in less heat loss per unit. This greater efficiency would decrease our tenant's operating costs, so there would be less costly turnover. Also, it costs less per unit to manage a building with more units, as there are substantial benefits of economy of scale.

It should also be noted that a 45' height limit would result in certain benefits to the City such as increased tax revenue, sales tax revenue, etc.

We are hopeful that we will be allowed to build a 45' building on our lot.

Thank you.

Sincerely,

Tryg Fortun

Barb Fortun

# Marina District Planning

## Summary of Stakeholders Meeting #3 – November 3, 2010

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### OVERVIEW

The purpose of the Stakeholder Group Meeting #3 was to review the stakeholder contributions to date, make additional refinements to Scenario 1.0 and discuss and confirm policy recommendations for the Planning Agency and City Council consideration.

Staff shared the initial modeling of the Stakeholder Group ideas from meetings 1 and 2. The model depicted building heights at 45 feet along 7<sup>th</sup> Avenue S between S 222<sup>nd</sup> and S 225<sup>th</sup> Streets and at 65 feet on the QFC site. In addition, the envisioned streetscape was shown along S 223<sup>rd</sup> Street from Marine View Drive to Cliff Avenue.

Staff provided an overview of how current development standards and design guidelines were applied when characterizing the building design. Stakeholders were also able to see what it might be like to stand on the ground in the model and from various perspectives within and adjacent to the Marina District. This allowed the Stakeholders to better understand the topographic characteristics of the area and potential view impacts.

Discussion of Scenario 1.0 and proposed policy recommendations focused on economic opportunities, building heights, traffic circulation, and access to the Marina. In general, there is consensus on the broader land use and streetscape character as described for Scenario 1.0. Increasing building heights is deemed critical for existing properties (i.e., Stegin property, QFC and others) to redevelop; however, the Stakeholder group wants to ensure that increases are considered through a special review process in order to monitor change incrementally. It was noted that land assembly would be necessary for any significant development projects to occur.

Although there were differing opinions on where to focus economic development efforts, allowing more mixed use on the Marina floor and providing a direct connection from the Marina floor to S 223<sup>rd</sup> was identified as the key to the overall success of the Marina District vision. It was suggested that the City sell property on the Marina floor for commercial development; however, staff pointed out that the land was acquired for a public purpose and indicated that a long-term lease might be an option for consideration. Other comments included the need to provide a range of housing choices, to plan for a younger population (including Highline Community College students), and to ensure the Marina District sets itself apart from other communities. The idea of a one-way couplet was tabled given the fact that couplets have not always worked well in other communities (i.e., City of Redmond).

The following summarizes the general policy direction provided by the Stakeholder Group:

- Increase building heights now to stimulate economic investment. Allow flexibility regarding where height increases are permitted to ensure existing underdeveloped properties can take advantage of the opportunity.
- Ensure that affordable housing choices are available within the Marina District and that developers are incentivized to provide housing to different economic segments of the population.
- Use Development Agreements or the Planned Unit Development process rather than an area-wide rezone to allow increased building heights – this would enable the City to monitor the pace and form of development and its impact on other properties.
- Focus economic efforts on attracting commercial development to the Marina Floor and investment in a stair climb and elevator to S 223<sup>rd</sup> Street.
- Focus the initial pedestrian and streetscape improvements on S 233<sup>rd</sup> Street from Cliff Avenue to Marine View Drive.
- Establish a Local Improvement District and/or other alternative funding approach that targets funds for completing the pedestrian access from the Marina floor to S 223<sup>rd</sup> as well as streetscape improvements. This could be tied to height bonuses or other deviations from development standards.

In summary, the Stakeholder Group was in support of a Developer and Property Owner Forum and broader community outreach to confirm the vision and policy recommendations of the group. They also expressed an interest in reconvening in early 2011 to discuss the outcome of the Developer/Property Owner Forum and community outreach efforts and finalize their recommendations to the Planning Agency and City Council.



### DETERMINATION OF NONSIGNIFICANCE AND ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENTS

Adoption for:  DNS     MDNS     EIS     Other: \_\_\_\_\_

**Description of proposal:** Textual code amendments to DMMC 18.115.060(1)(b) that would expand Area 2 on Figure 1 Downtown Commercial Height Areas to include two additional properties located at 703 S 226<sup>th</sup> Street (PIN 2006600960) and 22607 Marine View Drive S (PIN 2006601040).

**Proponent:** City of Des Moines

**Location of proposal, including street address, if any:** Marina District Neighborhood as illustrated on Figure 1-01 of the Des Moines Comprehensive Plan.

**Project File No:** LUA2014-0026

**Title of Document Adopted:** LUA11-004 SEPA Checklist - Downtown Commercial Zone Amendments

**Lead Agency:** City of Des Moines

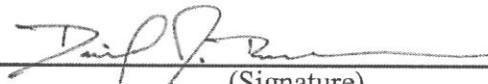
The document being adopted pursuant to WAC 197-11-630 has not been challenged. The adopted document is attached to this notice. The City of Des Moines has identified and adopted this document as being appropriate for this proposal after independent review. The document meets our environmental review needs for the current proposal and will accompany the proposal to the decision maker.

This DNS is issued under 197-11-340. The lead agency will not act on this proposal for 25 days from the date below\*. Comments must be submitted by August 1, 2014.

**Responsible Official:** Daniel J. Brewer, P.E.

**Position/Title:** Planning, Building and Public Works Director  
and SEPA Official  
21630 11th Avenue South, Suite D  
Des Moines, WA 98198

July 17, 2014  
(Date\*)

  
\_\_\_\_\_  
(Signature)

**Project Lead Contact:** Denise E. Lathrop, AICP – Community Development Manager, Phone: (206) 870-6563, E-mail: [dlathrop@desmoineswa.gov](mailto:dlathrop@desmoineswa.gov)

#### AGENCY APPEAL

**APPEAL:** Any agency or person may appeal this SEPA determination by filing a written appeal with the Des Moines City Clerk. Such appeal must be filed within ten (10) days of the date this Determination of Nonsignificance (DNS) is final and shall be consistent with all provisions of sections 16.05.300 and 18.240.170, if applicable, of the Des Moines Municipal Code. The last date for filing such an appeal as to this proposal will be 4:30 p.m. on 8/11/14. Procedural determinations include the adequacy of the DNS, whether proper notice has been given, and whether the commenting period has been observed. The pendency of a procedural appeal shall stay any action on a permit/approval until a final determination on the appeal is issued by the Hearing Examiner; except if the City Council is required to issue the determination of the underlying permit/approval. In such cases, the City Council will issue the final determination of the appeal concurrently with its determination on the underlying permit/approval.



## CITY OF DES MOINES, WASHINGTON

Development Services Division  
21630 11th Avenue South, Suite D  
Des Moines, WA 98198  
Phone: (206) 870-7576 Fax: (206) 870-6544



### DETERMINATION OF NONSIGNIFICANCE

**Description of proposal:** Text code amendments to the Downtown Commercial (DC) Zone regulating building heights, setbacks, parking, and establishment of floor area ratios. The amendments would raise buildings heights to 45 for a portion of the properties zoned DC, establish 3 height bonus areas that would allow 45, 65 and 75 foot buildings with associated public benefit table, establish floor area ratios for each of the proposed building heights, establish allowable locations for on-site parking lots, increase the common recreation requirement from 25 square feet to 200 square feet per unit, delete the private recreation requirement, establish corner setback requirements, and allow for angled parking along Marine View Drive.

**Proponent:** City of Des Moines

**Location of proposal, including street address, if any:** Non-project action related to Downtown Commercial (DC) Zone. Amendments would affect all properties zoned DC within the Marina District as established in the Des Moines Comprehensive Plan

**Project File No:** LUA 11-004 (Downtown Commercial Zone Amendments)

**Lead Agency:** City of Des Moines

The City of Des Moines has determined that the above-described proposal does not have a probable significant adverse impact on the environment. The City of Des Moines will not require any additional mitigation measures under SEPA. Therefore, an environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under 197-11-340. The lead agency will not act on this proposal for 25 days from the date below\*. Comments must be submitted by April 27, 2011.

**Responsible Official:**

Grant Fredricks

**Position/Title:**

Planning, Building, and Public Works Director  
21650 11th Avenue South, Suite D  
Des Moines, WA 98198

April 12, 2011

(Date\*)

(Signature)

**Project Lead Contact:** Denise Lathrop, Planning Manager; Phone 206-870-6563; Email Address [dlathrop@desmoineswa.gov](mailto:dlathrop@desmoineswa.gov).

**APPEAL:** Any agency or person may appeal this SEPA determination by filing a written appeal with the Des Moines City Clerk. Such appeal must be filed within ten (10) days of the date this Mitigated Determination of Nonsignificance (MDNS) is final and shall be consistent with all provisions of sections 16.04.210 and 18.94.113, if applicable, of the Des Moines Municipal Code. The last date for filing such an appeal as to this proposal will be 4:30 p.m. on May 9, 2011. Procedural determinations include the adequacy of the MDNS, whether proper notice has been given, and whether the commenting period has been observed. The pendency of a procedural appeal shall stay any action on a permit/approval until a final determination on the appeal is issued by the Hearing Examiner.

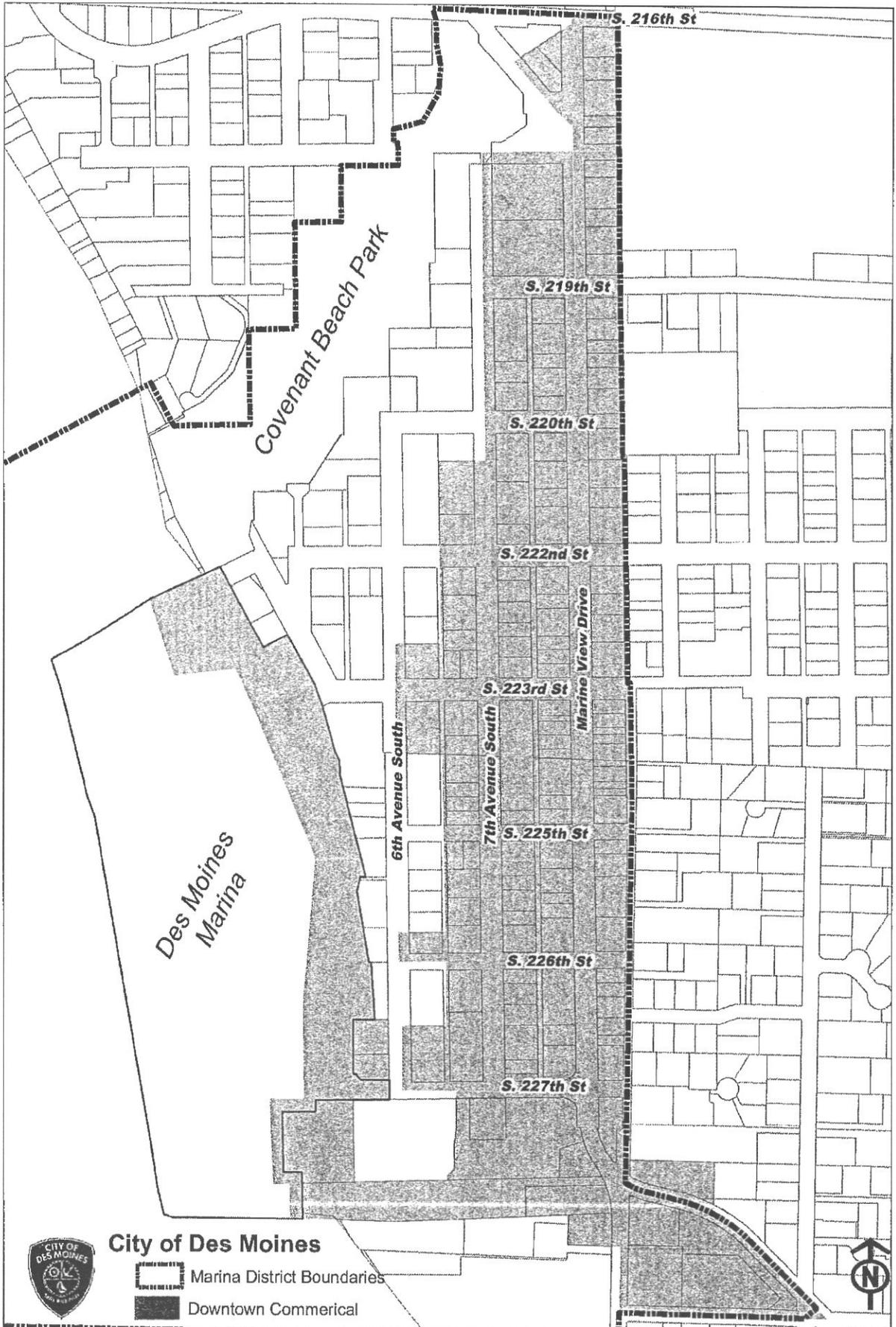


**CITY OF DES MOINES, WASHINGTON**  
 Development Services Division  
 21630 11<sup>th</sup> Avenue South, Suite D  
 Des Moines, WA 98198  
 Phone: (206) 870-7576 Fax: (206) 870-6544

## NOTICE OF SEPA DETERMINATION

<b>NOTICE OF APPLICATION:</b>	April 12, 2011	<b>SEPA DECISION DATE</b>	April 12, 2011
<b>SEPA COMMENTS DUE:</b>	April 27, 2011	<b>SEPA APPEAL PERIOD ENDS:</b>	May 9, 2011
<b>PROPOSAL:</b>	Text code amendments to the Downtown Commercial Zone regulating building heights, setbacks, parking, and establishment of floor area ratios. The amendments would raise buildings heights to 45 for a portion of the properties zoned DC, establish 3 height bonus areas that would allow 45, 65 and 75 foot buildings with associated public benefit table, establish floor area ratios for each of the proposed building heights, establish allowable locations for on-site parking lots, increase the common recreation requirement from 25 square feet to 200 square feet per unit, delete the private recreation requirement, establish corner setback requirements, and allow for angled parking along Marine View Drive.		
<b>APPLICANT:</b>	City of Des Moines		
<b>LOCATION:</b>	Non-project action related to Downtown Commercial (DC) Zone. Amendments would affect all properties zoned DC within the Marina District as established in the Des Moines Comprehensive Plan		
<b>FILE NUMBER:</b>	LUA10-025 (Gateway Improvement Project)		
<b>ENVIRONMENTAL REVIEW:</b>	<p>Notice is hereby given that the City of Des Moines Responsible SEPA Official has determined that the following described proposal is not anticipated to create significant adverse environmental impacts and will not require preparation of an environmental impact statement. This determination shall become final and effective, provided a property and complete appeal has not been filed, by <b><u>May 9, 2011</u></b></p> <p>Written comments concerning the Determination of NonSignificance (DNS) may be submitted to the Des Moines Planning, Building &amp; Public Works Department, located at 21630 11<sup>th</sup> Avenue South, Suite D, Des Moines, WA 98198, by 4:30 p.m., <b><u>April 27, 2011</u></b>. Comments should discuss specific environmental issues associated with this proposal and identify how the MDNS does or does not address those issues.</p>		
<b>EXISTING ENVIRONMENTAL DOCUMENTATION</b>	SEPA Checklist and Comprehensive Water System Plan for Water District No. 54; SEPA Checklist, Adoption and DNS, Des Moines 2010 Comprehensive Plan Amendments. LUA 10-017; SEPA Checklist, Adoption and DNS, Marina District Design Guidelines. LUA 09-017; SEPA Checklist, Adoption and DNS, Des Moines 2009 Comprehensive Plan Amendments. LUA 09- 026; SEPA Checklist and DNS, Des Moines 2010 Parks, Recreation and Senior Services Master Plan; SEPA Checklist and DNS, Des Moines 2009 Update to the Des Moines Comprehensive Transportation Plan; SEPA Checklist, Adoption and DNS, Des Moines 2008 Comprehensive Plan Amendments. LUA 08- 039; SEPA Checklist and DNS, Midway Sewer District Comprehensive Sewer System Plan; SEPA Checklist, Adoption and DNS, Des Moines 2007 Comprehensive Plan Amendments; Des Moines Development Regulations Review SEPA Checklist and DNS; Des Moines Comprehensive Plan Update SEPA Checklist and DNS; Greater Des Moines Comprehensive Plan Draft and Final Environmental Impact Statement.		
<b>DOCUMENT AVAILABILITY</b>	More information is available at the following website: <a href="http://www.desmoineswa.gov">www.desmoineswa.gov</a>		
<b>APPEALS:</b>	The decision to issue the DNS may be appealed by filing an appeal consistent with Sections 16.04.210 and 18.94.113, if applicable, of the Des Moines Municipal Code. Appeals must be complete and filed with the City Clerk by 4:30 p.m., on <b><u>May 9, 2011</u></b> . The appeal letter must cite specific procedural errors, omissions, environmental impacts, inaccurate environmental information or failure to comply with specific adopted policies or codes which dispute the validity of the DNS		

# DOWNTOWN COMMERCIAL ZONE



**City of Des Moines**  
 - - - - - Marina District Boundaries  
 ■ Downtown Commercial



ENVIRONMENTAL CHECKLIST  
FOR  
TO BE COMPLETED BY APPLICANT  
ONLY

EVALUATION  
AGENCY USE

Fee: \_\_\_\_\_

File No. LUA 11-004

Receipt #: \_\_\_\_\_

Date Received: April 7, 2011

### ***A. BACKGROUND***

#### **1. Name of proposed project, if applicable:**

Non-Project Action related to text code amendments for the Marina District in Des Moines consistent with RCW 36.70A.130.

#### **2. Name of applicant:**

City of Des Moines, Washington

#### **3. Address and phone number of applicant and contact person:**

City of Des Moines  
21630 11<sup>th</sup> Avenue S, Suite D  
Des Moines, WA 98198-6398  
Attn: Denise E. Lathrop, AICP, Planning Manager

#### **4. Date checklist prepared:**

March 22, 2011

#### **5. Agency requesting checklist:**

City of Des Moines, WA

#### **6. Proposed timing or schedule (including phasing, if applicable):**

The proposed text code amendments are anticipated to be adopted in June 2011. Related amendments to the Des Moines Comprehensive Plan will be docketed with Des Moines' annual amendments consistent with RCW 36.70A.130 and the amendment process as defined in Des Moines Municipal Code (DMMC) Chapter 18.84.030.

ENVIRONMENTAL CHECKLIST  
FOR  
TO BE COMPLETED BY APPLICANT  
ONLY

EVALUATION  
AGENCY USE

**7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.**

Yes. Planning that is underway for the Marina District may require supplemental SEPA review or amendments to development regulations depending on the nature and extent of the activity.

**8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.**

- SEPA Checklist and DNS, Water District No. 54. April, 2011.
- SEPA Checklist, Adoption and DNS, Des Moines 2010 Comprehensive Plan Amendments. LUA 10-017. October 15, 2010.
- SEPA Checklist, Adoption and DNS, Marina District Design Guidelines. LUA 09-017. May 18, 2010.
- SEPA Checklist, Adoption and DNS, Des Moines 2009 Comprehensive Plan Amendments. LUA 09- 026. August 13, 2009.
- SEPA Checklist and DNS, Des Moines 2010 Parks, Recreation and Senior Services Master Plan. July 27, 2009.
- SEPA Checklist and DNS, Des Moines 2009 Update to the Des Moines Comprehensive Transportation Plan. March 11, 2009.
- SEPA Checklist, Adoption and DNS, Des Moines 2008 Comprehensive Plan Amendments. LUA 08- 039. November 25, 2008.
- SEPA Checklist and DNS, Midway Sewer District Comprehensive Sewer System Plan. November 2008.
- SEPA Checklist, Adoption and DNS, Des Moines 2007 Comprehensive Plan Amendments. LUA 07-053. October 20, 2007.
- Des Moines Development Regulations Review SEPA Checklist and DNS. LUA 06-016. April 6, 2006.
- Des Moines Comprehensive Plan Update SEPA Checklist and DNS, September 6, 2005.
- Greater Des Moines Comprehensive Plan Draft and Final Environmental Impact Statement, October 1995 and December 1995.

SEPA threshold determinations will be made for all future development activities within the City of Des Moines that are not categorically exempt.

**9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.**

No specific applications are known at this time. City staff regularly process site specific development requests of properties located within the Marina District.

ENVIRONMENTAL CHECKLIST  
FOR  
TO BE COMPLETED BY APPLICANT  
ONLY

EVALUATION

AGENCY USE

**10. List any government approvals or permits that will be needed for your proposal, if known.**

Final approval of the proposed text code amendments would require approval by a majority vote of the City Council.

**11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.**

The proposed non-project action relates to modifications to the zoning requirements regulating permitted uses, building heights, setbacks, parking, and establishing floor area ratios for the area identified as the Marina District neighborhood. This work has been guided by the vision and policy framework for the Marina District as set forth in the Des Moines Comprehensive Plan as well as input from Des Moines City Council Finance and Economic Development Committee, Planning Agency, Marina District Stakeholder Group and citizens and leaders in the business and development communities.

Specific amendments would:

- Increase building heights to forty-five (45) feet in Area 2 as identified on Figure 1;
- Establish provisions for a building height bonus areas with associated public benefits table authorizing buildings up to forty-five (45) feet in Area 1, sixty-five (65) feet in height in Area 2 and seventy-five (75) feet in Area 3 as identified on Figure 2;
- Establish a maximum amount of additional square footage for all buildings within the individual bonus areas – Area 1 on Figure 2 = 60,000 square feet, Area 2 on Figure 2 = 140,000 square feet, and Area 3 on Figure 2 = no maximum;
- Establish a 20-foot building setback requirement for buildings located on corner lots as shown on Figure 3;
- Establish building placement standards for 7<sup>th</sup> Avenue S and Marina View Drive as shown on Figure 4.
- Establish provisions to allow angled parking along Marine View Drive;
- Establish a floor area ratio (FAR) of 2.5 for those areas of the Marina District with a 35-foot height limit; an FAR of 3.2 for those areas with a 45-foot height limit; an FAR of 3.8 for 65 feet, and an FAR of 4 for those areas with a 75-foot height limit;

Proposed zoning changes would increase the development capacity within the Marina District neighborhood, thereby providing for approximately 765 housing units and 500 jobs at buildout.

ENVIRONMENTAL CHECKLIST  
FOR  
TO BE COMPLETED BY APPLICANT  
ONLY

EVALUATION  
AGENCY USE

**12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.**

The proposed action relates to text code amendments to the Des Moines Municipal Code for the Marina District. A map of the Marina District and corresponding Comprehensive Plan designations for this area can be viewed on the City's website at:

<http://www.desmoinesmail.com/WebPDF/CommDev/PDF/CompPlan/Plan/Figures/2-01.MarinaDistrict.pdf>

The zoning map, that includes the Marina District, can be viewed on the City's website at:

[http://www.desmoinesmail.com/WebPDF/Maps/Zoning\\_2007-12.pdf](http://www.desmoinesmail.com/WebPDF/Maps/Zoning_2007-12.pdf)

***B. ENVIRONMENTAL ELEMENTS***

**1. Earth**

No impacts to earth resources are anticipated from adoption of the proposed text code amendments. See Section D.

**a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other . . . . .**

The proposal does not specifically affect an individual site since it is non-project action. Portions of the Marina District contain areas that are characterized by rolling, hilly, steep slopes, and ravine-sidewalls. These areas are within the Des Moines Creek Drainage Basin and along the western edge of the Marina District adjacent to the marina floor.

**b. What is the steepest slope on the site (approximate percent slope)?**

The proposal does not specifically affect an individual site since it is non-project action. However, limited areas in the Marina District contain slopes in excess of 45 %.

**c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.**

The proposal does not specifically affect an individual site since it is non-project action.

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**d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.**

The proposal does not specifically affect an individual site since it is non-project action. However, the Marina District does contain geological hazard areas due the potential of liquefaction or history of unstable soils.

**e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.**

The proposal does not specifically affect an individual site since it is a non-project action. Future project actions would be subject to further review consistent with the Des Moines Municipal Code and State Regulations on a case-by-case basis.

**f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.**

The proposal does not specifically affect an individual site since it is a non-project action. Future project actions would be subject to further review consistent with the Des Moines Municipal Code and State Regulations on a case-by-case basis.

**g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?**

The proposal does not specifically affect an individual site since it is a non-project action. Future project actions would be subject to further review consistent with the Des Moines Municipal Code and State Regulations on a case-by-case basis.

**h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:**

No development activity is proposed in conjunction with this non-project action; therefore, there are no erosion or other impacts to the earth. Any erosion related impacts created by future project actions during construction and clearing activities will be mitigated by compliance with the Des Moines Municipal Code, the King County Surface Water Design Manual Appendix D, and appropriate State regulations. Additionally all future project actions will require the submittal of a Temporary Erosion and Sedimentation Control Plan (TESC) pursuant to DMMC 14.24. See Section B.1.

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## 2. Air

**a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.**

The proposal is a non-project action. No development activity is directly associated with this proposal. See Section B.1.

**b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.**

The proposal is a non-project action. No construction is associated with this proposal; therefore, it will not result in emissions or odors, nor will it be affected by any kind of emissions.

**c. Proposed measures to reduce or control emissions or other impacts to air, if any:**

The proposal is a non-project action that will not result in emissions or odors, nor will it be affected by any kind of emissions since there is no construction associated with the proposal. Therefore, no mitigation measures are proposed.

Future project actions will be subject to environmental review as require by the Des Moines Municipal Code and the City's SEPA rules. All projects will be evaluated for potential air impacts in accordance will all applicable polices, rules, and regulations adopted by the City of Des Moines. Any impact will be appropriately mitigated in accordance with local and state requirements for air impacts.

## 3. Water

No impacts to water resources are anticipated to result from the proposed amendments to the City of Des Moines Comprehensive Plan.

**a. Surface:**

**1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**

The proposal does not specifically affect an individual site since it is a non-project action. Des Moines Creek runs through the northwestern corner of the Marina District

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and flows into Puget Sound at Beach Park. Massey Creek runs along the southern border of the neighborhood before discharging into Puget Sound just south of Des Moines Marina. Maps of surface water features and wetlands can be viewed on the City's website at: <http://www.desmoineswa.gov/maps/maps.html>

**2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.**

This is a non-project action; therefore, no development will occur over, in, or adjacent to any surface water body as part of the proposal. Impacts on surface water resources and wetlands will be evaluated on a case-by-case basis. If future development is proposed in the vicinity of any surface waters or wetlands, the project action will be evaluated for consistency with the requirements codified in DMMC 18.86. "Environmentally Critical Areas" and the City's Shoreline Master Program and the City will determine the appropriate mitigation of any potential adverse impacts.

**3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.**

This is a non-project action; therefore, no filling or dredging of surface waters or wetlands will occur under the proposal.

**4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.**

No.

**5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.**

Portions of the Marina District are located in the 100-year floodplain. As a non-project action, no development will occur within the 100-year floodplain.

**6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.**

No.

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**b. Ground:**

**1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.**

No.

**2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**

This is a non-project action; therefore, no conveyance of waste materials to groundwater will occur under the proposal.

**c. Water runoff (including stormwater):**

**1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**

This is a non-project action; therefore, no additional sources of runoff will be generated.

**2) Could waste materials enter ground or surface waters? If so, generally describe.**

No.

**3) Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:**

See Section A.3.

This is a non-project action that will not result in additional runoff nor will it affect surface water or groundwater; therefore, no mitigation measures are proposed. Future project actions will be subject to environmental review as required by the Des Moines Municipal Code and the SEPA rules. Projects that are not categorically exempt from SEPA and require a City approved permit will be subject to review under the City's SEPA implementing ordinance (DMMC 16.04).

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#### 4. Plants

N/A

**a. Check or circle types of vegetation found on the site:**

- deciduous tree: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other
- shrubs
- grass
- pasture
- wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation

**b. What kind and amount of vegetation will be removed or altered?**

The proposal is a non-project action. No construction is associated with this proposal; therefore, it will not result in removal or the alteration of any vegetation.

**c. List threatened or endangered species known to be on or near the site.**

None known.

**d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:**

The proposal is a non-project action, it does not directly involve landscaping or vegetation enhancement. The portions of the Marina District neighborhood affected by the proposed text code amendments are part of the urban environment and contain limited landscaping and/or native plants.

All future site specific actions are subject to the City of Des Moines landscaping code (DMMC 18.41). Projects that are not categorically exempt from SEPA and require a City approved permit will be subject to review under the City's SEPA implementing ordinance (DMMC 16.04). Any impact as a result of future project to native vegetation will be appropriately mitigated under SEPA substantive authority.

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## 5. Animals

### a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

The following types of animals have been observed in Des Moines:

**birds:** hawk, heron, eagle, songbirds, **other:** Pigeon Guillemot (State PHS)

**mammals:** deer, bear, elk, beaver, **other:** river otter, sea lions, seals

**fish:** bass, salmon, trout, herring, shellfish, **other:** surf smelt, sand lance

### b. List any threatened or endangered species known to be on or near the site.

Bald eagles have been known to utilize the Puget Sound area for foraging and roosting. There are bald eagle nesting sites in Des Moines. (City of Des Moines, 2005).

Bull trout and Chinook salmon use Puget Sound as part of their migratory corridor. Critical habitat for Chinook salmon extends from the Puget Sound shoreline out to the maximum depth of the photic zone<sup>1</sup>. Bull trout critical habitat extends offshore to a depth of 10 meters. Both fish may use the areas near the mouth of Des Moines Creek, for foraging habitat (City of Des Moines, 2005).

The presence of humpbacked whales within the vicinity of the project site is considered rare.

Stellar's sea lion are known to occur frequently within Puget Sound, but are typically found further north. There is no known marine mammal habitat within the Beach Park (City of Des Moines, 2005).

In late 2005 the distinct population segment of the Southern Resident killer whale (*Orcinus orca*), commonly referred to as Orcas, was listed as endangered under the Endangered Species Act. On November 28, 2006, the entire Puget Sound was designated as Critical Habitat for the Orcas (NOAA, 2006). The presence of Orcas within the vicinity of the project site is considered rare.

### c. Is the site part of a migration route? If so, explain.

Adult salmonids migrate through the Puget Sound and into creeks within Des Moines. Juvenile anadromous salmoinds migrate from spawning areas within Des Moines Creek, Massey Creek and McSorely Creek then to the Puget Sound.

The Puget Sound is also a migratory route for several other species, including the humpbacked whale, orcas, and bull trout. These species are not known to reside or forage

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within the creeks located in Des Moines. The City of Des Moines is also located in the Pacific Flyway used by migratory birds.

**d. Proposed measures to preserve or enhance wildlife, if any:**

This is a non-project action; therefore, no mitigation to preserve or enhance wildlife is proposed. See Sections D.2 and D.4.

Future project actions will be subject to environmental review as required by the SEPA rules, and will be evaluated for wildlife impacts in accordance with the policies, rules, and regulations adopted by the City of Des Moines to prevent and mitigate impacts to wildlife.

**6. Energy and natural resources**

**a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**

This is a non-project action; therefore, there it will not create any additional needs for energy. See Section D.3.

**b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**

This is a non-project action; therefore, there it will not affect the potential use of solar energy within Des Moines.

**c. What kinds of energy conservation features are included in the plans of this proposal?**

**List other proposed measures to reduce or control energy impacts, if any:**

There are no associated energy impacts with this non-project action. Therefore, no mitigation measures are proposed.

**7. Environmental health**

**a. Are there any environmental health hazards, including exposure to toxic chemicals,**

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**risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal?  
If so, describe.**

No; this is a non-project action.

**1) Describe special emergency services that might be required.**

Since this is a non-project action it will not require emergency services.

**2) Proposed measures to reduce or control environmental health hazards, if any:**

None, since no adverse impacts are anticipated with this non-project action.

**b. Noise**

**1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?**

The proposal is not site specific. However, the City of Des Moines is impacted by noise generated by the SeaTac International Airport at levels that exceed 50 Ldns.

**2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.**

Since this is a non-project action there are no associated noise impacts; therefore, mitigation measures are not proposed as part of the proposal. New development would be subject to existing sound transmission ordinance that requires indoor noise levels to be reduced by approximately 30 dBA as compared to exterior noise levels. Potential noise impacts associated with new development will be reviewed under separate SEPA analysis.

**3) Proposed measures to reduce or control noise impacts, if any:**

New developments would be subject to existing sound transmission ordinance which requires indoor noise levels to be reduced by approximately 30 dBA as compared to exterior noise levels. Noise levels are not expected to significantly increase under the Proposal. Potential noise impacts associated with new development will be reviewed under separate SEPA analysis.

**8. Land and shoreline use**

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**a. What is the current use of the site and adjacent properties?**

The Marina District is predominantly developed as a mixed-use district characterized by commercial and multifamily residential development with a marina and large beachfront park. A small number of single family residences characteristic of an earlier development pattern are also scattered throughout the area.

**b. Has the site been used for agriculture? If so, describe.**

Yes. Historically areas within Des Moines were used for timber activity, agriculture, and raising domestic stock.

**c. Describe any structures on the site.**

Structures within the Marina District include single family residences, multifamily structures, commercial buildings, and public facilities.

**d. Will any structures be demolished? If so, what?**

No; this is a non-project action.

**e. What is the current zoning classification of the site?**

There are four land use zones established for the Marina District: RM-900 Residential: Multifamily 900, RM-900A Residential: Multifamily 900A, D-C Downtown Commercial, and SE-Suburban Estates (corresponds to the Beach Park).

To view Des Moines Zoning map, please refer to the City's website at:

<http://www.desmoineswa.gov/maps/maps.html>

**f. What is the current comprehensive plan designation of the site?**

There are four comprehensive plan designations within the Marina District: MF – Multifamily, COM – Commercial with a mixed-use overlay, PF – Public Facility and Park. To view the Des Moines Comprehensive Plan map, please refer to the City's website at:

<http://www.desmoineswa.gov/maps/maps.html>

**g. If applicable, what is the current shoreline master program designation of the site?**

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Most areas of the Marina District within 200 feet of the shoreline are designated as High Intensity. Beach Park is designated as Urban Conservancy. These areas are within the shoreline jurisdiction. See Section D.4.

**h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.**

Some areas within the Marina District of Des Moines are classified as "environmentally sensitive." Des Moines' sensitive areas maps that can be views on the City's website at: <http://www.desmoineswa.gov/maps/maps.html>

**i. Approximately how many people would reside or work in the completed project?**

None; this is a non-project action. Proposed text code amendments related to raising building heights would increase both the housing and job capacity within the Marina District. See Section D.5.

**j. Approximately how many people would the completed project displace?**

None; this is a non-project action. Potential displacements associated with specific project actions would be reviewed under separate analysis. See Section D.5.

**k. Proposed measures to avoid or reduce displacement impacts, if any:**

Since this is a non-project action, there are no associated displacement impacts; therefore, no mitigation measures associated with the adoption of the proposed amendments. Potential displacements associated with specific project actions would be reviewed under separate analysis.

**l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:**

The Des Moines Comprehensive Plan sets the policy framework for future planning and development within the Marina District. The stated vision and supporting goals and policies of the Marina District Element and the Marina District Design Guidelines (July 29, 2010) express the importance of building and site design to create an "aesthetically pleasing" area, "provide view corridors, visual interest and pedestrian scale" and "reflect and celebrate the City's unique location and maritime heritage."

See Section D.5.

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## 9. Housing

### a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

Since this is a non-project action, no housing units would be created. Project specific actions would be evaluated under separate analysis. Proposed text code amendments related to building heights would increase the housing capacity within the Marina District. See Section D.5.

### b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Since this is a non-project action, no housing units would be eliminated.

### c. Proposed measures to reduce or control housing impacts, if any:

Since this is a non-project action, no housing units would be affected; therefore, no mitigation is proposed.

## 10. Aesthetics

### a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Since this is a non-project action, no structures will be constructed. Proposed amendments to the Des Moines Municipal Code would increase the building heights in some areas of the Marina District from 35 feet to 45 feet, and add provisions for a height bonus to 45, 65 and 75 feet when certain criteria are met. See Section D.5.

### b. What views in the immediate vicinity would be altered or obstructed?

Since this is a non-project action, no structures would be constructed and no views would be altered or obstructed. Proposed zoning amendments that provide for increased building heights in the Marina District could create the potential for view impacts from future development. See Section D.5.

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**c. Proposed measures to reduce or control aesthetic impacts, if any:**

No development activity will occur in conjunction with this non-project action; therefore, no mitigation measures are proposed. Future project actions will be subject to environmental review as required by the Des Moines Municipal Code and SEPA rules. See Section D.5.

**11. Light and glare**

**a. What type of light or glare will the proposal produce? What time of day would it mainly occur?**

No development activity will occur in conjunction with this non-project action; therefore, no new sources of light or glare will be produced. Future project actions will be reviewed to determine potential light and glare impacts in accordance with the Des Moines Municipal Code and SEPA rules.

**b. Could light or glare from the finished project be a safety hazard or interfere with views?**

No development activity will occur in conjunction with this non-project action; therefore, the proposal would not produce a safety hazard or interfere with views as a result of light or glare. Future project actions will be reviewed to determine potential light and glare impacts in accordance with the Des Moines Municipal Code and SEPA rules.

**c. What existing off-site sources of light or glare may affect your proposal?**

No development activity will occur in conjunction with this non-project action; therefore, the proposal would not be affected by off-site sources of light or glare. The majority of the Marina District is illuminated by publicly-owned light standards, lighting on private property, vehicle headlights and illuminated signs. During the review of future specific project actions, additional sources of off-site light or glare will be evaluated in accordance with the Des Moines Municipal Code, SEPA rules and Marina District Design Guidelines.

**d. Proposed measures to reduce or control light and glare impacts, if any:**

This is a non-project action; no construction is associated with the proposal. Therefore, no mitigation measures are proposed as part of the proposal. Future development is subject to the requirements of Chapter 18.44 DMMC which limits the height of lighting.

Design standards contained in the Marina District Design Guidelines address personal safety and security through building design and improved pedestrian and gathering areas. Specific

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measures include enhanced pedestrian and street lighting that is designed to reduce glare and avoid hampering the vision of pedestrians, cyclists and drivers.

## 12. Recreation

### a. What designated and informal recreational opportunities are in the immediate vicinity?

The City of Des Moines has numerous recreational opportunities. The Des Moines Parks, Recreation and Senior Services Master Plan was updated in 2009 and identifies existing parks and facilities and future proposed land acquisitions, facility renovations and repair and new development projects.

### b. Would the proposed project displace any existing recreational uses? If so, describe.

No existing recreational uses would be displaced as a result of this non project action.

### c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

This is a non project action which will not displace any existing recreational uses; therefore no mitigation measures are proposed. Future project actions will be subject to environmental review as required by the Des Moines Municipal Code and SEPA rules. The Public Benefit Incentive System associated with the proposed building height bonus, provides opportunities for the creation of public open space and/or recreation opportunities. See Section D.4 and D.6.

## 13. Historic and cultural preservation

### a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

Des Moines Beach Park was listed on the King County Register of Historic Places in 1988 and on the Washington State Heritage register and National Register of Historic Places on January 11, 2006 (NRIS, 2006). Beach Park is located within the Marina District.

The Des Moines Field House Park, located adjacent to the Marina District, was listed on the King County Register of Historic Places in 1984 and was nominated for listing on the National Register of Historic Places in 2009.

Other unidentified historic places or objects could be located within or adjacent to the Marina District.

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**b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.**

The proposal is not site specific. Information related to the historic and cultural preservation is contained on the City's website at <http://www.desmoineswa.gov>. Additional information related to historic preservation is identified within the document, titled *Historic Properties Survey: City of Des Moines*, dated April 1995.

**c. Proposed measures to reduce or control impacts, if any:**

This is a non-project action which will not impact any existing historic landmarks or objects of archeological or cultural importance since there is no construction associated with the proposal. Therefore, mitigation measures are not proposed as part of the proposal. Future site specific project actions will be subject to environmental review as required by the Des Moines Municipal Code and the SEPA rules.

**14. Transportation**

**a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.**

The proposal is not site specific. The Marina District is served by the following major public streets or highways: State Route 516 (Kent-Des Moines Road) and State Route 509 (Marine View Drive). There are other arterials, collectors and local streets that serve the City of Des Moines.

**b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?**

The proposal is not site specific. The following bus routes operate within the City of Des Moines: King County Metro Routes 121, 122, 131, 132, 166, 174, 175 and 191, Sound Transit Route 574. Metro Routes 121, 122, 131, 132 and 166 serve the Marina District.

**c. How many parking spaces would the completed project have? How many would the project eliminate?**

This is a non-project action which will not create or eliminate parking spaces since there is no construction associated with the proposal.

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**d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).**

This is a non-project action which will not require any new roads, streets, or improvements to existing roads or streets since there is no construction associated with the proposal. Des Moines Comprehensive Transportation Plan (2009) identifies the policies and transportation network needed to accommodate the planned growth in housing and employment through year 2030, meeting the operational standards for the City.

Future project actions may require new streets or improvements to new streets which will be evaluated during the City review of the proposed construction activity. See Section D.6 for more details.

**e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**

This is a non-project action to adopt text code amendments for the Marina District. No specific use of water, rail, or air transportation is associated with this proposal.

**f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.**

This is a non-project action which will not create new vehicular trips since there is no construction associated with the proposal. Proposed amendments related to building heights would increase the job and housing capacity within the Marina District. See Section D.6.

Implementing the Transportation Element goals, policies and strategies and Des Moines' Commute Trip Reduction Plan that promote transportation demand management, commute trip reduction and use of transit and non-motorized transportation alternatives are expected to contribute to the reduction of vehicular trips per day during peak travel times.

**g. Proposed measures to reduce or control transportation impacts, if any:**

This is a non-project action which will not create transportation impacts since there is no construction associated with the proposal; therefore, no mitigation measures are proposed as part of the proposal

Future project actions will be subject to environmental review as require by the Des Moines Municipal Code and the SEPA rules. See Section D.6.

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### 15. Public services

**a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.**

This is a non-project action which will not create new demand for public services since there is no construction associated with the proposal.

As redevelopment occurs in the Marina District, there may be a proportional increase in the demand for public services; however, this growth is not beyond the capacity currently anticipated in the Des Moines Comprehensive Plan and associated public service plans.

**b. Proposed measures to reduce or control direct impacts on public services, if any.**

This is a non-project action which will not result in public service or transportation impacts since there is no construction associated with the proposal. Therefore, mitigation measures are not proposed as part of the proposal. Future project actions will be subject to environmental review as required by the Des Moines Municipal Code and the SEPA rules. Projects which are not categorically exempt for SEPA and require a City approved permit will be subject to review under the City's SEPA implementing ordinance (DMMC 16.04). A further discussion related to possible public service impacts and mitigation is provided in Section D.6 since this is a non-project action.

### 16. Utilities

**a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.**

The proposal is not site specific. However, the City of Des Moines is served by the following utilities: electricity, natural gas, water, refuse service, telephone, sanitary sewer, and individual septic systems.

**b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.**

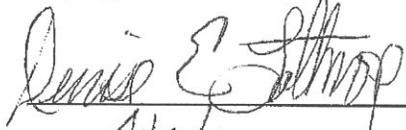
This is a non-project action which will not create require additional public utilities since there is no construction associated with the proposal. Future project actions will be subject to environmental review as required by the Des Moines Municipal Code and the SEPA rules. A further discussion related to possible utility impacts and mitigation is provided in Section D.6 since this is a non-project action.

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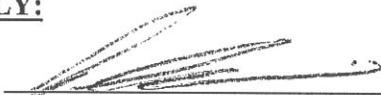
**C. SIGNATURE**

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Date Submitted: 4/8/11

**ADMINISTRATION ONLY:**

Administrative review by: 

Title: Senior Planner

Date: 4/11/10

ENVIRONMENTAL CHECKLIST  
FOR  
TO BE COMPLETED BY APPLICANT  
ONLY

EVALUATION  
AGENCY USE

#### ***D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS***

##### **1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?**

This is a non-project action that will not directly result in additional runoff nor will it affect surface water or groundwater. Proposed zoning amendments would increase the development capacity within the Marina District which in turn could indirectly increase the amount of impervious surface as properties develop/redevelop. Increased development could lead to increased discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise.

##### **Proposed measures to avoid or reduce such increases are:**

The proposal would increase opportunities for compact mixed use development close to jobs, transit and other services within Marina District. Co-locating multiple destinations would help reduce auto dependency and resultant traffic congestion, petroleum consumption and greenhouse gas emissions, particularly when compared to single family residential development.

A mid-rise residential or mixed use project would also concentrate its green space with landscaping elements such as shade trees and decorative plantings, or rooftop garden/s all of which may be utilized to capture and manage rainfall. The density also frees up land elsewhere in the City for open green space and recreational use by all.

Future project actions that are not categorically exempt will be subject to environmental review as required by the Des Moines Municipal Code and the SEPA rules. Projects that are not categorically exempt from SEPA and require a City approved permit will be subject to review under the City's SEPA implementing ordinance (DMMC 16.04).

##### **2. How would the proposal be likely to affect plants, animals, fish, or marine life?**

The proposal would not directly affect plants, animals, fish or marine life. The portion of the Marina District affected by the proposal is urban in character with no native vegetation or designated critical areas. Focusing future growth within the Marina District will help to preserve undeveloped or environmentally sensitive land elsewhere in the community. Future project actions that require acquisition or use of land that benefits plants, animals, fish or marine life and would be evaluated for consistency with Des Moines Municipal Code and SEPA rules.

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**Proposed measures to protect or conserve plants, animals, fish, or marine life are:**

The proposal is a non-project action; therefore no mitigation measures to protect or conserve plants, animals, fish or marine life are recommended.

Future project and site specific actions within the Marina District would be subject to review under the City's Grading Code (DMMC 14.60), Environmentally Critical Areas Code (DMMC 18.86), and the Landscaping Code (DMMC 18.41). These codes require that impacts to native vegetation and wildlife habitat will be addressed as a component of the land use review. If impacts are identified during the review the code requires that the impact be appropriately mitigated as part of approval of the project action. Compliance with the applicable provisions of the DMMC will adequately mitigate any probable significant adverse vegetative impacts for projects that would be exempt from SEPA. Therefore, additional mitigation would not be required under SEPA substantive authority since appropriate mitigation for the scale of the projects is within the City's current development regulations.

**3. How would the proposal be likely to deplete energy or natural resources?**

As a non-project action, adoption of the proposed text code amendments would not directly result in depletion of energy or natural resources. The increased housing and job capacity within the Marina District neighborhood could indirectly increasing the potential for more people to live, work and consume energy and natural resources in this area. This growth is within the range adopted by the City and planned for in the Des Moines Comprehensive Plan as well as other public service and facility plans. In the future, as the demand warrants, some of the existing electrical infrastructure may need to be upgraded from two-phase to three-phase power in order to accommodate energy loads. Consultation with Puget Sound Energy (November 3, 2010), indicates that there is adequate three-phase power supply to serve the additional growth capacity proposed within the Marina District.

**Proposed measures to protect or conserve energy and natural resources are:**

The proposal would increase opportunities for compact mixed use development close to jobs, transit and other services within Marina District. Co-locating multiple destinations could indirectly reduce energy consumption by providing opportunities for people to walk, bike or take transit to their destination. Allowing higher mixed use density by vertically stacking the uses not only conserves valuable land resources, but presents opportunities for energy efficiency, building efficiency, and sustainability, particularly when compared to single family residential development. For example, a typical single family home of 2,400 square feet (sf) must insulate and condition a total exposed building surface area of over 1,700 sf per person, while a typical mid-rise building must insulate and condition less

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than 350 sf of exposed building surface area per person. The efficiencies gained from increased densities would likely help reduce consumption of energy and natural resources.

Compliance with the applicable provisions of the DMMC and state law will adequately mitigate any probable significant adverse energy impacts for specific project actions deemed categorically exempt from SEPA. Therefore, additional mitigation would not be required under SEPA substantive authority since appropriate mitigation for the scale of the projects is within the City's current development regulations.

See Section D.2.

**4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

Adoption of the proposed text code amendments would not amend the rules regarding the use or protection of environmentally sensitive areas, parks, historic or cultural sites. The portion of the Marina District affected by the proposal is urban in character with no designated environmentally sensitive areas, wilderness, Wild and Scenic Rivers, nor historic or cultural sites. There are several buildings such as the Des Moines Theater and Odd Fellows Hall that could be eligible for historic designation at some time in the future if nominated.

See Section D.2.

**Proposed measures to protect such resources or to avoid or reduce impacts are:**

Future project and site specific actions would be subject to review under the City's Environmentally Critical Areas Code (DMMC 18.86), and the Landscaping Code (DMMC 18.41). These codes require that impacts to environmentally sensitive areas will be addressed as a component of the land use review. If impacts are identified during the review the code requires that the impact be appropriately mitigated as part of approval of the land use action.

**5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**

One of the primary objectives of the proposed zoning amendments is to further the vision for the Marina District by promoting development and redevelopment in a manner that strengthens community sustainability, pedestrian accessibility, livability and downtown business vitality. Proposed zoning amendments would increase the land capacity within D-

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C zone, thereby providing for an additional 765 housing units and 500 jobs within the Marina District.

The additional capacity created under the proposal is within the range planned for in Des Moines Comprehensive Plan (1,576 households and 1,986 jobs). Housing and employment targets that were adopted by the Growth Management Planning Council in 2010 and ratified by King County cities, set a target of 3,000 net new housing units and 5,000 net new jobs for Des Moines by year 2030. The increased capacity within the D-C zone will allow some of this growth to occur within the Marina District.

Des Moines' Comprehensive Plan states the City's desire to ensure that proposed uses and development projects are reasonably compatible with surrounding uses and are consistent with applicable adopted goals and policies in the Land Use Element. The proposal is consistent with Des Moines Comprehensive Plan goals, policies and strategies aimed at enhancing the "diverse residential neighborhoods of the community and serve them with vibrant business districts, open space, recreational facilities, affordable housing, and other supportive land uses; protect environmentally critical areas, and promote economic development." Proposed changes to the D-C zone support Land Use Element (LUE) and Marina District Element (MDE) goals, policies and strategies intended to:

- Foster a harmonious blend of living, working, shopping, recreational and cultural land uses. (LUE, Policy 2-03-01)
- Ensure that future development has adequate public facilities and services or such services can be concurrently provided. (LUE, Policy 2-03-03)
- Promote a land use pattern, scale, and density that support public transportation services and encourage people to walk and bicycle, as well as provide convenient and safe automobile usage. (LUE, Policy 2-03-05)
- Enhance and improve the economic health of existing business districts and recognize each district's special attributes. (LUE, Policy 2-03-08)
- Promote new development and redevelopment within the Marina District to reflect and enhance its ties to the waterfront, pedestrian orientation, and role in serving local shopping and service requirements. (LUE, Policy 2-03-08(1))
- Promote new development and redevelopment within the Marina District to create a vibrant district with a quality mix of businesses that will enhance the waterfront and serve as a destination for local residents and visitors. Require that new construction contain and exhibit high-quality design elements and building materials as outlined by the *Marina District Design Guidelines*. (LUE, Policy 2-03-08(2))
- Minimize negative impacts of new development on neighborhoods by providing uniform standards at the interface of incompatible land uses which address, but are not limited to, the following: site access and circulation; structure height, bulk, and

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scale; preservation of views; separation of buildings; landscaping; density; and noise buffering. (LUE, Strategy 2-04-17)

- Encourage new construction to incorporate design elements that provide view corridors, visual interest, and pedestrian scale. Require the terracing of upper floors of buildings. (MDE, Policy 10-03-10)
- Encourage new development to include public benefit features such as water fountains, bicycle racks, public rest rooms, outdoor seating, art, etc. (MDE, Policy 10-03-11)
- As part of the next review of this Element, investigate the possibility of creating specific subarea plans for the Marina District. (MDE, Strategy 10-04-9)
- Ensure that new development or redevelopment in the Marina District exhibits design excellence by paying particular attention to site design, building form, architecture and public space as described in the *Marina District Design Guidelines* (2009). (MDE, Strategy 10-04-10)

**Proposed measures to avoid or reduce shoreline and land use impacts are:**

Future project actions associated with the design of new buildings or redevelopment projects in the Marina District would be subject to review under the Des Moines Municipal Code, Des Moines Comprehensive Plan, Marina District Design Guidelines and the SEPA rules.

Allowing opportunities for higher mixed use density from a residential and commercial retail standpoint not only conserves valuable land resources, but also helps to revitalize the area and presents opportunities for energy efficiency, building efficiency, and sustainability.

Proposed floor area ratios associated with the increased building heights would help mitigate potential bulk and scale impacts from taller buildings by providing opportunities to modulate upper floors of buildings, create visual interest, provide view corridors, and/or integrate open space in the site design. Proposed development standards would also require buildings located on corner lots to observe a 20 foot setback from the corner, or provide other public benefit features. For those areas eligible for a height bonus, the proposed "Public Benefit Incentive System" would establish the criteria under which additional building square footage may be permitted. Public benefits range from design elements and dedicated uses, to civic contributions and streetscape improvements.

The Marina District Design Guidelines (adopted in 2010) are effective in addressing aesthetic, as well as functional, issues and in making new development a positive visual addition to the landscape. For commercial developments, guidelines encourage pedestrian

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oriented facades that include display windows, entrances, small-scale architectural details, weather protection and pedestrian amenities along principle streets. Guidelines also include criteria for parking lot landscaping and screening. Public improvements, especially street improvements along Marine View Drive, S 223<sup>rd</sup> and S 227<sup>th</sup> Streets will also be very useful in upgrading the visual qualities of the area and creating a “sense of place” for the neighborhood.

Compliance with the applicable provisions of the DMMC will likely mitigate any probable significant adverse impacts for projects deemed categorically exempt from SEPA. Therefore, additional mitigation would not be required under SEPA substantive authority since appropriate mitigation for the scale of the projects is within the City’s current development regulations.

**6. How would the proposal be likely to increase demands on transportation or public services and utilities?**

This is a non-project action and will not directly create new vehicular trips or demand for new public services/utilities or parking since there is no construction associated with the proposal.

Proposed zoning amendments would increase the development capacity for the Marina District. Demand for transportation, public services and utilities would likely increase as properties develop/redevelop and more people live, work and use the Marina District. This potential growth is within the targets established for the City of Des Moines and planned for in Des Moines’ Comprehensive Plan and Comprehensive Transportation Plan, as well as the plans for local public service and utility providers – King County Fire and Rescue, Water District No. 54, Midway Sewer District and Puget Sound Energy.

Des Moines’ Comprehensive Transportation Plan was adopted by the City Council on June 11, 2009. The CTP is a 20-year blueprint for the City of Des Moines, which sets the goals, policies and strategies that will help guide decisions regarding the existing and envisioned transportation system, including the approval of development proposals, and investments in the transportation network for all modes of travel - walking, biking, driving, and transit. The CTP has been developed to meet the transportation demand associated with the planned and expected growth in population and jobs through year 2030. Forecasts predict that the region and the City of Des Moines will continue to grow over the next 20 years, adding more people (250-500 households) and jobs (>500 jobs) within the Marina District. By 2030, the City employment is expected to double in size and households will increase nearly 60%.

King County Water District 54 currently provides water service to the Marina District neighborhood and has plans to construct water system upgrades within the Marina District

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in 2011 to meet growth and fire flow capacity needs for the service area. Recent updates to District's Comprehensive Water System Plan estimates an increase of 1,000 equivalent residential units (ERUs) assuming a year 2029 buildout. The additional capacity that would be added under the proposed zoning amendments falls well within the planned capacity for the Water District 54 service area.

Midway Sewer District updated their Comprehensive Sewer System Plan in 2008. The Marina District is located within the Midway Drainage Basin (sub-basin #36). Population and employment forecasts assumed an increase of 2,643 people and 1,236 jobs within the Midway Sub-basin #36 service area by 2030 (Midway Sewer District, 2008). The District has plans to replace approximately 18,000 lineal feet of aging pipe in the downtown area an estimated cost of \$1.8 million to accommodate the forecast growth. This work is expected to occur in the 2009-2014 timeframe.

Consultation with Puget Sound Energy (11/03/10) determined that 3 phase electrical service is available within the Marina District to accommodate the projected growth for this area.

**Proposed measures to reduce or respond to such demand(s) from future development include:**

Goals, policies and strategies established in Des Moines' Comprehensive Plan and Comprehensive Transportation Plan (CTP) that promote transportation demand management, commute trip reduction and use of transit and non-motorized transportation alternatives are expected to reduce or control transportation impacts.

Future development actions would be subject to the City's traffic impact fee program (DMMC 12.56). Imposition of the impact fee upon development activity as a condition of issuance of a building permit is to pay for public facilities needed to serve new growth and development, and to mitigate the impacts of the development activity on the transportation facilities of the city.

Des Moines' Commute Trip Reduction Plan is intended to reduce traffic congestion through employer-based programs that decrease the number of commute trips made by people driving alone. The law applies to employers with 100 or more full-time employees at a single worksite who are scheduled to begin their workdays between 6:00 and 9:00 a.m. weekdays and that are located in the City of Des Moines. The law establishes goals for reducing commute trip vehicle miles traveled (VMT) by the employees of affected employers. These shifts in travel patterns can have large benefits for the transportation system. CTR programs reduce delay on the highway system which equates to lower commute times resulting in improved reliability of the highway system and transportation network.

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The adopted *Marina District Design Guidelines* (2010) add consistency and predictability to the permit review process by providing a flexible design framework for designers and developers as they plan and implement projects within the Marina District. Design objectives and criteria are aimed at enhancing human activity and the pedestrian environment are fundamental for creating an environment that encourages transit use, walking and biking. Recommended street improvements along Marine View Drive, S 223<sup>rd</sup> and S 227<sup>th</sup> Streets are aimed at improving connections to transit thereby indirectly increasing transit use.

The existing electrical infrastructure capacity and proposed improvements to the water and sewer systems is anticipated to mitigate potential impacts from the growth capacity added by the Proposal. It is anticipated that new development would likely share in the cost of these facility upgrades through latecomer fees or other funding mechanisms.

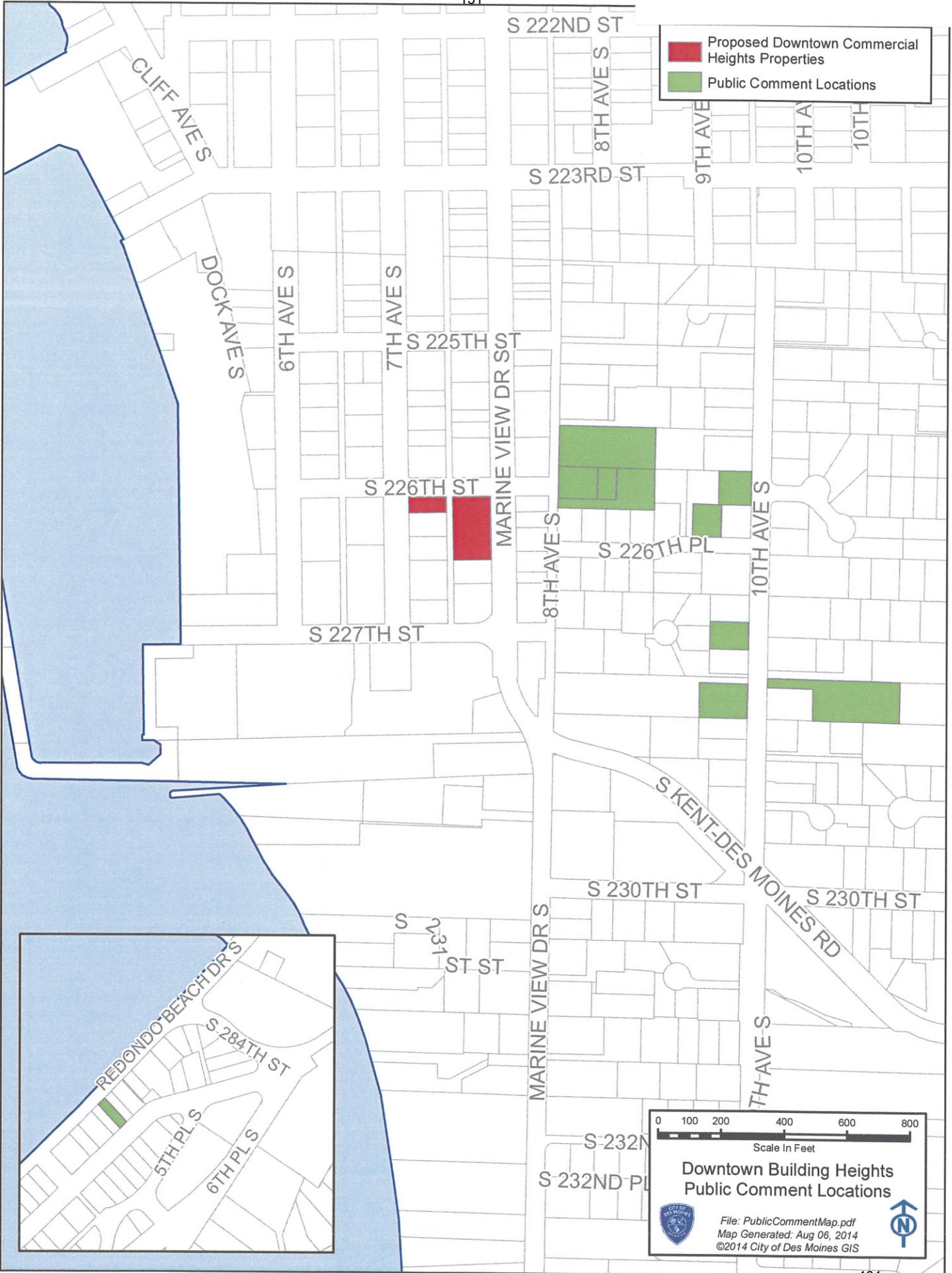
**7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

Future project specific development actions will be subject to the City of Des Moines environmental review and other development regulations at the time of application. This proposal does not conflict with any local, state, or federal laws relating to the protection of the environment.



Proposed Downtown Commercial Heights Properties

Public Comment Locations



0 100 200 400 600 800

Scale In Feet

**Downtown Building Heights Public Comment Locations**

File: PublicCommentMap.pdf  
Map Generated: Aug 06, 2014  
©2014 City of Des Moines GIS



PETER AND TERRI DIMARTINO  
 22540 8<sup>th</sup> Ave S.  
 Des Moines, Washington 98198  
 (206) 999-6569

July 28, 2014

Des Moines PBPW Department  
 21630 11<sup>th</sup> Ave. S., Suite D  
 Des Moines, WA 98198

JUL 25 2014

Dear PBPW Dept.,

Regarding project LUA2014-0026 DNS:

This rezone violates Des Moines Comprehensive Plan Marina District Element policy 10-03-05 which states that building height should not adversely impact the adjacent street environment or nearby land uses.

We are livid that Matt Pina and Brett Nutting motioned for a public hearing on August 14 for Tryg Fortun's draft #14-143 to an increase building heights to 55' feet for the property located on Marine View Dr. & S. 226th St.

In 2012 the city of Des Moines staff and community spent many hours reviewing and commenting on building heights codes, and it unanimously decided that Marina District heights would not exceed 35' feet on Marine View Dr. at this location. Currently there are no other buildings on Marine View Dr. that exceed 35 feet. Now the city is attempting to do what's called "spot zoning" to help out and accommodate/lend public assistance to an unknown property owner, who has done nothing to maintain the property since he purchased it from Mark Stegin in 2012.

Fortun should have done his research and attended the community meetings on this hot issue as he would have realized that the Marina District community places a high value on their Puget Sound water views and connection to the business district. Allowing another a change of this magnitude will create an instance barrier between the community and business district. Des Moines will no longer be seen as the Waterland Town. People will ask "Why on earth did the city government, who has a fiduciary responsibility to their community, allow this?"

Tyrg Fortun, (every council person should Google), knew the building height codes when he purchased the foreclosed property. He is financially well off and has money to buy whatever he wants. By considering this action, the city is providing government assistance and giving away its precious and irreplaceable natural resource that will have a negative impact on the current values of surrounding commercial and residential properties.

Do not issue a final determination of non significance. Do not permit the rezone.

Sincerely,

*Peter & Terri DiMartino*  
 Peter and Terri DiMartino

DAN SHERMAN  
P.O. Box 98720  
Des Moines, Washington 98198  
(206) 824-8587

JUL 30 2014

July 28, 2014

Des Moines PBPW Department  
21630 11<sup>th</sup> Ave. S., Suite D  
Des Moines, WA 98198

Dear PBPW Dept.,

Regarding project LUA2014-0026 DNS:

This rezone violates Des Moines Comprehensive Plan Marina District Element policy 10-03-05 which states that building height should not adversely impact the adjacent street environment or nearby land uses.

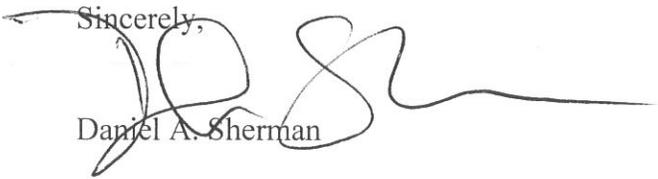
The building heights for the subject properties were modeled during the 2009 and 2010 timeframe and demonstrate that adverse impacts to adjacent street environment or nearby land uses would be anticipated from raising building heights above 35 feet.

The issue of building height downtown as it relates to other businesses and to the residential community just east of downtown has been a hotly discussed topic over decades primarily due to maintaining views (and property values) on a sloped but tiered landscape. The most recent area wide rezone done in 2011 included stakeholder committees, computer modeling, a public hearing and numerous council discussions. At that time, building heights were kept at 35 feet for Marine View Drive South (south of S. 219<sup>th</sup> St.) for purposes of scale and compatibility as increased height clearly impacted the residential neighborhood views and environment as well as the same for existing business properties.

The more thorough area wide rezone review process rejected higher building heights on Marine View Drive South. Yet, the review official states that they are relying on the same documentation to come to an opinion contrary to that recent decision for the benefit of a specific property owner. There are no buildings on Marine View Drive South in the downtown commercial zone taller than 35 feet. It is incredible that a city land use official would find on the available factual basis any justification for increasing building height on the street that is already at the highest elevation in the downtown area. There is an undeniable significant environmental impact to this rezone.

The facts lead to the following: Do not issue a final determination of nonsignificance. Do not permit the rezone.

Sincerely,

  
Daniel A. Sherman

## Dan Brewer

---

**From:** Laura Techico  
**Sent:** Tuesday, July 29, 2014 3:11 PM  
**To:** Dan Brewer  
**Cc:** Denise Lathrop  
**Subject:** FW: comment on project LUA2014-0026 DNS

FYI

---

**From:** [michelle@northwestprimetime.com](mailto:michelle@northwestprimetime.com) [<mailto:michelle@northwestprimetime.com>]  
**Sent:** Tuesday, July 29, 2014 2:58 PM  
**To:** Laura Techico; Denise Lathrop  
**Subject:** comment on project LUA2014-0026 DNS

Hello Laura,

I wanted to go on record to comment on the findings of non-significance for the project on Marine View Drive (project LUA2014-0026 DNS). I was surprised and distressed to learn that the rezone was found to be non-significant. I was surprised for many reasons. One, because it violates Des Moines Comprehensive Plan - which specifically states that building heights should not adversely impact the adjacent street environment or nearby land uses. I know for a fact that raising this site's building height above the current zoning of 35 feet will have a significant negative impact on the neighborhood and on adjacent and nearby residents and businesses. I could not find any factual basis in your findings that raising this site's allowable building heights would NOT negatively impact nearby residences and businesses... but I can find many current home owners, land owners, and business owners who stated this project will most definitely negatively impact them if it is allowed to go forward.

After such a lengthy debate and extensive study of the rezone in 2011, it was determined that keeping building heights on Marine View Drive at 35 feet was essential to maximize views (and values) of existing homes and businesses, as well as to maintain the character of downtown Des Moines. Why is the city of Des Moines providing such an extreme benefit to one land owner at the extreme detrimental expense of so many others? Isn't this called spot zoning? And isn't spot zoning something that is not allowed? Other business owners have built their buildings according to the current zoning -- if nothing else, it is extremely unfair to them and to future builders along Marine View Drive who (hopefully) will have to adhere to the current zoning of 35 feet. But it is also unfair to the neighbors in that it lowers our property values and our enjoyment of our home, our views and our neighborhood -- in essence, this decision lessens our enjoyment of our hometown. And not only because of views -- the small-town character of Des Moines will be forever changed by this decision. AND, as stated above, this rezone specifically violates the Des Moines Comprehensive Plan. Don't you think that changing one owner's zoning will only encourage other owners to "wait out" Des Moines until the city changes their minds once again and allows higher buildings along Marine View Drive? In my opinion, this decision will only delay future development on other sites along Marine View Drive.

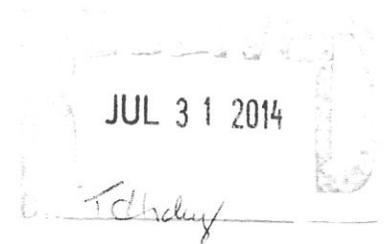
I have consulted with an expert in building construction -- a professional in the building community and one who is intimately familiar with Des Moines land and building values, as well as current zoning and building practices. He said it was his expert opinion that the building owner at the site in question should easily be able to make a 35 foot building "pencil out" and make economic sense. And the building site in question has many existing benefits without raising allowable heights in that it has a lower level on the west side, as well as being larger than a typical building site as well as having access to the site from two streets and an alleyway. Sure, he can make MORE money if he is allowed to build higher, but that is true of any builder. That is what zoning is all about, keeping the character of Des Moines safe from builders who are only considering their personal bottom line.

It would seem that Des Moines should have to prove to us why this change is essential to our city and not a violation of our trust before moving forward with such an extreme measure. I did not find any such proof in your findings of non-significance.

I would like to go on record as commenting on this finding. Please keep me informed of this project. I am asking that Des Moines does not issue a final determination of non-significance on this project.

Regards,  
Michelle Roedell  
PO Box 13647  
Des Moines, WA 98198  
206-878-4047  
(22712 10th Ave S)

July 30, 2014  
 Des Moines PBPW Dept.  
 cc: City Council



I recently read a letter by Tryg Fortun who wants the City to approve changing the existing building height from 35 feet to 45 feet for his building. This is the property that everyone in Des Moines calls "The Pit". It is located on Marine View Dr. next to the Jack in the box.

The letter just says that Mr. Fortun can make more money by building an extra story.

I might like to remind the city that they are there for ALL the citizens of Des Moines, and not just the one person who buys them free lunch once in awhile.

We who live here pay taxes. A lot of taxes. I've paid taxes here for 52 years. I live straight up from The Pit. I pay taxes on VIEW property. Mr. Fortun wants to take that away from me. If my view goes, so does the value of my property (and many others) who will be adversely impacted. If we lose the value of our property .....**then the city will lose tax revenue.**

The sum total of all our taxes outweighs the small amount that one building will provide the city. In 2011, we citizens of Des Moines went to ALL the numerous public meetings and were promised by the city that the buildings would go no higher than 35 feet in this area. To spot zone the Pit is telling all of the people impacted that the city doesn't give a "shoot" about us. We think it is un-American and immoral for them to go back on their word.

There has not even been any notification of meetings or changes. I have talked with other business owners next to The Pit, and they didn't even know that this sort of nonsense was going on.

It's time to act like you care about the people who vote and pay taxes to the city.

Stick to your guns. Stick to your Promises. Stick to the agreements that the building heights SHALL stay at 35 feet.

We'll be watching at the City Council meeting to see if OUR home values are protected.

*Phil and Anita Johnson*

Philip and Anita Johnson  
 206-824-2444

July 31, 2014

**DETERMINATION OF NONSIGNIFIANCE**

To Whom It May Concern:

My name is Terry Edwards and I live on 10<sup>th</sup> Avenue South in Des Moines, WA. I'm concerned about the discussion of rezoning building height to let one property owner on Marine View Drive build above the designated 35 feet. I believe any building above 35 feet will impact the neighborhood that homeowners and business owners have worked hard to comply with in their own building plans.

There is enough room to build a structure within the 35 feet zoning rule and still have underground parking which is more than any other property owner has along Marine View Drive. They would also have full water views from the top floor which is what we want to preserve for our own homes and businesses.

Where does this end? The next property owner may want to build 55 feet and are we then going to let them impact the rest of us and our freedom to have privacy and a view.

I hope you will reconsider your plan to rezone on Marine View Drive and in doing so take care of the majority of people who are paying taxes and supporting Des Moines businesses. Please don't let one property owner reset the zoning laws that the rest of us have complied with for years.

Thank you,

A handwritten signature in cursive script that reads "Terry Edwards". The signature is written in dark ink and is positioned below the typed name.

Terry Edwards  
22651 10<sup>th</sup> Avenue South  
Des Moines, WA 98198  
253-347-9838

Dan Leenhouts  
 22544 8<sup>th</sup> Ave S  
 Des Moines WA 98198

July 31, 2014

Des Moines PBPW Department  
 21630 11<sup>th</sup> Ave S, Suite D  
 Des Moines WA 98198

Dear PBPW,

Regarding project LUA2014-0026 DNS:

I would have hoped our city planners would have learned from the mistakes made in the grab for a view after the "Wall of Condo's" was built overlooking the Des Moines Marina. This has boxed in the area east of the bluff and has had a negative impact on the downtown district. Basically removing the feel of living, working and enjoying a seaside town.

The Des Moines Comprehensive Plan Marina District Element policy 10-03-05 states that building height should not adversely impact the adjacent street environment or nearby land uses. It was intended to preserve what little water view the city still has. I find it hard to believe city land use officials would want to box in the south end of the "Marina District" with another wall. Why would anyone want to live, work or enjoy the unique environment that the "Marina District" has to offer when it looks a stark canyon wall of apartments similar to the ones found in Bell Town void of employment and services.

We moved here two and half years ago. I had investigated the height restrictions in the Comprehensive Plan and was impressed that the city planning officials had done extensive research and debate of the hotly contested subject. We were also impressed with the steps taken to preserve the value and environment of the Marina District and the community to the east of downtown. It was found that 35 feet on Marine View Drive would maintain compatibility and increased height would impact neighborhood views (property value) and the environment. What happened to make all the public hearings, computer models, input from all parties worthless? The Comprehensive Plan is being twisted to benefit one specific property owner. There is a great environmental impact to the community in the rezoning.

The research and debate of the Des Moines Comprehensive Plan Marina District Element policy 10-03-05 would be to not issue a final determination of nonsignificance. Do not permit a rezoning.

Sincerely,



Dan Leenhouts

July 31<sup>st</sup>. 2014

City of Des Moines

Planning & Works Dept.

Re: Spot rezone of adjoining properties. 703 S 226<sup>th</sup>, 22607 Marine View Dr.

This letter is written in objection to the decision of the City Council as non-significant on the spot rezone of the above properties. This property is significant as it will greatly affect the character and development of the city.

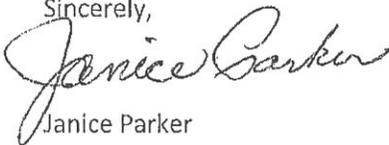
My family has continually had a home and paid taxes to the city for 50 years. I was on the planning commission in the early 80's and helped develop a comprehensive plan to insure home owner's rights were protected.

My Son bought the family home and I moved away for 20 years. A year ago I moved back to Des Moines and bought a home with a partial Sound view with the confidence that Des Moines had a 35 foot height limit.

It is hard to believe the City Council would think the 35 foot height limit was non-significant on the property they now refer to as "The Pit" and encourage the building of an apartment building on one of the last large parcels of land on the main street.

Therefore, I voice my objection and ask that a vote on this decision be post-poned.

Sincerely,

A handwritten signature in cursive script that reads "Janice Parker".

Janice Parker

22719 10<sup>th</sup> Ave. S.

Des Moines, Wa., 98198

July 31, 2014

Des Moines PBPW Department  
21630 11<sup>th</sup> Ave. S., Suite D  
Des Moines, WA 98198

Dear PBPW Department:

Regarding project LUA2014-0026 DNS:

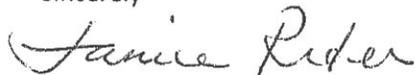
I am writing this correspondence to state that this rezone is in violation of Des Moines Comprehensive Plan Marina District Element policy 10-03-05. This states that building heights should not adversely impact the adjacent street environment or nearby land uses.

In 2011, when the most recent rezone was done, building heights were kept at 35 feet for Marine View Drive South in the area south of S. 219<sup>th</sup> Street. This decision was made following a lengthy time period and included computer modeling, stakeholder committees, extensive council discussions, and a public hearing. It was determined at that time that in order for scale and compatibility to be maintained, 35 feet was the appropriate building height in this area of the city. Increased heights in this area were rejected and deemed to have the anticipated result of negatively impacting nearby residential neighborhood views (and property values) and environment. In addition, existing business properties would be also be negatively impacted similarly.

I find it highly disturbing that the review official has utilized the same information from the rezone review process of 2011 to now state that building heights above 35 feet in the above area would be appropriate. This is totally contrary to the 2011 decision that was reported to Des Moines citizens who followed and actively participated in the area wide rezone reviewing process. The downtown commercial zone has no other buildings taller than 35 feet in the area of Marine View Drive South in question. It appears that this special, significant exception to current zoning would greatly economically benefit a single property owner to the anticipated loss and detriment of many others citizens in the impacted area.

There is, in fact, significant environmental impact that will result from the proposed rezoning in this area. There should not be rezone allowed nor should the final determination of significance be issued in this case.

Sincerely



Janice Rider  
924 S. 226<sup>th</sup> Pl.  
Des Moines, WA 98198

8/1/2014

Mark Rider  
28436 Redondo Beach Drive South  
Des Moines, WA 98198

Des Moines PBPW Department  
21630 11th Ave. S., Suite D  
Des Moines, WA 98198

**Dear PBPW Department,**

Regarding project LUA2014-0026 DNS:

The current rezone under consideration violates Des Moines Comprehensive Plan Marina District Element policy 10-03-05 which states that building height should not adversely impact the adjacent street environment or nearby land uses.

The building heights for the subject properties were modeled during the 2009 and 2010 timeframe and demonstrate that adverse impacts to adjacent street environment or nearby land uses would be anticipated from raising building heights above 35 feet. I, along with several residents of the downtown Des Moines / Marina District reviewed these, and the visual response, based upon the placement of dots on the drawings and reference pictures, was for building heights of 35 feet and below.

The issue of building height downtown as it relates to the citizens of Des Moines has been hotly debated over the 10 years I have lived in Des Moines (and for decades prior to that), with the common themes having been preserving the positive character without selling out to outside interests which only seek to maximize their personal return on investment, but do not improve the character of the downtown district, along with respecting views (and property values) of long-standing residents and businesses – all of who have spoken repeatedly and loudly to the council.

Des Moines held an area wide rezone in 2011 which included stakeholder committees, computer modeling, a public hearing and numerous council discussions. As a result of feedback received during that process, specific areas were designated to allow for building heights above 35 feet, with a limited number of exclusions to allow heights as tall as 55 feet. These were North of South 226<sup>th</sup> Street, and specifically excluded the subject property at South 226<sup>th</sup> Street and Marine View Drive South (even though it was requested then, also).

Increasing building heights beyond what has been previously provided for will adversely impact the downtown area including the neighboring residential views and existing business properties.

Although I have since moved to Redondo, I still care very deeply about the visual character of my city and former neighborhood

The intersection at South 227<sup>th</sup> Street and Marine View Drive is an entrance into the Marina District, and does not need a large and imposing structure greeting visitors and residents to the community. We do not want another Ballard, or Belltown, or Kirkland, where 5 and 6 story buildings line the main streets, creating a canyon effect, and becoming visual focal points for everyone unlucky enough to have to look at them. Allowing heights to increase beyond what has already been allowed through accepted and reasonable process would create a substantial and negative environmental impact to this area. It also violates the public trust by ignoring the voice of the people who live here, in favor of the profit motive of a single individual. Such action would be permanent and could never be redone.

I ask that you act responsibly by taking the following action: Do not issue a final determination of non-significance. Do not permit the rezone.

With Sincere Regards,

A handwritten signature in black ink, appearing to read 'Mark Rider', written in a cursive style.

Mark Rider

July 31, 2014



TO: Des Moines City Council - Planning & Public Works  
FROM: B. Coburn Richardson  
RE: COMMENTS on proposal amendments to DMMC 18.115.060(1)(b)

As we all know, your proposal to change the existing building height code for the empty lot on Marine View Drive will just be the "tip of the iceberg". All other businesses will want similar special treatment.

Property owners, especially above this lot 22607 Marine View Drive, will face loss of view while their property values sink. The Des Moines waterfront and Poverty Bay will become increasingly "shuttered".

We have evolving industrialization (\$\$\$) of 216th business park and along Pacific Highway. Will DM city council try to pull us all down the high rise money path by awarding such proposed high rise perks to builders promising seductive tax income.

Yes, many similar towns have surely gone down this evolutionary path. Must Des Moines also? How about a city wide vote by all the people instead on what is really a huge step greatly and irreversibly affecting the future of our city.

Bruce Richardson  
22548 8th Ave S

206-228-5670

# ARAMBURU & EUSTIS, LLP

Attorneys at Law

J. Richard Aramburu  
 rick@aramburu-eustis.com  
 Jeffrey M. Eustis  
 eustis@aramburu-eustis.com

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 Seattle, WA 98104  
 Tel 206.625.9515  
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[www.aramburu-eustis.com](http://www.aramburu-eustis.com)

July 31, 2014

Denise Lathrop  
 Manager, Community Development  
 21630 11<sup>th</sup> Avenue South, Ste D  
 Des Moines, WA 98198

Re: File No. LUA2014-0026 - DNS for Amendment to DMMC 18.115.060(1)(b)

Dear Ms Lathrop:

On behalf of a coalition of city residents and property owners, we respond to the Notice of Determination of Non-Significance issued for the proposed code amendment to DMMC 18.115.060(1)(b). These comments address the lack of proper notice for the DNS and the improper classification of the proposed action. Comments on the incorrectness of the DNS have been submitted by one of the group's members, Dan Sherman.

DMMC 16.05.190 requires that notice of a DNS be given in a variety of ways, including by posting on the affected property and by written notification to the owners and occupants of all properties within a 300 foot radius. These notice requirements apply to issuance of all DNSs, regardless of whether they be issued for an amendment to zoning text or to a zoning map.

From the research conducted by Dan Sherman, we understand that notice of the DNS may have been provided within a newspaper of general circulation under subsection .190(4), but that notice has not been provided by the posting of the affected property or by notice to landowners and occupants of properties within 300 feet of the site, as required by subsections .190(1) and .190(5). Without proper notice, the comment period becomes a sham, as those most directly affected are denied the opportunity to fully participate. In Washington, statutory notice requirements are strictly enforced, rendering invalid actions taken without proper notice. See for example, the holdings in *RUGG v. City of Kent*, 123 Wn.2d 376, 390, 868 P.2d 861 (1994), *Barrie v. Kitsap Cy.*, 84 Wn.2d 579, 584-86, 527 P.2d 1377 (1974), and *Glaspey & Sons, Inc. v. Conrad*, 83 Wn.2d 707, 711-12, 521 P.2d 1173 (1974).

Defective notice of the DNS could not be cured by later notice of the proposed ordinance, because both the notice requirements and the substantive issues for the

Denise Lathrop  
 July 31, 2014  
 Page 2

DNS differ from those for the proposed amendment. The DNS notice requirements are set by the City's SEPA Ordinance, codified at DMMC Chapter 16.05, and the issues raised at the threshold determination stage are established by the SEPA statute and regulations. Notice requirements for zoning amendments are governed by a different code section, DMMC 18.20.130, and different substantive criteria apply. See DMMC 18.30.080 and .100. Among other differences, SEPA notices must be posted on the property and a SEPA threshold determination must consider all elements of the environment, rather than the more general criteria applicable to zoning amendments. Compare WAC 197-11-444 to DMMC 18.30.050 and .080. Moreover, improper notice of a DNS could preclude the opportunity for appeal, as the appeal period runs from the date of notice and without notice an appellant would not know when to appeal. See DMMC 16.05.320(3).

As improper notice of the DNS could not be cured by later notice of the proposed action, the error may only be corrected by re-issuance of the threshold determination with proper notice, which in turn requires re-establishment of comment and appeal periods, which we urge the City to do. To proceed otherwise simply places in jeopardy actions that may be taken on the improperly noticed DNS.

While correcting the notice, the City should also correct the classification of the proposed amendment. The DNS Notice treats the proposal as a "textual code amendment," apparently in reliance upon the distinction made by DMMC 18.30.100, which considers all amendments as text amendments except those changing the zone of a particular property or adopting or amending the comprehensive plan. The City appears to have so broadly defined text amendments to limit the number of zoning amendments that would be subject to higher scrutiny as rezones. See *Parkridge v. City of Seattle*, 89 Wn.2d 454, 460, 573 P.2d 359 (1978) (presumption of validity does not apply to rezones; burden of proving need for rezone rests upon the applicant; findings and conclusions, supported by the record, must justify rezone).

However, appellate court decisions do not support the City's broad definition of "textual amendment." Under the distinction drawn by the state Supreme Court in *Raynes v. City of Leavenworth*, 118 Wn.2d 237, 248, 821 P.2d 1204, (1992), the proposed amendment should be treated as a quasi-judicial rezone because it affects distinct parcels of property under single ownership:

There is a distinction between rezoning a specific site and amendments which modify the text of a zoning ordinance. See R. Settle, *Washington Land Use and Environmental Law and Practice* §2.11 (1983). Actions of a city council are rezones when there are "specific parties requesting a classification change for a specific tract." *Cathcart-Maltby-Clearview Comm'ty Coun. v. Snohomish Cy.*, 96 Wn.2d 201, 212, 634 P.2d 853 (1981). ... [citation to prior decision removed.] Here, the text amendment

Denise Lathrop  
 July 31, 2014  
 Page 3

is of area-wide significance because it affects the entire TC district, not just a specific tract.

Although the proposed ordinance would amend a specific section of code, the application is not for a change applicable to an entire zoning district, but to two contiguous parcels requested by their landowners to allow for a specific development. See Letter, Tryg Fortun to City Manager, June 12, 2014 describing his personal, economic interest in constructing a taller building. Because the proposal is for a site-specific amendment, it should be considered under the more specific criteria applicable to site specific rezones at DMMC 18.30.030 and not the more general criteria applicable to text amendments at DMMC 18.30.050.

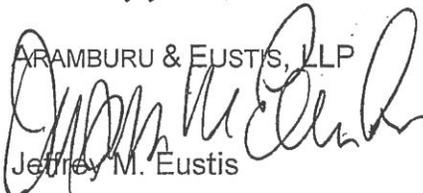
The fact that the zoning map being amended is codified by code does not change the amendment from a site-specific rezone to a generalized text amendment. The proposal still changes the zoning intensity for a specific parcel of property and to the detriment of the surrounding owners, on account of impacted views and intensity of development. In fact, the proposed amendment so particularly advances the interests of a single parcel owner against the interests of his neighbors, it amounts to a request for an unlawful spot zone:

Spot zoning is a zoning for private gain designed to favor or benefit a particular individual or group and not the welfare of the community as a whole. ... The vice of a spot zone is its inevitable effect of granting a discriminatory benefit to one or a group of owners and to the detriment of their neighbors or the community without adequate public advantage or justification. ...

*Chrobuck v. Snohomish County* 78 Wn.2d 858, 872-873, 480 P.2d 489 (1971)(citations omitted). Zoning is intended to advance the interests of the public at large, not the personal economic interests of individual landowners. Tryg Fortun's request is for a spot zone and should not even be processed.

Thank you for your consideration of these comments. Kindly list this office as a party of record for further notice in this matter.

Sincerely yours,

ARAMBURU & EUSTIS, LLP  
  
 Jeffrey M. Eustis

cc: Dan Sherman

**Denise Lathrop**

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**From:** DanSherman [dan@dansherman.org]  
**Sent:** Thursday, July 31, 2014 4:23 PM  
**To:** Denise Lathrop  
**Cc:** eustis@aramburu-eustis.com  
**Subject:** LUA2014-0026  
**Attachments:** P1010537.JPG; P1010538.JPG; P1010539.JPG; P1010542.JPG

Dear Ms. Lathrop,

You should have received by now a letter from Jeffrey M. Eustis, attorney, regarding the file: LUA2014-0026.

I am attaching photos taken on July 23, 2014 which demonstrate a lack of posting of notice on the subject property. There is no notice posted as of today. The ad online at Seattle Times was up for one week starting July 17, 2014 but is no longer available. Contact with a business owner directly across the street from the subject property reveals no receipt of notice regarding this matter. Please re-issue the threshold determination with proper notice, which will re-establish the comment and appeal periods as noted in Mr. Eustis' letter. Please reset the Public Hearing date to follow any new appeal date.

Please e-mail me the Existing Environmental Document: SEPA Checklist LUA11-004 SEPA Checklist -Downtown Commercial Zone Amendments to which you refer as Environmental Documentation for this file. I have been unable to find it on the city website anywhere.

What is the filing fee for an appeal?

Is there a form for an appeal and, if so, is it available online? Please send a link or copy of any such form.

Please inform me of all actions/notices on this file through this e-mail address (preferred notification method) or, if not digitally available, at P.O. Box 98720, Des Moines, WA 98198.

Thank you for your prompt attention.

Sincerely,  
Daniel A. Sherman



Thomas and Kristine Dusbabek  
 22545 10th Avenue South  
 Des Moines WA 98198

August 1, 2014

Des Moines Planning, Building & Public Works Department  
 21630 11th Avenue South, Suite D  
 Des Moines WA 98198

Re: DNS for Amendment to DMMC 18.115.060(1)(b)  
 File #LUA2014-0026

To Whom it may concern:

We are writing this letter to state our comments and our opposition to the proposed rezone for the property just north of the Jack in the Box at 22607 Marine View Drive South.

First of all there was a no proper notice of a DNS given as required. It certainly feels like you do not care about the neighboring businesses or the many property owners in this community.

The rezone increases the building height beyond the current 35 foot height limit. That contradicts the findings in the area wide rezone done for the downtown area in 2011. The increased height would not be compatible with neighboring businesses or the adjacent single family residential neighborhood. Stay at 35 feet.

This rezone would definitely benefit the one property owner at the expense of all other property owners. So many property owners would be negatively impacted. Those who now have the enjoyment of this view, would loose that view. The loss of this view would reduce the value of their property. The city would then loose the property taxes paid to the city due to the reduced value. We don't want to loose our view.

The residents of this community should not need to spend time, money and energy year after year, repeatedly stating their concerns with the City regarding building heights. In the future when people want to move to our community and see the issue of increasing building heights constantly being raised, they will certainly think twice about purchasing a home in this area.

Do not approve this rezone request.

*Tom & Kris Dusbabek*

AUG 01 2014

## City Response to Specific Comments on the SEPA Determination of Nonsignificance Noticing

### DNS Notification

A DNS and SEPA adoption for Draft Ordinance No. 14-143 was issued on July 17, 2014 and published in the Seattle Times newspaper on this date. This decision was made after review of a completed environmental checklist and other information on file related to the analysis of building heights in the D-C zone. The DNS notice provided for a 15-day public comment period and 10-day appeal period. The following code citation and underline text demonstrate how the City complied with State and local notice requirements:

Notice for a textual code amendment is provided pursuant to WAC 197-11-630(2), DMMC 18.20.210, DMMC 18.30.100 and DMMC 17.45.070:

#### **WAC 197-11-630 - Adoption—Procedures**

(1) The agency adopting an existing environmental document must independently review the content of the document and determine that it meets the adopting agency's environmental review standards and needs for the proposal. However a document is not required to meet the adopting agency's own procedures for the preparation of environmental documents (such as circulation, commenting, and hearing requirements) to be adopted.

(2) An agency shall adopt an environmental document by identifying the document and stating why it is being adopted, using the adoption form substantially as in WAC 197-11-965. The adopting agency shall ensure that the adopted document is readily available to agencies and the public by:

(a) Sending a copy to agencies with jurisdiction that have not received the document, as shown by the distribution list for the adopted document; and

(b) Placing copies in libraries and other public offices, or by distributing copies to those who request one.

#### **DMMC 18.20.210 Review process for Type VI land use action.**

(1) For textual code amendments, the Planning, Building and Public Works Director may schedule a public hearing before the City Council as provided in DMMC 18.30.100.

(2) Upon conclusion of the 15-day comment period, the City Council may approve, approve with conditions, or deny a Type VI land use action upon compliance with the procedural requirements of chapter 18.30 DMMC, Amendments to the Zoning Code, Map and Planned Unit Developments.

(3) Except for matters subject to review by the Central Puget Sound Growth Management Hearings Board as provided by RCW 36.70A.280 as presently constituted or as may be subsequently amended, the City Council's decision regarding a Type VI land use action is appealable to the Superior Court of Washington for King County as specified by DMMC 18.20.280 (appeal from decision of the City Council).

#### **DMMC 18.30.100 Textual changes to zoning code or area-wide rezones.**

Amendments to this Title that constitute a textual change or an area-wide rezone are made in the following manner:

(1) As used in this section, unless the context or subject matter clearly requires otherwise, "textual change" means a change or amendment to this Title except:

(a) Amendments changing the zone of a particular parcel of property (commonly known as a rezone); or

(b) Actions relating to adoption or amendment to the Comprehensive Plan.

(2) No textual change is made without at least one public hearing before the City Council.

(3) The City Council shall set a date for the public hearing by motion. Notice of the public hearing shall generally conform with DMMC 17.45.070, Notice. Continued hearings may be held at the discretion of the City Council but no additional notice is required.

**DMMC 17.45.070 Notice.**

(1) Content. The planning official shall prepare a notice of each proposed amendment to this Title containing the following information:

(a) The section(s) of this Title that would be affected by the proposed amendment;

(b) A summary of the effect of the proposed amendment;

(c) The date, time, and location of the City Council meeting where the proposed amendment will have its first reading.

(2) Distribution. No less than 15 calendar days prior to the date of the City Council meeting where the amendment will have its first reading, the planning official shall distribute or cause to be published this notice as follows:

(a) Posted at the posting places designated in DMMC 1.08.010 (posting places);

(b) Printed at least once in the official newspaper of the City;

(c) Displayed in character form on the City's cable television access channel for not less than three days;

(d) Mailed to individuals or organizations that have submitted a written request to the Planning, Building and Public Works Director for notice and have paid a fee, set by the City Manager or the City Manager's designee, to defray the costs of providing notice.

## A G E N D A I T E M

### BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Public Hearing for SV2009-003: Street Vacation of Public Right-of-Way within City of Des Moines known as 5<sup>th</sup> Place South, south of South 287<sup>th</sup> Street.

**ATTACHMENTS:**

1. Draft Ordinance No. 14-137
2. Copy of Petition
3. DMMC 12.10
4. Resolution No. 1268
5. Street/Alley Vacation Checklist

FOR AGENDA OF: August 14, 2014

DEPT. OF ORIGIN: PBPW

DATE SUBMITTED: August 7, 2014

**CLEARANCES:**

- Legal PB  
 Finance N/A  
 Marina N/A  
 Parks, Recreation & Senior Services N/A  
 Planning, Bldg & Public Works DSB  
 Police N/A  
 Courts N/A

APPROVED BY CITY MANAGER  
FOR SUBMITTAL WMM / ACM

**Purpose and Recommendation**

The purpose of this agenda item is for the City Council to consider Draft Ordinance No. 14-137 (refer to Attachment 1), for the vacation of a certain portion of right-of-way in accordance with the provisions of DMMC 12.10.040 and RCW 35.79.010.

**Suggested Motion**

**Motion 1A:** “I move to suspend City Council Rule 26(a) in order to adopt Draft Ordinance No. 14-137 on first reading”

**Motion 1B:** “I move to enact Draft Ordinance No. 14-137 approving the vacation of certain portions of public rights-of-way/streets specifically identified and legally described in Draft Ordinance Number 14-137.”

**Background**

Deborah L. Millard originally filed application materials with the City in December 2008, requesting vacation of public right of way within an area known as 5<sup>th</sup> Place South, south of South 287<sup>th</sup> Street (refer to Attachment 2).

Staff usually receives 1 or 2 vacation requests a year and typically assigns this work a low priority due to other competing issues and needs within the Department. Due to workload and staffing issues at that time, (including a loss of position in Engineering) this street vacation application took quite a bit of time to process. Staff worked with the applicant on several iterations of how the Right-of-Way was to be split to adjoining property owners to be consistent with State Law. This further delayed the process as new legal descriptions and exhibits had to be rewritten and reviewed. The City was in the process of completing the review of the street vacation application in April of 2011 but at that time the applicant chose to postpone the process. In May of 2013 the applicant contacted the City to restart the street vacation request. Since May, Staff has been able to work on the vacation request when other existing workloads allow. Recently staff has completed the necessary steps to bring the vacation request forward to Council.

#### Street Vacation Process:

The street vacation process is listed in chapter 12.10 DMMC and in chapter 35.79 RCW. The process is as follows: The street vacation petition and non-refundable fee is filed with the Public Works Director. The petition must be signed by at least two-thirds of the adjacent property owners. The Public Works Department sends the application to all public utilities in the area, as well as other City Departments and South King Fire and Rescue. The utilities state whether they have utilities within the right-of-way and request an easement if necessary. Other City Departments and South King Fire and Rescue provide comments as necessary and state whether they approve or disapprove of the proposed street vacation.

The Public Works Director then either approves or disapproves the petition. If the petition is not approved, the Public Works Director sends a written response to the petitioner citing the rationale for the denial and indicates that the denial may be appealed to the hearings examiner.

If the petition is approved, a date is set for a public hearing which is within 60 days of the resolution that sets the hearing date. A Notice of Public Hearing is mailed to all adjacent property owners, placed in three of the most conspicuous places in the City, printed twice in the Seattle Times, and a copy of the notice is placed in a conspicuous place on the right-of-way that is proposed for vacation.

The public hearing is held and any objections to the street vacation are noted. The street vacation may go to a second hearing if needed. If the Council approves the street vacation, the City Clerk records the ordinance with King County as a deed. The ordinance does not go into effect until the City receives compensation, if due, from the adjacent property owner(s).

The ordinance may exercise the right to grant easements for the construction, repair, and maintenance of public utilities and services.

#### Discussion

The area requested to be vacated is identified in Exhibit A of Attachment 1. The application meets the statutory requirements of chapter 35.79 RCW, and has the signatures of 3 of the 4 abutting property owners.

Staff mailed notices of this proposed street vacation to all utility purveyors and other City departments originally in December of 2009, requesting their comments and input on the issue. Since the street vacation was put on hold and a significant amount of time had passed the City again noticed utility purveyors and other City Departments on July 12, 2013. Utility purveyors and other City departments responded by August 9, 2013.

A thorough review of all responses received showed that the area requested to be vacated is unimproved public right-of-way. The area was platted under the Redondo Beach Division No. 1 in 1907. Since the proposed area was never improved for transportation purposes, the right-of-way can be vacated as a matter of law under the Laws of 1889-1891. The right-of-way is classified as a "Type C" right-of-way pursuant to DMMC 12.10.050 (refer to Attachment 3), therefore compensation is not required. The area requested to be vacated is not needed for any present or future transportation purposes. Vacating this area will not result in land locking any present or future properties, and the vacated property can be placed back on the tax rolls.

There are existing public utilities within the right of way including City of Des Moines Surface Water, Lakehaven Utility, Century Link, and Puget Sound Energy. They will continue to have easements through the potentially vacated areas. Utilities that were contacted and are not affected are: Water District #54, Highline Water District, Midway Sewer District, AT&T, Comcast, and Southwest Suburban Sewer District.

#### Procedural Requirements

As authorized by RCW 35.79.010 this request for vacation was initiated by the legislative action of the City Council under Resolution No. 1268 (refer to Attachment 4). Vacation of public rights-of-way requires a public hearing before the City Council set by resolution no more than 60 days but not less than 20 days prior to the public hearing per RCW 35.79.010 and DMMC 12.10.060. On June 26, 2014, the City Council approved Resolution No. 1268 setting a public hearing on August 14, 2014. Notice of the public hearing was provided as required by RCW 35.79.020.

#### State Environmental Policy Act (SEPA)

The vacation of public rights-of-way are categorically exempt from the State Environmental Policy Act pursuant to WAC 197-11-800(2)(i).

#### Alternatives

The City Council has the following alternatives:

- (1) Waive Council Rule 26(a) and enact the draft ordinance on 1<sup>st</sup> reading as written.
- (2) Waive Council Rule 26(a) and enact the draft ordinance on 1<sup>st</sup> reading with amendments by the City Council.
- (3) Pass the draft ordinance on to a 2<sup>nd</sup> reading.
- (4) Not enact the draft ordinance.

#### Financial Impact

By vacating these portions of currently unimproved public right-of-way, the property can be placed back onto the tax rolls, thus allowing the City to collect property taxes.

#### Recommendation or Conclusion

Administration recommends that the City Council enact Draft Ordinance No. 14-137, vacating those portions of public right-of-way as per staff recommendations on Page 2 of the Street/Alley Vacation Checklist (refer to Attachment 5).

#### Concurrence

Administration, Planning, Building, and Public Works, and Legal Departments concur.



## CITY ATTORNEY'S FIRST DRAFT 08/14/2014

## DRAFT ORDINANCE NO. 14-137

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON,** vacating a portion of City right-of-way in an area generally described as a portion of public right-of-way within an area known as 5<sup>th</sup> Place South, south of South 287<sup>th</sup> Street located in the City of Des Moines, subject to the applicant's compliance with requirements set forth herein.

**WHEREAS,** DMMC 12.10.060 adopts the street vacation procedures of chapter 35.79 RCW, and

**WHEREAS,** The City has received a petition from Deborah L. Millard to vacate a portion of the public right-of-way commonly known as 5<sup>th</sup> Place South, south of South 287<sup>th</sup> Street located in the City of Des Moines as shown on Exhibit "A", attached hereto and incorporated by reference, and

**WHEREAS,** the petition was signed by the owners of more than two-thirds of the property abutting the portion of the streets sought to be vacated as required by RCW 35.79.010, and

**WHEREAS,** RCW 35.79.010 requires that the City Council set the public hearing and date by resolution which was, in this case, established by Resolution No. 1268 fixing the public hearing for August 14, 2014, to be followed by City Council action, and

**WHEREAS,** notice of the public hearing was given in accordance with RCW 35.79.020 and the public hearing was held before the Des Moines City Council on August 14, 2014, and all persons wishing to be heard were heard, and

**WHEREAS,** no objections to the vacation were filed by any abutting property owners prior to the hearing, and the City Council finds that no person has demonstrated special injury due to substantial impairment of access to such person's property; now therefore,

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

**Sec. 1. Findings adopted.** Based on the evidence presented, the City Council adopts the following findings of fact:

Draft Ordinance No. 14-137  
Page 2 of 5

(1) The public right-of-way subject to this Ordinance consists of portions of public rights-of-way identified as 5<sup>th</sup> Place South, south of South 287<sup>th</sup> further legally described in Section 2 of this Ordinance; and

(2) The public right-of-way described in section 2 of this Ordinance was not improved for transportation purposes nor dedicated under the Plat and Subdivision Act of 1969 currently codified as chapter 58.17 RCW, its predecessor the Platting and Subdivision Act of 1937 previously codified as chapter 58.16 RCW or under the Laws of 1889-90; and

(3) The public right-of-way which is described in section 2 of this Ordinance is not necessary for present and future use by public utilities or for native growth protection; and

(4) The public right-of-way was recorded as the Redondo Beach Division No. 1, has never been opened for transportation purposes, and

(5) The public right-of-way described in section 2 is not used at all, for the reason it is not improved; and

(6) The right-of-way is not required for the present and future needs of the citizens of the City of Des Moines for vehicular transportation purposes; and

(7) It is in the public interest to vacate this right-of-way; and

(8) The right-of-way is classified as a Class "C" right-of-way since no public funds have were ever expended in its acquisition; and

(9) Vacation of a Class "C" right-of-way requires no compensation.

**Sec. 2. Right-of-way vacation.** Subject to the requirement set forth in section 3 this Ordinance, the following legally described public right-of-way as depicted on the attached map (incorporated herein by this reference) entitled Exhibit "A" is vacated and the property within the right-of-way so vacated

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shall belong to the respective abutting property owners, one-half to each as required by RCW 35.79.040:

That portion unopened Sound View Drive South abutting lots 1 and 2, Block 2 of the plat of Redondo Beach Division No. 1 along with that portion of unopened 5<sup>th</sup> Place South abutting lot 22, Block 3 of the plat of Redondo Beach Division No. 1; together with that portion of unopened 5<sup>th</sup> Place South abutting the western property line of Redondo Ridge Condominiums, in the City of Des Moines, King County, Washington.

**Sec. 3. Conditions of right-of-way vacation.** The right-of-way subject to vacation under this Ordinance shall be subject to the following conditions:

(1) The abutting property owners shall not be required to pay the City of Des Moines on compensation for vacation of this Class C right-of-way, pursuant to DMMC 12.10.070(2)(c).

(2) The abutting property owners recognize that the City of Des Moines retains an easement or the right to exercise and grant easements for utility purveyors in respect to the land vacated by this Ordinance for the construction, repair, and maintenance of public utilities and services, and that the City of Des Moines will grant utility easements through the right-of-way subject to vacation under this Ordinance:

(a) To protect existing City of Des Moines Surface Water Management storm water facilities in locations and dimensions generally described as twenty (20) feet over existing facilities, and extending ten (10) feet past the end of existing facilities, within 5<sup>th</sup> Place South; and

(b) To protect existing Lakehaven Utility District facilities in locations and dimensions generally described as twenty (20) feet over existing facilities, (boundary offset 5'/15' from pipe centerline), within 5<sup>th</sup> Place South; and

(c) A non-exclusive perpetual Easement ten (10) feet in width is granted to Puget Sound Energy, Inc., its successor and assigns, together with the right to lay, construct, support, attach, connect, operate, maintain, repair, replace, improve, remove, extend, enlarge and use any and all of its facilities

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in, upon, over, under, along, across and through the Easement Area(s) for one or more underground electric and gas utility systems for the transmission, distribution and sale of gas and electricity; and

(d) To protect existing Century Link communication facilities in locations and dimensions generally described as ten (10) feet over existing facilities, within 5<sup>th</sup> Place South; and

(e) For the purposes of easement retention, the above-mentioned easement dimensions are based upon being centered over the existing utility facilities.

(3) Petitioner, Deborah L. Millard, shall be responsible for obtaining and recording all utility easements referenced herein, and provide recorded copies of such easements to the City of Des Moines. If the utility easements are not obtained and recorded, and proof of such provided to the City of Des Moines, within 180 days of the signing of this Ordinance, this Ordinance shall be repealed and the street vacation shall be null and void.

**Sec. 4. Easements and reservation of easements.**

Pursuant to RCW 35.79.030, the City of Des Moines retains or will be granted easements as set forth in section 3 of this Ordinance and retains the right to exercise and grant easements in respect to the land vacated by this Ordinance and abutting property for the construction, repair, and maintenance of public utilities and services, and for vehicular access.

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**Sec. 5. 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. 6. Recordation.** The City Clerk shall cause a certified copy of this ordinance to be recorded in the records of the King County Recorder.

**Sec. 7. Effective date.** This ordinance shall take effect and be in full force thirty (30) days after its passage, approval, and publication in accordance with law.

**PASSED BY** the City Council of the City of Des Moines this 14th day of August, 2014 and signed in authentication thereof this 14th day of August, 2014.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

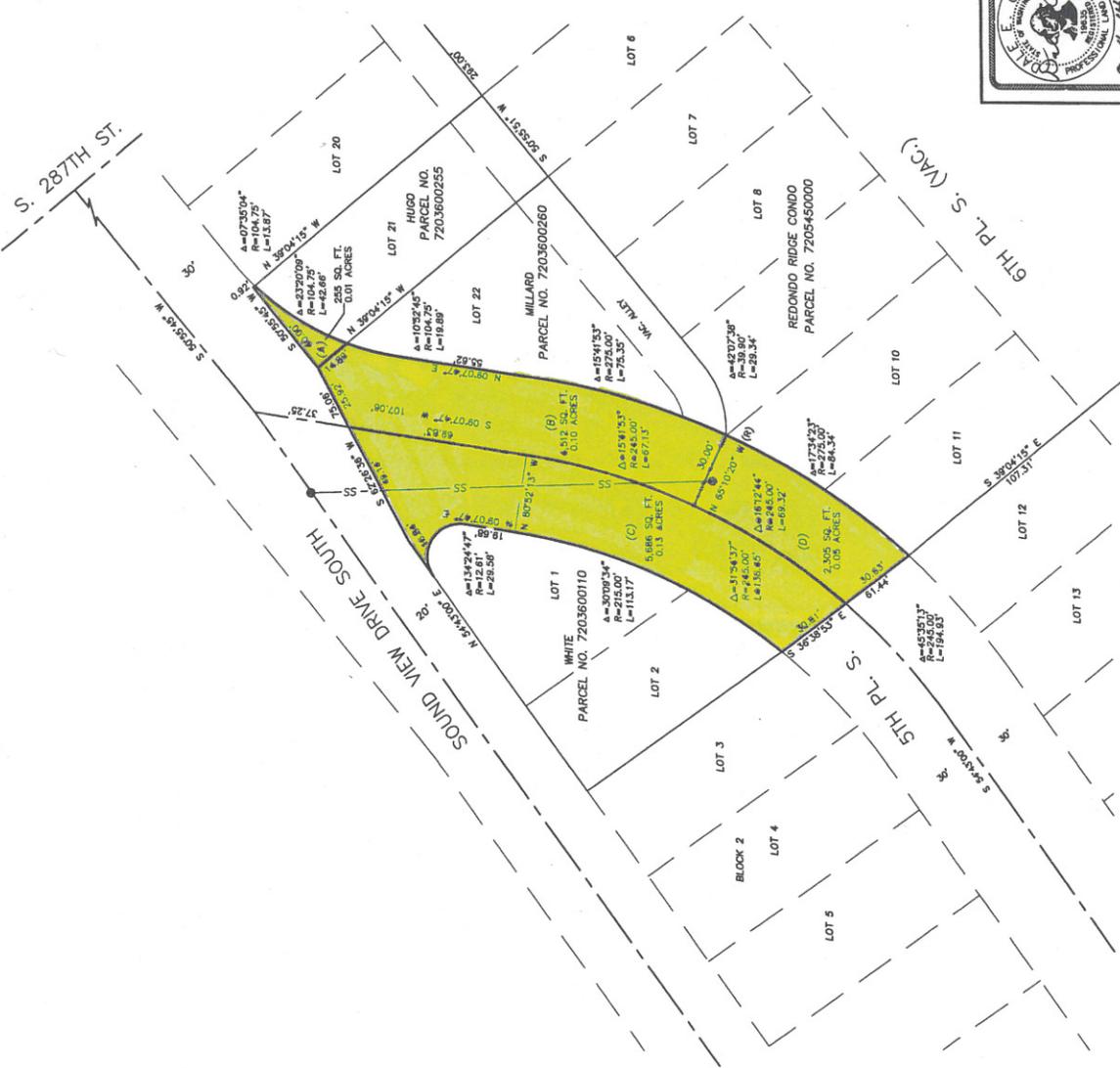
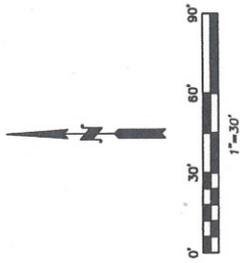
ATTEST:

\_\_\_\_\_  
City Clerk

# EXHIBIT DRAWING FOR STREET VACATION

KING COUNTY, WASHINGTON  
SW 1/4 of the SW 1/4 of Section 32, Township 22 North, Range 4 East, W.M.

## EXHIBIT A



Page 1 of 1

Surveyed for: **DEBBIE MILLARD**  
28726 SOUNDVIEW DRIVE SOUTH  
DES MOINES, WA 98166

Scale: 1"=30'  
Date: 6/9/14  
Drawn: DO  
Approved: D.O.

Surveyed by: **SADLER/BARNARD & ASSOC. INC.**  
717 W. STEWART  
PUYALLUP, WA 98371

Phone (253) 848-5770  
Dep. No. 10-045



DEPARTMENT OF PUBLIC WORKS  
21650 11TH AVENUE SOUTH  
DES MOINES, WASHINGTON 98198-6317  
(206) 870-6522 FAX: (206) 870-6596

PETITION FOR THE VACATION OF  
A PUBLIC STREET OR ALLEY



NAME OF PETITIONER (S): DEBORAH L. MILLARD *DS*

LOCATION OF PROPERTY: 28726 SOUND VIEW DR. S.  
Des Moines, WA 98198

TO THE CITY COUNCIL OF DES MOINES, STATE OF WASHINGTON:

1. I/We, the undersigned owner(s) of the property abutting on that (street) (alley) commonly known as 5th PLACE SO, herein sought to be vacated, petition the legislative body of the City of Des Moines to vacate the following portion of, to wit (exact legal description of property to be vacated):

SECTION 32; TOWNSHIP 22N; RANGE 04E;  
5th PL. SO. BETWEEN BLOCKS 2 AND 3 - (SEE ATTACHED)

2. This (street) (alley) vacation is requested for the following purposes:

FOR RESIDENTIAL USE - SINGLE FAMILY

3. This (street) (alley) sought to be vacated is presently being used for the following purposes:

DRIVEWAY, PARKING, LANDSCAPED YARD  
INGRESS, EGRESS

4. The property abutting the (street) (alley) to be vacated is served by the following public utilities (state the name and mailing address for each separate utility):

PUGET SOUND ENERGY BOT-01H POB 912 69, Bellevue WA  
LAKEHAVEN WATER DER PO BOX 34882, Seattle, 98009  
WA 98124

5. The owners or reputed owners of ALL lots, parcels of land, or other property abutting upon the street or alley or any part thereof sought to be vacated, as shown on the rolls of the King County Treasurer, are (if deceased, so state; use additional paper if necessary):

Name	Mailing Address	Telephone
<u>GENE &amp; Susan White</u>	<u>28742 Redondo Beach Dr. S., Des Moines WA</u>	
<u>DEBBIE MILLARD</u>	<u>28726 Sound View Drs.</u>	<u>206 200-0422 98198</u>
<u>CHUCK &amp; GABRIELLE HUGO</u>	<u>1600 B SW Dash Pt Rd PMB 76</u>	<u>Federal Way WA 98003</u>
<u>REDDONDO RIDGE CONDOMINIUM</u>	<u>28701 6th PL. S. Des Moines</u>	



6. The undersigned Petitioners have attached hereto two (2) King County Assessor's Maps that show each lot within three hundred (300) feet of the exterior boundaries of the property sought to be vacated.

7. For each undersigned Petitioner, state:

A. Name: Chuck R Hugo

B. Date property was acquired: 11-24-91

C. Nature of instrument: Warranty Deed

D. If answer to "C" is real estate contract, state the name and mailing address of the seller from whom you are purchasing (Note: The "seller" must also sign this petition):

\_\_\_\_\_

E. State the King County Auditor's receiving number under which instrument is recorded:

Date of Recording: 11-24-91

F. Legal description of property owned:

Redondo Beach division 1

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF WASHINGTON)

) SS.

COUNTY OF KING )

CHARLES R. HUGO, being duly sworn depose and say that I am/we are the owner(s) of the property/properties involved in this application and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief.

CR Hugo  
\_\_\_\_\_

SUBSCRIBED AND SWORN TO BEFORE ME this 31 day of Dec, 2008

Lisa Brewer  
Notary Public in and for the State of  
Washington, residing at Federal Way  
WA  
My commission expires: 6/31/2010

6. The undersigned Petitioners have attached hereto two (2) King County Assessor's Maps that show each lot within three hundred (300) feet of the exterior boundaries of the property sought to be vacated.

7. For each undersigned Petitioner, state:

A. Name: Charles R Hugo

B. Date property was acquired: Nov - 98

C. Nature of instrument: warranty deed

D. If answer to "C" is real estate contract, state the name and mailing address of the seller from whom you are purchasing (Note: The "seller" must also sign this petition):

E. State the King County Auditor's receiving number under which instrument is recorded:

Date of Recording: Nov - 98

F. Legal description of property owned:

Lot 21, Block J, Redondo Beach Division

STATE OF WASHINGTON)

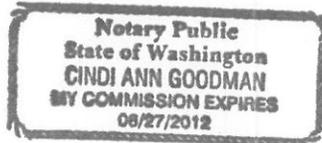
) SS.

COUNTY OF KING )

CHARLES R. HUGO, being duly sworn depose and say that I am/we are the owner(s) of the property/properties involved in this application and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief.

C.R. Hugo

SUBSCRIBED AND SWORN TO BEFORE ME this 14 day of JANUARY, 2009



[Signature]  
Notary Public in and for the State of Washington, residing at 20023-84145  
Kent, wa. 98033.

My commission expires: 8/27/12

6. The undersigned Petitioners have attached hereto two (2) King County Assessor's Maps that show each lot within three hundred (300) feet of the exterior boundaries of the property sought to be vacated.

7. For each undersigned Petitioner, state:

A. Name: Eugene & Susan White

B. Date property was acquired: 6-12-97

C. Nature of instrument: Warranty Deed

D. If answer to "C" is real estate contract, state the name and mailing address of the seller from whom you are purchasing (Note: The "seller" must also sign this petition):

E. State the King County Auditor's receiving number under which instrument is recorded:

Date of Recording: 6-12-97

F. Legal description of property owned:

Redondo Beach Div # 1 SW 1/4  
7 FT of 11 and all 12 & Wely 10 ft  
of 13 & unplatted strip & TD  
LDs ADT

STATE OF WASHINGTON)

) SS.

COUNTY OF KING )

Eugene White & Susan White, being duly sworn depose and say that I am/we are the owner(s) of the property/properties involved in this application and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my/our knowledge and belief.

Eugene White  
Susan White

SUBSCRIBED AND SWORN TO BEFORE ME this 30<sup>th</sup> day of December, 2008



Vicki C Sheckler  
Notary Public in and for the State of Washington, residing at Sea Meines, WA

My commission expires: 4/29/2012



DESCRIPTION OF STREET VACATION  
(HUGO)(PARCEL A)

THAT PORTION OF 5<sup>TH</sup> PLACE SOUTH IN THE CITY OF DES MOINES, WASHINGTON, WHICH IS BOUNDED ON THE NORTHWEST AND NORTHEAST BY THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE INTERSECTION OF 5<sup>TH</sup> PLACE SOUTH AND SOUND VIEW DRIVE SOUTH, HAVING A REFERENCE BEARING OF NORTH 50°55'45" EAST TO THE INTERSECTION OF SOUND VIEW DRIVE SOUTH AND SOUTH 287<sup>TH</sup> STREET; THENCE SOUTH 9°07'47" WEST, A DISTANCE OF 37.25 FEET; THENCE NORTH 62°26'36" EAST, A DISTANCE OF 25.92 FEET TO A POINT ON A LINE WHICH IS 30.00 FEET SOUTH OF AND PARALLEL TO THE CENTER LINE OF SAID SOUND VIEW DRIVE SOUTH AND ON THE NORTHWESTERLY EXTENSION OF THE SOUTHWESTERLY LINE OF LOT 21, BLOCK 3, REDONDO BEACH DIVISION NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 16 OF PLATS AT PAGE 40, RECORDS OF KING COUNTY, WASHINGTON AND THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE NORTH 50°55'45" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 40.00 FEET TO A POINT ON THE NORTHWESTERLY EXTENSION OF THE NORTHEASTERLY LINE OF SAID LOT 21; THENCE SOUTH 39°04'15" EAST ALONG SAID EXTENSION OF SAID NORTHEASTERLY LINE, A DISTANCE OF 0.92 FEET, MORE OR LESS, TO THE MOST NORTHERLY CORNER OF SAID LOT 21 AND THE TERMINUS OF SAID LINE DESCRIPTION;

AND BOUNDED ON THE SOUTHWEST BY THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE INTERSECTION OF 5<sup>TH</sup> PLACE SOUTH AND SOUND VIEW DRIVE SOUTH; THENCE SOUTH 9°07'47" WEST, A DISTANCE OF 37.25 FEET; THENCE NORTH 62°26'36" EAST, A DISTANCE OF 25.92 FEET TO A POINT ON A LINE WHICH IS 30.00 FEET SOUTH OF AND PARALLEL TO THE CENTERLINE OF SAID SOUND VIEW DRIVE SOUTH AND ON THE NORTHWESTERLY EXTENSION OF THE SOUTHWESTERLY LINE OF LOT 21, BLOCK 3, REDONDO BEACH DIVISION NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 16 OF PLATS AT PAGE 40, RECORDS OF KING COUNTY, WASHINGTON AND THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE SOUTH 39°04'15" EAST, A DISTANCE OF 14.89' FEET, MORE OR LESS, TO THE MOST WESTERLY CORNER OF SAID LOT 21, OF SAID BLOCK 3 AND THE TERMINUS OF SAID LINE DESCRIPTION.

CONTAINING: 255 SQ. FT. OR 0.01 ACRES



DESCRIPTION OF STREET VACATION  
(MILLARD)(PARCEL B)

THAT PORTION OF 5<sup>TH</sup> PLACE SOUTH IN THE CITY OF DES MOINES, WASHINGTON, WHICH IS BOUNDED ON THE NORTHWEST AND NORTHEAST BY THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE INTERSECTION OF 5<sup>TH</sup> PLACE SOUTH AND SOUND VIEW DRIVE SOUTH, HAVING A REFERENCE BEARING OF NORTH 50°55'45" EAST TO THE INTERSECTION OF SOUND VIEW DRIVE SOUTH AND SOUTH 287<sup>TH</sup> STREET; THENCE SOUTH 9°07'47" WEST, A DISTANCE OF 37.25 FEET TO THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE NORTH 62°26'36" EAST, A DISTANCE OF 25.92 FEET TO A POINT ON A LINE WHICH IS 30.00 FEET SOUTH OF AND PARALLEL TO THE CENTERLINE OF SAID SOUND VIEW DRIVE SOUTH AND ON THE NORTHWESTERLY EXTENSION OF THE NORTHEASTERLY LINE OF LOT 22, BLOCK 3, REDONDO BEACH DIVISION NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 16 OF PLATS AT PAGE 40, RECORDS OF KING COUNTY, WASHINGTON; THENCE SOUTH 39°04'15" EAST ALONG SAID LINE EXTENSION, A DISTANCE OF 14.89' FEET, MORE OR LESS, TO THE MOST NORTHERLY CORNER OF SAID LOT 22 AND THE TERMINUS OF SAID LINE DESCRIPTION;

AND BOUNDED ON THE WEST AND THE SOUTHWEST BY THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE INTERSECTION OF 5<sup>TH</sup> PLACE SOUTH AND SOUND VIEW DRIVE SOUTH; THENCE SOUTH 9°07'47" WEST, A DISTANCE OF 37.25 FEET TO THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE CONTINUING SOUTH 9°07'47" WEST, A DISTANCE OF 69.83 FEET; THENCE ALONG A CURVE TO THE RIGHT, THE CENTER OF WHICH BEARS NORTH 80°52'13" WEST 245.00 FEET DISTANT, THROUGH A CENTRAL ANGLE OF 15°41'53", AN ARC DISTANCE OF 67.13 FEET; THENCE SOUTH 65°10'20" EAST, A DISTANCE OF 30.00 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF THE ALLEY IN BLOCK 3 OF REDONDO BEACH DIVISION NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 16 OF PLATS AT PAGE 40, RECORDS OF KING COUNTY, WASHINGTON AND THE TERMINUS OF SAID LINE DESCRIPTION.

CONTAINING: 4,512 SQ. FT. OR 0.10 ACRES



DESCRIPTION OF STREET VACATION  
(WHITE)(PARCEL C)

THAT PORTION OF 5<sup>TH</sup> PLACE SOUTH IN THE CITY OF DES MOINES,  
WASHINGTON, WHICH IS BOUNDED ON THE NORTH BY THE FOLLOWING  
DESCRIBED LINE:

COMMENCING AT THE INTERSECTION OF 5<sup>TH</sup> PLACE SOUTH AND SOUND  
VIEW DRIVE SOUTH, HAVING A REFERENCE BEARING OF  
NORTH 50°55'45" EAST TO THE INTERSECTION OF SOUND VIEW DRIVE  
SOUTH AND SOUTH 287<sup>TH</sup> STREET; THENCE SOUTH 9°07'47" WEST, A  
DISTANCE OF 37.25 FEET TO THE TRUE POINT OF BEGINNING OF SAID LINE;  
THENCE SOUTH 62°26'36" WEST, A DISTANCE OF 49.14 FEET TO A POINT ON  
A LINE WHICH IS 20.00 FEET SOUTH OF AND PARALLEL TO THE  
CENTERLINE OF SAID SOUND VIEW DRIVE SOUTH; THENCE  
SOUTH 54°43'00" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF  
16.84 FEET, MORE OR LESS, TO THE NORTH LINE OF LOT 1, BLOCK 2,  
REDONDO BEACH DIVISION NO. 1, ACCORDING TO THE PLAT THEREOF  
RECORDED IN VOLUME 16 OF PLATS AT PAGE 40, RECORDS OF KING  
COUNTY, WASHINGTON AND THE TERMINUS OF SAID LINE DESCRIPTION;

AND BOUNDED ON THE SOUTH EAST AND SOUTHWEST BY THE  
FOLLOWING DESCRIBED LINE:

COMMENCING AT THE INTERSECTION OF 5<sup>TH</sup> PLACE SOUTH AND SOUND  
VIEW DRIVE SOUTH; THENCE SOUTH 9°07'47" WEST, A DISTANCE OF  
37.25 FEET TO THE TRUE POINT OF BEGINNING OF SAID LINE;  
THENCE CONTINUING SOUTH 9°07'47" WEST, A DISTANCE OF 69.83 FEET;  
THENCE ALONG A CURVE TO THE RIGHT, THE CENTER OF WHICH BEARS  
NORTH 80°52'13" WEST 245.00 FEET DISTANT, THROUGH A CENTRAL ANGLE  
OF 31°54'37", AN ARC DISTANCE OF 136.45 FEET;  
THENCE NORTH 36°38'53" WEST, A DISTANCE OF 30.81 FEET, MORE OR LESS,  
TO THE MOST SOUTHERLY CORNER OF LOT 2 OF SAID BLOCK 2 AND THE  
TERMINUS OF SAID LINE DESCRIPTION.

CONTAINING: 5,686 SQ. FT. OR 0.13 ACRES.



DESCRIPTION OF STREET VACATION  
(REDONDO RIDGE CONDO)(PARCEL D)

THAT PORTION OF 5<sup>TH</sup> PLACE SOUTH IN THE CITY OF DES MOINES, WASHINGTON, WHICH IS BOUNDED ON THE NORTHEAST BY THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE INTERSECTION OF 5<sup>TH</sup> PLACE SOUTH AND SOUND VIEW DRIVE SOUTH, HAVING A REFERENCE BEARING OF NORTH 50°55'45" EAST TO THE INTERSECTION OF SOUND VIEW DRIVE SOUTH AND SOUTH 287<sup>TH</sup> STREET; THENCE SOUTH 9°07'47" WEST, A DISTANCE OF 107.08 FEET; THENCE ALONG A CURVE TO THE RIGHT, THE CENTER OF WHICH BEARS NORTH 80°52'13" WEST 245.00 FEET DISTANT, THROUGH A CENTRAL ANGLE OF 15°41'53", AN ARC DISTANCE OF 67.13 FEET TO THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE SOUTH 65°10'20" EAST, A DISTANCE OF 30.00 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF THE ALLEY IN BLOCK 3 OF REDONDO BEACH DIVISION NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 16 OF PLATS AT PAGE 40, RECORDS OF KING COUNTY, WASHINGTON AND THE TERMINUS OF SAID LINE DESCRIPTION;

AND BOUNDED ON THE NORTHWEST AND THE SOUTHWEST BY THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE INTERSECTION OF 5<sup>TH</sup> PLACE SOUTH AND SOUND VIEW DRIVE SOUTH; THENCE SOUTH 9°07'47" WEST, A DISTANCE OF 107.08 FEET; THENCE ALONG A CURVE TO THE RIGHT, THE CENTER OF WHICH BEARS NORTH 80°52'13" WEST 245.00 FEET DISTANT, THROUGH A CENTRAL ANGLE OF 15°41'53", AN ARC DISTANCE OF 67.13 FEET TO THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE CONTINUING ALONG A CURVE TO THE RIGHT, THE CENTER OF WHICH BEARS NORTH 65°10'20" WEST 245.00 FEET DISTANT, THROUGH A CENTRAL ANGLE OF 16°12'44", AN ARC DISTANCE OF 69.32 FEET; THENCE SOUTH 36°38'53" EAST, A DISTANCE OF 30.63 FEET, MORE OR LESS, TO THE MOST WESTERLY CORNER OF LOT 11, BLOCK 3 OF REDONDO BEACH DIVISION NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 16 OF PLATS AT PAGE 40, RECORDS OF KING COUNTY, WASHINGTON AND THE TERMINUS OF SAID LINE DESCRIPTION.

CONTAINING: 2,305 SQ. FT. OR 0.05 ACRES.







## Chapter 12.10 VACATION OF PUBLIC RIGHTS-OF-WAY

### Sections

<a href="#">12.10.010</a>	Title.
<a href="#">12.10.020</a>	Application.
<a href="#">12.10.030</a>	Purpose.
<a href="#">12.10.040</a>	Authority.
<a href="#">12.10.050</a>	Road classification.
<a href="#">12.10.060</a>	Procedures.
<a href="#">12.10.070</a>	Fees and compensation.
<a href="#">12.10.080</a>	Condition precedent.
<a href="#">12.10.090</a>	Manner of payment.
<a href="#">12.10.100</a>	Appeal.

#### **12.10.010 Title.**

This chapter shall be entitled "Vacation of Public Rights-of-Way." [Ord. 1578 § 44, 2013.]

#### **12.10.020 Application.**

This chapter shall apply to the vacation of public rights-of-way within the City. [Ord. 1578 § 45, 2013.]

#### **12.10.030 Purpose.**

The purpose of this chapter is to set forth the process and procedures for the vacation of public rights-of-way and to make provisions for compensation as set forth below. [Ord. 1578 § 46, 2013.]

#### **12.10.040 Authority.**

Petitions for the vacation of City rights-of-way may be granted by the City Council in accordance with the provisions of chapter [35.79](#) RCW. [Ord. 1578 § 47, 2013.]

#### **12.10.050 Road classification.**

For the purposes of this chapter, all public rights-of-way within the City are declared to be within one of three classes:

(1) All streets or alleys that have been part of a dedicated public right-of-way for 25 years or more, all rights-of-way conveyed to or held by the City for transportation purposes for which public funds have been expended in the acquisition, improvement or maintenance of such rights-of-way interests, and rights-of-way that abut a body of fresh or salt water, are classified Class A rights-of-way.

(2) All City rights-of-way conveyed to or held by the City for transportation purposes for which no public funds have been expended in the acquisition of the same, excluding any Class A rights-of-way and any rights-of-way subject to being vacated by the provisions of section 32, chapter 19, Laws of 1889-90, are classified Class B rights-of-way.

(3) All City rights-of-way originally conveyed to the City by a party who subsequently petitions for the vacation of said rights-of-way for which no public expenditures have been made in the acquisition of the same and any rights-of-way or portions thereof subject to being vacated by the provisions of section 32, chapter 19, Laws of 1889-90; or any other rights-of-way not included within Classes A or B are classified Class C rights-of-way. [Ord. 1578 § 48, 2013.]

#### **12.10.060 Procedures.**

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The procedures for the vacation of the public rights-of-way shall be as follows:

(1) The petition for rights-of-way vacation is filed with the Planning, Building and Public Works Director on a form prescribed by the Planning, Building and Public Works Director, and shall contain sufficient facts to enable the Planning, Building and Public Works Director to determine whether the petition(s) have complied with the provisions in this section and chapter 35.79 RCW as presently constituted or as may be subsequently amended.

(2) After a review of the petition, the Planning, Building and Public Works Director shall make a recommendation to the City Council who shall proceed under the provision cited in this section. [Ord. 1578 § 49, 2013.]

#### **12.10.070 Fees and compensation.**

---

(1) Each petition must be accompanied by an application fee to be set by administrative order of the City Manager or the City Manager's designee. Such fee is used to defray examination, report, publication, investigation, and other costs connected with the applications. Such fee shall not be returned to the petitioner.

(2) The amount of compensation, if required by this chapter, is determined by the City Council according to the following criteria:

(a) Vacation of all City rights-of-way included in Class A, if granted, shall require compensation at the full appraised value as of the effective date of the vacation; or which amount, for the purposes of this chapter, may be determined from the records of the King County Department of Assessments or by informal or formal appraisal; provided, that the City Council shall have the authority to accept real property of equal or greater value in lieu of cash compensation.

(b) Vacation of all City rights-of-way included in Class B, if granted, shall require compensation at 50 percent of the full appraised value as of the effective date of the vacation, which amount, for the purposes of this chapter, may be determined from the records of the King County Department of Assessments or by informal or formal appraisal.

(c) Vacation of all City rights-of-way included in Class C, if granted, requires no compensation.

(d) When a right-of-way is vacated for a governmental agency, compensation shall be in accordance with the classification of the right-of-way.

(e) The City Council may waive some or all of the compensation for any classification of right-of-way, if it determines and makes written findings that such action would benefit the residents of the City. [Ord. 1578 § 50, 2013.]

**12.10.080 Condition precedent.**

---

Subsequent to City Council approval, payment of compensation as ordered by the City Council is a condition precedent to the final vacation of any public right-of-way and shall be paid to the City by responsible parties within 90 days of receipt of the request for compensation prepared by the City. In the event of the failure of the responsible parties to pay such sum within 90 days, the petition of vacation shall be denied. [Ord. 1578 § 51, 2013.]

**12.10.090 Manner of payment.**

---

Payment is made to the Finance Director and shall be credited as follows:

(1) Revenue received by the City as compensation for the area vacated, excluding revenue received as compensation for vacation of rights-of-way that abut a body of fresh or salt water, shall be dedicated to the acquisition, improvement, development, and related maintenance of public transportation capital projects within the City.

(2) Revenue received by the City as compensation for vacation of rights-of-way that abut a body of fresh or salt water shall be dedicated to the acquisition of additional beach or water access, acquisition of additional public view sites to a body of water, or acquisition of additional moorage or launching areas. [Ord. 1578 § 52, 2013.]

**12.10.100 Appeal.**

---

A decision of the City Council may be appealed to the King County Superior Court to the extent allowed by law. [Ord. 1578 § 53, 2013.]

---

**The Des Moines Municipal Code is current through Ordinance 1592, passed March 13, 2014.**

Disclaimer: The City Clerk's Office has the official version of the Des Moines Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.





## RESOLUTION NO. 1268

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, fixing a time for a public hearing to consider vacation of a segment of public rights-of-way in the City of Des Moines.

WHEREAS, the City Council is considering vacation of a portion of public rights-of-way known as 5<sup>th</sup> Place South, south of South 287<sup>th</sup> Street, located in the City of Des Moines as shown on Exhibit "A", attached hereto and incorporated by reference, by the petition method, and

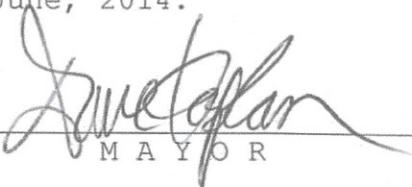
WHEREAS, the provisions of RCW 35.79.010 authorize the City Council to fix a time for a public hearing in order to receive public comment regarding this proposal; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:**

The matter of the vacation of the following described portions of public rights-of-way in the City of Des Moines is set for a public hearing before the City Council on Thursday, August 14, 2014 at 7:00 p.m., or as soon thereafter as the matter may be heard, in the City Council Chambers, 21630 11th Avenue So., Suite B, Des Moines, Washington:

5th Place South, south of South 287th Street, located in the City of Des Moines as shown on Exhibit "A", attached hereto.

ADOPTED BY the City Council of the City of Des Moines, Washington this 26th day of June, 2014 and signed in authentication thereof this 26th day of June, 2014.

  
MAYOR

APPROVED AS TO FORM:

  
Assistant City Attorney

ATTEST:

  
City Clerk

# EXHIBIT DRAWING FOR STREET VACATION

KING COUNTY, WASHINGTON

SW 1/4 of the SW 1/4 of Section 32, Township 22 North, Range 4 East, W.M.

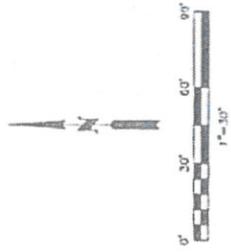
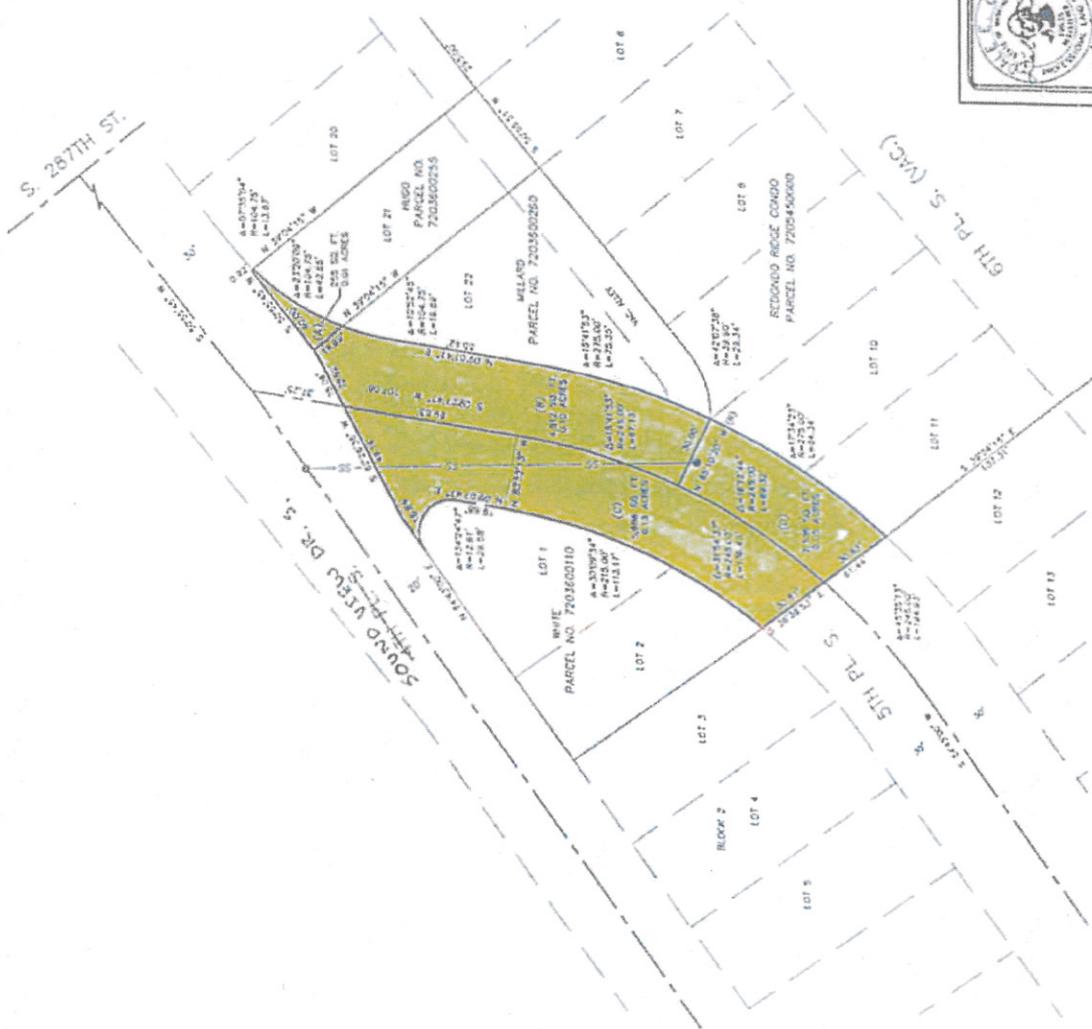


EXHIBIT A



Surveyed for:	DEBBIE MILLARD 2874 S. 287TH ST. SE SUNNYVALE, WA 98148
Scale:	1"=30'
Date:	6/9/74
Surveyed by:	SAIBER/BARRARD & ASSOC. INC. 717 W. STEWART PUYALLUP, WA 98371
Drawn:	DD
Approved:	DD
Phone:	(206) 840-2170
Eng. No.:	10-043

Page 1 of 1

### RIGHT-OF-WAY VACATION CHECK LIST – SV2009-003

Name of Petitioner(s) Deborah L. Millard

Right-of-way to be vacated: **In Redondo, 5<sup>th</sup> Place South, south of South 287<sup>th</sup> Street**

- |    |  |   |
|----|--|---|
| 1. | Name of Plat and date of addition under which the right-of-way was dedicated:  | Redondo Beach Division No. 1, August 1907   |
| 2. | What percent of the adjacent ownerships have petitioned in favor of the vacation?  | 75%; 3 out of 4. The petitioners own the abutting frontage to about 85% of the petitioned ROW vacation. |
| 3. | Was the street/alley in a plat filed before March 12, 1904, thus making it eligible for vacation by operation of law (Sect. 32, Ch. 19, Laws of 1889-90) if it was not opened before March 12, 1904? | No  |
| 4. | Is the right-of-way currently used for public access by vehicular traffic? Or pedestrian traffic?  | No. Adjacent property owners park in the area.  |
| 5. | Is the right-of-way the only access to other parcel ownerships?  | No  |
| 6. | What impact will vacating the right-of-way have on the overall traffic circulation in the area?  | No impact.  |
| 7. | Does the right-of-way provide access to any shorelines, streams or other recreational areas?   | No. Open drainage at rear of property that is classified as a drainage channel and not a stream.        |
| 8. | Is the right-of-way proposed for vacation adjacent to another agency (city, county)?   | No.   |
| 9. | Which utilities currently have facilities in the right-of-way?   | Lakehaven Sewer District, Century Link, City of Des Moines Surface Water Management, PSE.               |

10. Which utilities have requested retention of an easement?

Lakehaven  
Century Link  
Puget Sound Energy  
Des Moines SWM

UTILITY COMPANY

EASEMENT

Lakehaven

20' over existing facilities in 5<sup>th</sup> Pl. S.

Century Link

10' over existing facilities in 5<sup>th</sup> Pl. S.

Puget Sound Energy

10' over existing facilities in 5<sup>th</sup> Pl. S.

Des Moines SWM

20' over existing facilities in 5<sup>th</sup> Pl. S. extending 10' past the end of existing facilities

11. Police Department Comments:

No Concerns

12. Fire District Comments:

No Concerns

13. Staff Recommendations:

Vacate public R-O-W as requested by petition.

## A G E N D A I T E M

### BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Pacific Highway South Subarea  
Planning – Land Use Options

ATTACHMENTS:

1. Draft Land Use Concepts
2. October 1, 2014 Open House Flyer
3. March 23, 2014 Open House Comments

FOR AGENDA OF: August 14, 2014

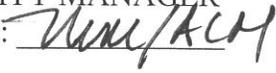
DEPT. OF ORIGIN: Planning, Building and  
Public Works

DATE SUBMITTED: August 6, 2014

CLEARANCES:

- Legal \_\_\_\_\_
- Finance N/A
- Marina N/A
- Parks, Recreation & Senior Services N/A
- Planning, Building & Public Works DSB
- Police N/A
- Courts N/A
- Economic Development \_\_\_\_\_

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

### Purpose and Recommendation

The purpose of this Agenda Item is to brief the City Council on the status of the Pacific Highway South Subarea Planning around the Pacific Highway South/S 240<sup>th</sup> Street Node and obtain Council feedback on three draft land use concepts developed for this area (see Attachment 1) in preparation for a second public open house scheduled for October 1, 2014 (see Attachment 2).

### Background

The Pacific Highway South subarea planning effort builds upon the work completed during the *Envision Midway* project working closely with staff from Sound Transit, the City of Kent, Highline College, property and business owners, and residents adjacent to the corridor. The goal is to realize the community's vision to transform the South 240<sup>th</sup> Street/HCC area from a lower density, auto-oriented strip development to a mixed use employment and activity center that capitalizes on the opportunities provided by Highline College and the multi-million dollar public transportation investments that will be made in this corridor over the next decade in order to foster economic development, increase revenues and job opportunities, and provide more housing choices.

The City held an open house at Highline Community College on March 26, 2014 to seek community input regarding the planning and the creation of the Draft Land Use Concepts for the Pacific Highway S/S 240<sup>th</sup> Street node. These comments were in response to specific questions that were asked related to how people identify with the area, how they related to a set of images that were presented to them, how they imagined the future of this area, and what issues are important as we consider land use and zoning changes for the area. Scanned copies of the written comments are provided as Attachment 3 and a summary of the responses is provided below:

***How do you imagine the future of the S 240<sup>th</sup> Street Corridor?***

- Mixed use housing
- Change H-C zone to 75' and step down to residential
- Space for kids and people to gather
- Sidewalks and street lights
- S 240<sup>th</sup> should be widened
- Parking should be provided to avoid spillover into neighborhoods
- Create color schemes to create a style and reason to come to Des Moines
- Promote activities in the spaces, not just shopping and food
- Use indigenous species for landscaping
- Include space for community garden

***Land use and zoning choices:***

- Should be consistent with Kent – at least 55', okay to go higher
- Holistic approach would make area more usable and valuable to residents and users
- No fast food restaurants; no big box or industrial
- Social services
- Parking is important (e.g., park and ride for transit)

***Is design important?***

- YES
- City needs to take a proactive and leadership role in creating a “sense of place” and get ahead of Kent, including marketing and outreach – “Des Moines is the place to be and visit”
- Protect views with “pyramid” development (i.e., modulation/terracing) to avoid tunnel effect
- Create space for kids to enjoy in a safe environment (e.g., think moms, strollers, toddlers on creative structures) – look to Olympia, WA development
- Create safe spaces that invite people in to enjoy whenever, 24/7 for all to enjoy; remember trees grow and block street lights

***What issues are important as we consider land use and zoning changes for the area?***

- Utilize vertical space and go high
- High rise okay but should be built for people and look good
- Area should have a consistent, identifiable character
- Additional parks and green space
- Better walking and access to Pac Hwy
- Safe bicycle paths
- Street lights

- Traffic egress, choke points, S 240<sup>th</sup> widening
- Park and ride, parking
- Security and increased crime with growth

## **Discussion**

The land use concepts are intended to reflect the community’s vision regarding how this subarea should grow/redevelop in the future, including ideas learned from the Envision Midway project, community input at the March 26<sup>th</sup> open house (Attachment 2), Council Finance and Economic Development Committee input, and planning considerations. The goal is to eventually identify a preferred land use option that could be adopted into the Comprehensive Plan and serve as the Subarea Plan for the area. In effect, it would set a precedent for how the area should develop and/or redevelop in the future as a “transit community.” The underlying zoning for the area would not change unless it is the desire of the Council to implement the zoning concurrently.

The three draft concepts provided in Attachment 1 introduce new comprehensive plan land use designations: Transit Community Mixed (TC-M), Transit Community Residential (TC-R) and Transit Community Townhome (TC-T). The TC-M land use would extend into the neighborhood to the west and provide an opportunity to transform S 240<sup>th</sup> Street into a more dynamic pedestrian street with a mix of land uses that would compliment Highline Community College. The TC-R designation provides areas for high density multifamily residential development while the TC-T designation is intended to provide a transition from more intensive land use to the single family areas. The circulation and open space framework is intended to illustrate how people would move through the neighborhood, access transit and have opportunities to recreate. The permitted uses, density and building heights would be further defined through zoning classifications to be developed concurrently or in the future. Following is a general description of each land use concept:

***Land Use Concept #1*** is characterized as a high density mixed use transit community that is characterized by quality design and a vibrant streetscape environment. This Option has a higher percentage of mixed use. Higher intensity commercial uses would likely focus on S 240<sup>th</sup> Street and Pacific Highway S while 26<sup>th</sup> Avenue S and 27<sup>th</sup> Avenue S would provide an opportunity to create a Main Street character that would cater to shopping, eating and entertainment. The TC-T designation would provide a transition between the TC-M and the single family residential to the west and the TC-R would provide high density housing between the mixed use areas and Parkside Park. The pedestrian environment would be enhanced providing “complete streets” (i.e., pedestrian, bicycle and public amenities) along S 240<sup>th</sup> Street and 26<sup>th</sup> Place S to provide a more vibrant streetscape conducive to shopping, recreating and accessing transit and other services in the area. Pedestrian and bike linkages would be provided through Parkside Park to increase access through the neighborhood.

***Land Use Concept #2*** is envisioned as an active mixed-use transit community exhibiting quality design with a vibrant streetscape. Offices, shops and restaurants would be focused along S 240<sup>th</sup> Street between 24<sup>th</sup> Avenue S and 27<sup>th</sup> Avenue S while 26<sup>th</sup> Avenue S is envisioned to have a “Main Street” character. More intensive commercial uses would be focused on Pacific Highway S. Concept 2 has a greater percentage of higher density residential uses with the TC-T designation extending west of 24<sup>th</sup> Avenue S and south of S 242<sup>nd</sup> Street and the TC-R designation extending from 27<sup>th</sup> Avenue S west to Parkside Park. South 240<sup>th</sup> Street, S 242<sup>nd</sup> Street, S 244<sup>th</sup> Street, 24<sup>th</sup> Avenue S, and 26<sup>th</sup> Avenue S are envisioned as complete streets providing an enhanced pedestrian environment that is intended to create a vibrant

streetscape and improved circulation throughout the neighborhood. Pedestrian and bike linkages would also be provided through Parkside Park.

**Land Use Concept #3** allocates a larger area to the TC-T designation and maintains the single family designation between 26<sup>th</sup> Place S and Parkside Park. Similar to Options 1 and 3, commercial uses would be focused on S 240<sup>th</sup> Street, 26<sup>th</sup> Avenue S and Pacific Highway S. Pedestrian and bicycle improvements would be provided on S 240<sup>th</sup> Street and through Parkside Park; however, no significant enhancements are envisioned for the internal street network.

Moving forward, we will consider available market data and input from the development community to better understand the potential for achieving the proposed land uses and densities. The following planning considerations will also be important as we further refine the draft land use concepts:

***How many people and jobs should area support?***

- What demographic groups should be accommodated – students, seniors, families; high, middle, low income?

***Jobs:***

- What kinds of jobs would you like to see in area? (e.g., service, office, retail, commercial, entertainment)
- What kinds of jobs would should the area to support? (e.g., trade, satellite business campuses, research and development, small incubator businesses, expansion of the college campus)
- Are they family wage jobs or service jobs?
- What kinds of services should be available to those who live and work in the Transit Community? (e.g., grocery, entertainment, restaurant, medical, daycare, government satellites, community gardens, etc.)

***Housing:***

- What types of housing should be available in the Transit Community?
- What would that housing look like? Mixed use, multifamily, and townhomes? Can you see this being a little taller and stepping down as it transitions to SFR?
- Where should housing be located? And what would the housing look like?

***How do you envision people being able to move around in the Transit Community? Picture yourself walking, biking or driving around the Transit Community...***

- What should the walking experience be?
- Are bike trails or lanes needed?
- What should the driving experience be?
- What should the streets look and feel like?
- Do you envision people driving to the Transit Community and being able to walk within certain sections or should it be more auto-oriented so that people can drive from destination to destination within the Midway area? What about bicycle use?

***Location:***

- We identified different types of jobs and businesses that could be in the Transit Community - Where should they be located? Be specific about the type of job and where it should be located.
- Where should housing be located? Integrated with other uses or segregated?

Based on feedback received from the City Council, staff will make any necessary refinements to the draft land use concepts and present them at a public open house that is scheduled for October 1, 2014. Following the open house staff will incorporate community feedback and bring a revised land use concept/s back to the Council Finance and Economic Development Committee and the full Council for further consideration. The goal will be for Council to select a preferred land use option that will serve as the basis for the subarea plan and potential future zoning for this area.

### **Alternatives**

The City Council may provide direction to staff to modify the draft land use concepts prior to presenting to the public for further input.

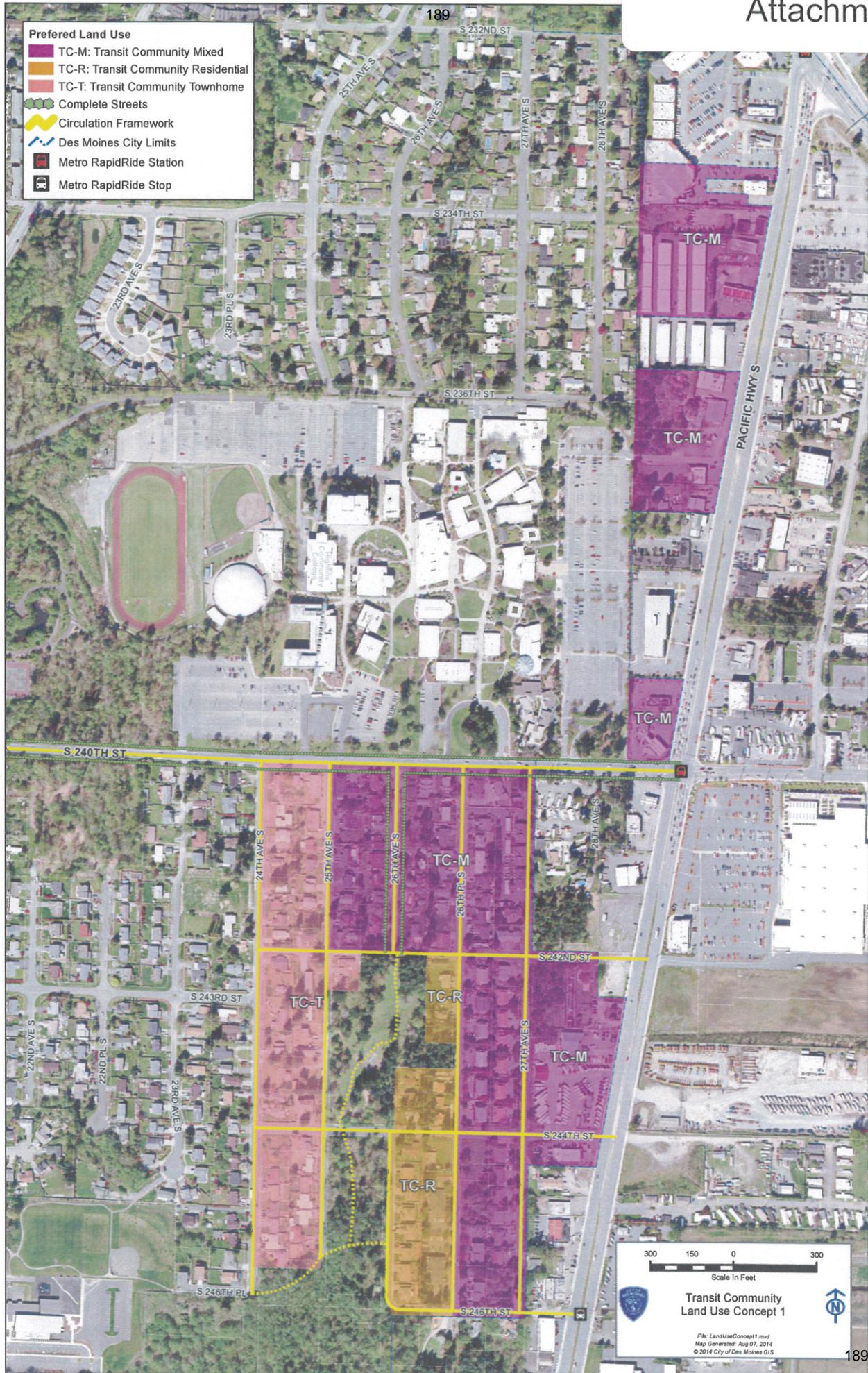
### **Financial Impact**

Planning for the Midway Area will help foster a strong economic environment for the City by creating new jobs, a stronger tax base, and tax revenues for the City of Des Moines. It will also help the Cities of Des Moines and Kent, HCC, Sound Transit and King County METRO strategically plan for capital improvements and investments in conjunction with growth and development, and will position the City competitively for grant funding.

### **Recommendation or Conclusion**

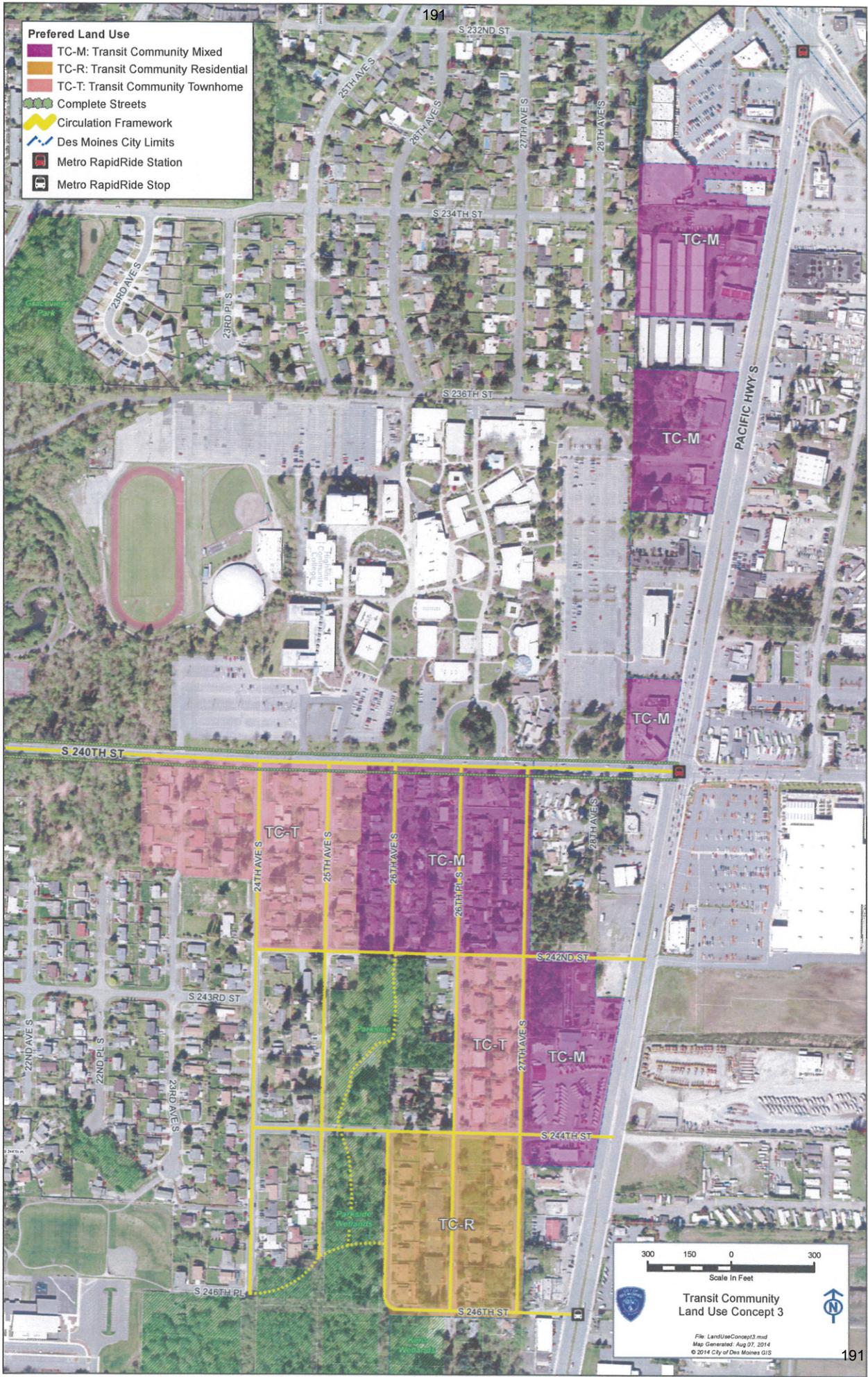
None.







- Preferred Land Use**
- TC-M: Transit Community Mixed
  - TC-R: Transit Community Residential
  - TC-T: Transit Community Townhome
  - Complete Streets
  - Circulation Framework
  - Des Moines City Limits
  - Metro RapidRide Station
  - Metro RapidRide Stop



300 150 0 300  
Scale In Feet

**Transit Community  
Land Use Concept 3**

File: LandUseConcept3.mxd  
Map Generated: Aug 07, 2014  
© 2014 City of Des Moines GIS



# OPEN HOUSE:

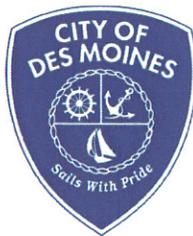
*Comment on the draft land use concepts  
and learn about what's next for the*

# Pacific Highway South SUBAREA PLANNING PROCESS

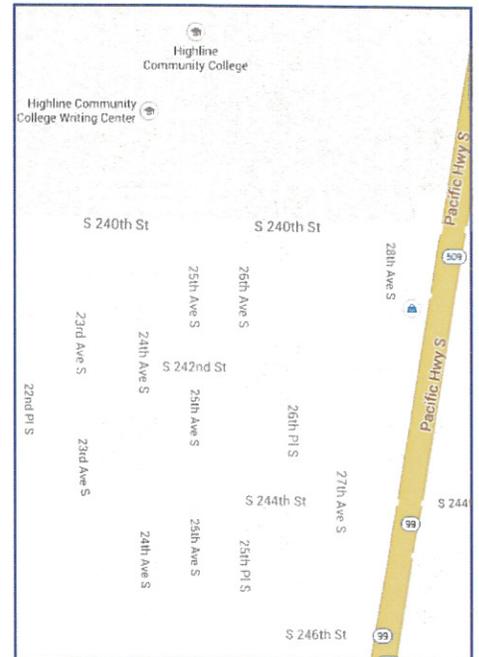
**Date/Time:**  
**Wednesday, Oct 1**  
**5-7pm**

**Location:**  
**Highline College**  
**Building 2**

**Address:**  
**2400 S. 240th St.**  
**Des Moines**



**For information contact:**  
Nikole Coleman-Porter at  
[ncoleman@desmoineswa.gov](mailto:ncoleman@desmoineswa.gov)  
or (206) 870-6551





Historically as  
MIDWAY -  
  
But now is the  
opportunity to re-brand  
as Des MOINES  
& maintain a consistent  
destination plan

Highline  
&/or Des Moines  
because I live  
in this area

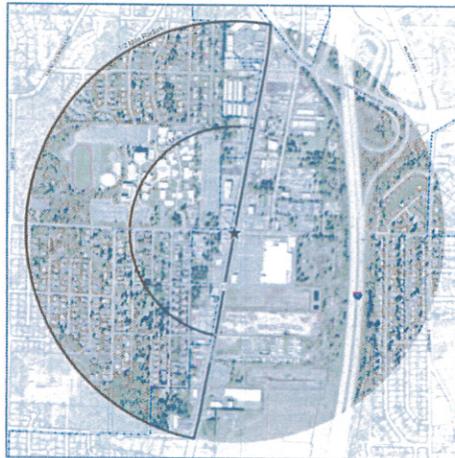
HIGHLINE  
  
Covers  
Cell.



## How do you identify with this area?

- Midway?
- Highline?
- South Des Moines?
- Other?

Please write your thoughts  
on a post-it-note and add it  
to this board.

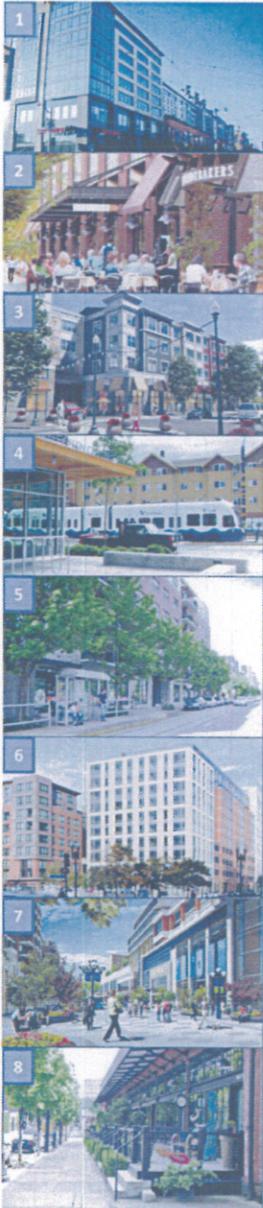


Highline +  
Des Moines

I remember  
the Midway  
Drive In  
+ Swap meet,  
but more recently,  
don't know the  
area.  
-Katz

It ~~was~~ used to be  
Midway -  
but I think Des  
Moines is a better  
identifier

Appreciate creating  
a sense of  
place w/ environmentally  
friendly plants



## Land Use and Zoning Choices

- Would you live, work, shop, or play here?

YES!

- What do you like about these images?

LOVE THE  
COLOR CONTRAST  
& VISUAL INTEREST

Colorful,  
economic  
development

- What don't you like about these images?

#1 & #6 Too high  
and "blocky"

Very crowded

#7 Most appealing

- What is missing?

Open common  
green space

Space for play  
& child safe  
areas

Parking for  
high density

PARKING

Do they go to  
neighborhood streets?

Portkey

MULTI-LEVEL

↑ MIXED USE

HOUSING OPPORTUNITIES  
FOR OPEN SPACE FOR  
KIDS.

MORE MIXED

USE MIXED

STREET LIGHTS

SIDE WALKS

Center Turn

COME FROM

165 TO PAT HULLY

Station #5

CHANGE H-C ZONE TO T5

TRANSITION (STEP DOWN)

↑ TO RESPONSIBILITY BY

WALK "MHP" THEN RAILS

## 240th Street Corridor

### How do you imagine the future?

Please write your thoughts on a post-it-note and add it to this board.

Housing Types?  
Density?  
Pedestrian Environment?  
Building Height?  
Land Uses?

Sidewalks

ell

common area  
for community  
gathering

I love to walk -  
Pedestrian concept  
great but I  
need to park  
too - or make  
transit very  
convenient &  
safe

INCLUDE COLOR

SCHEMES & FOR

DEVELOPING RFPs

TO CREATE A STYLE

& A REASON TO

COME TO ASHLAND

PROMOTE ACTIVITIES IN

THE SPACES NOT JUST SHAPING

#4900

For landscaping,  
use indigenous  
species,

NO INVASIVES

FIND ROOM FOR

COMMUNITY FOOD

RAISING & FARM

SPACE. LOOK TO

SEE COLUMBIA CITY

↑ ALL OF THE FR

BULFINCH FOOD FOREST.ORG





## What issues are important to you as we consider land use and zoning changes for the area?

- Permitted Uses?
- Building Size?
- Building Design?
- Housing Choices?
- Pedestrian Environment?
- Landscaping?
- Parking?
- Anything Else?

Please write your thoughts on a post-it-note and add it to this board.

PLEASE! Utilize vertical space and go as high as approp. for area. High density is the way to go

Extend the barriers on 240th + Pacific Way between Chevron + AMPM! It is horrible at peak travel times

Better Walkway across Pacific -  
Need a reason for Slatco & FedWay visitors to come to business. Make it a place to be.

Having some high-rise OK but should be built for people and look good

TRAFFIC EGRESS  
Street Lights

Permitted uses & parking  
240th widening? (It's a mess already)

Security?  
Higher density  
Higher crime?

Wider streets  
& fix choke  
points

Add parks  
& green space



### What issues are important to you as we consider land use and zoning changes for the area?

- Permitted Uses?
- Building Size?
- Building Design?
- Housing Choices?
- Pedestrian Environment?
- Landscaping?
- Parking?
- Anything Else?

Please write your thoughts on a post-it-note and add it to this board.

sidewalk  
on  
Kearf-Des  
Moines  
Road  
(hello!! where is  
pedestrian  
safety in this  
corridor?)

Security  
parking

Traffic has  
need to handle  
the volume's  
Don't make a  
traffic nightmare

Area should  
have a consistent  
identityable  
character

Higher density

SAFE  
Bicycle Paths

All of the above  
Look to CARMEL,  
INDIANA as an  
example.

FAVOR RAISING  
BUILDING  
HEIGHTS  
w/  
MIXED  
USE

Park and Ride



## Potential Highway Commercial Land Uses

*Preferred Land Uses from Envision Midway:*

- High intensity transit supportive mixed-use with residential bias.
- Strongly pedestrian oriented with small walkable blocks.
- 35' to 200' height limit.
- Lowered parking requirement.
- Uses: market rate and affordable housing, office, retail, hotel, neighborhood services, civic uses.
- No single use, big box, industrial, or auto dependent uses.

What do you think?

Park and Ride

Need Roads upgrade to handle additional traffic

Should be consistent with Kent. At least 55' height OK to go higher

1. Roads - Capacity
2. Safety - Services

WHY ARE YOU LOWERING THE PARKING REQUIREMENT?  
DUE TO TRANSIT?  
LOOK AT THE PARKING ISSUES IN TUKWILA.  
TOO MUCH IN THE SUBURBS TO NOT HAVE PARKING.

240th double width work reconnected area's, especially into/out of HCC

Holistic approach would make area more usable & valuable to residents & users  
NO Fast Food Restaurants please

I agree with no big box or industrial  
BUT Parking IS important for drawing business from outside the area

PROTECT VIEW  
w/ PYRAMID  
BUILDING DEVELOPMENT  
TO AVOID TUNNEL EFFECT

CREATE SPACE  
FOR KIDS TO ENJOY  
IN A SAFE  
ENVIRONMENT.  
THANK MOMS AND  
STROLLERS, TODDLERS  
ON CREATIVE SCULPTURES,  
LOOK TO OLYMPIA, WA TOWNHOMES

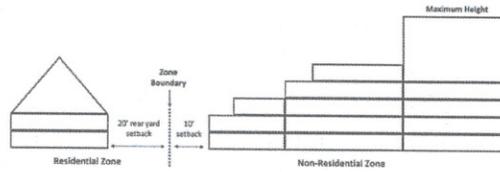
LANDSCAPING -  
REMEMBER TREES  
GROW, BLOCKING  
STREET LIGHTS  
‡ CREATING UNSAFE  
ENVIRONMENTS  
= KEEP IN LOW ‡  
MAKE SPACES THAT INVITE  
PEOPLE IN TO ENJOY, UNDER,  
ACTIVATE 24/7 FOR ALL  
TO USE.

## Is Design Important?

### Articulation



### Modulation



### Pedestrian Access/ Entryways

#### D.1. Pedestrian Open Spaces and Entrances

**Intent** - Design projects to attract pedestrians to the commercial core of the Marina District. Convenient and attractive access to the building's entry should be provided. To ensure comfort and security, paths and entry areas should be sufficiently lighted and entry areas should be protected from the weather. Opportunities to create lively, pedestrian-oriented open space should be considered.

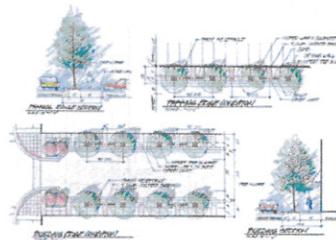


### Landscaping



**E.2. Landscape to Enhance the Building and/or Site**  
**Intent** - Landscaping, including living plant material, special pavements, trellises, screen walls, planters, site furniture and similar features should be appropriately incorporated into the design to enhance the project.

### Parking



# PACIFIC HIGHWAY SOUTH SUBAREA PLANNING

March 26, 2014 - Open House

## COMMENT FORM

SO WE SEEM TO BE PLAYING CATCH UP.

KENT BEAT THIS CITY OUT OF THE GATE,  
SETTING DES MOINES UP TO PLAY  
THE ROLE OF SECOND CHILD.

A STRONG, FAST-PACED ROLE IS NEEDED  
TO MAKE A SENSE OF PLACE AND A  
REASON TO HAVE A BUSINESS, DEVELOP  
A MULTI-USE FACILITY, AND CREATE  
JOBS HERE IN DES MOINES AHEAD  
OF KENT.

MARKETING & OUTREACH TO MAKE  
DES MOINES THE PLACE TO BE &  
TO VISIT HAS GOT TO BE THE  
IMMEDIATE FOCUS BEFORE THE  
FINALIZATION OF THE EIS AND BUILDING  
PLANS.

THE REASON PKE PLACE MARKET IS ABLE  
TO BUILD & DEVELOP THEIR NEW SPACE  
IS BECAUSE THEY MADE THE COMMITTEE,  
SPENT THE MONEY ON ARCHITECTURAL PLANS,  
& TOOK A STANCE LONG BEFORE ANY  
OF THE OTHER NEIGHBORHOODS DID.

→



THEY DIDN'T WAIT TO FORM AN ~~OPINION~~  
OPINION AS A COLLECTIVE, THEY  
PUT A LINE IN THE SAND TO ENSURE  
THE VITALITY & FUTURE OF THE ENTIRE  
PIKE PLACE COMMUNITY; RESIDENTS, BUSINESSES,  
& DAILY VISITORS TO THE MARKET.

THIS IS THE STRONG LEADERSHIP NEEDED  
IN DES MOINES.

