

**AGENDA**

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

**August 20, 2015 – 7:00 p.m.**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**CORRESPONDENCE**

**COMMENTS FROM THE PUBLIC**

**EXECUTIVE SESSION**

**BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS**

**PRESIDING OFFICER'S REPORT**

**ADMINISTRATION REPORT**

**CONSENT AGENDA**

Page 1 Item 1: APPROVAL OF MINUTES

Motion is to approve the minutes from the July 2, July 9 and July 23, 2015 regular City Council meetings and the minutes from the July 23, 2015 Executive Session.

Page 17 Item 2: APPROVAL OF VOUCHERS

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

Total A/P Checks/Vouchers	#143640-144139	\$2,472,910.83
Electronic Wire Transfers	#575-591	\$ 606,926.93
Payroll Checks	#18670-18699	\$ 29,189.95
Payroll Direct Deposit	#270001-270175	\$ 310,441.17
Payroll Direct Deposit	#290001-290165	\$ 306,397.05
Payroll Direct Deposit	#320001-320171	\$ 302,260.27
Total Certified Wire Transfers, Voids, A/P and Payroll Vouchers:		\$4,028,126.20

Page 19 Item 3: CHILDHOOD CANCER AWARENESS MONTH PROCLAMATION

Motion is to approve the Proclamation supporting September as Childhood Cancer Awareness Month.

- Page 23 Item 4: DRAFT RESOLUTION NO. 15-122; AUTHORITY TO PURSUE ABATEMENT ACTION (GOLKA)  
Motion is to approve Draft Resolution 15-122 authorizing the City Attorney to pursue all necessary legal action to abate the nuisances found at 2828 S 224<sup>th</sup> Street and 24813 16<sup>th</sup> Avenue S in Des Moines and to recover any associated costs.
- Page 35 Item 5: TRANSPORTATION GATEWAY PROJECT SOUTH 216<sup>TH</sup> STREET, SEGMENT 1-A RIGHT OF WAY ACQUISITION DES MOINES CENTER, LLC, PROJECT PARCEL 50  
Motion is to purchase 987 square feet of land from Des Moines Center, LLC in the amount of \$26,700.00, a 489 square foot Wall Easement in the amount of \$9,900.00, a 150 square foot utility easement in the amount of \$1,000.00, as well as compensate the owner \$4,000.00 for taken improvements a grand total of \$41,600.00 (rounded dollars), plus associated closing costs, and further authorize the City Manager to sign the Statutory Warranty Deed, Wall Easement, Utility Easement, Construction Easement & Right of Entry and Real Property Voucher Agreement substantially in the form submitted and accept the right of way on behalf of the City of Des Moines.
- Page 63 Item 6: DRAFT ORDINANCE NO. 15-140, MUNICIPAL COURT JUDGE SALARY CERTIFICATION  
First Motion is to suspend Rule 26(a) to pass Draft Ordinance No. 15-140 on first reading.  
  
Second Motion is to enact Draft Ordinance No. 15-140 setting the Municipal Court Judge salary in accordance with state law.
- Page 69 Item 7: SALE OF ABANDONED VESSEL  
Motion is to adopt Draft Resolution No. 15-137, authorizing the sale of the abandoned vessel, hull identification number USDA55ER1596 by public auction, with a reserve large enough to cover the charges owed to the Marina.
- Page 75 Item 8: SURPLUS PROPERTY – VEHICLES AND EQUIPMENT  
Motion is to adopt Draft Resolution No. 15-141 declaring a certain vehicle identified in Attachment 1 as surplus and authorizing disposal of said surplus vehicle by auction or trade in.
- Page 81 Item 9: DRAFT RESOLUTION NO. 15-030 SETTING A PUBLIC HEARING REGARDING TEMPORARY ENCAMPMENTS FOR THE HOMELESS  
Motion is to adopt Draft Resolution No. 150-030 setting a public hearing on September 24, 2015 to consider Draft Ordinance No. 15-030 related to the establishment of legislation on Temporary Encampments for the Homeless, pursuant to RCW 35.21.915, RCW 35A.21.360 and RCW 36.01.290.
- Page 85 Item 10: DRAFT ORDINANCE NO. 15-146; AMENDING DMMC 12.30.080, ESTABLISHMENT OF VEHICLE LICENSE FEE REVENUE SOURCE  
First Motion is to suspend Rule 26(a) to pass Draft Ordinance No. 15-146 on first reading.  
  
Second Motion is to enact Draft Ordinance No. 15-146, amending DMMC 12.30.080 entitled Establishment of vehicle license fee revenue source, to allow for an annual vehicle license fee consistent with state law.

**PUBLIC HEARING**

Page 89 Item 1: MARINA DISTRICT DEVELOPMENT INCENTIVE ESTABLISHING A  
COMMERCIAL BUILDING HEIGHT BONUS AREA  
Staff Presentation: Community Development Manager Denise Lathrop

Page 147 Item 2: THE PINNACLES AT DES MOINES MODIFIED PRELIMINARY SUBDIVISION  
APPLICATION, LUA2015-0030  
Staff Presentation: Land Use Planner Nikole Coleman

**NEXT MEETING DATE**

September 10, 2015 Regular City Council Meeting

**ADJOURNMENT**

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**MINUTES**  
**DES MOINES CITY COUNCIL**  
**STUDY SESSION**  
**City Council Chambers**  
**21630 11<sup>th</sup> Avenue South, Des Moines**  
  
**July 2, 2015 – 7:00 p.m.**

**CALL TO ORDER**

Mayor Kaplan called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

The flag salute was led by Councilmember Sheckler.

**ROLL CALL**

Council present: Mayor Dave Kaplan; Councilmembers Jeremy Nutting, Melissa Musser, Bob Sheckler and Vic Pennington.

Mayor Pro Tem Pina and Councilmember Bangs were absent.

**Direction/Action**

Motion made by Councilmember Pennington to excuse Mayor Pro Tem Pina and Councilmember Bangs; seconded by Councilmember Musser.  
The motion passed 5-0.

Staff present: Assistant City Manager Michael Matthias; Assistant City Attorney Tim George; Police Chief George Delgado; Finance Director Donyele Mason; Parks, Recreation & Senior Services Director Patrice Thorell; Senior Services Manager Sue Padden; City Clerk Bonnie Wilkins.

**COMMENTS FROM THE PUBLIC**

- Robert Allen, 930 S 263<sup>rd</sup> Street; Trying to set up internet service at his house and is frustrated with Comcast.

**DISCUSSION ITEMS**

Item 1: 2014 SENIOR SERVICES ADVISORY COMMITTEE REPORT  
Advisory Board Committee Member, Dorothy Smith and Jeanne Serrill, gave a 2014 Senior Services Advisory Committee update to Council.

Sue Padden, Senior Services Manager thanked Council for their continued support of the Des Moines Activity Center.

Item 2: EMERGING ISSUES  
There were no emerging issues.

Item 3: INTERNET/TELECOMMUNICATIONS/CABLE

Mayor Kaplan took the five communication presenters in reverse alphabetical order:

- ZAYO GROUP: Dylan DeVito, Vice President Network Development, gave a power point presentation to Council.
- SPRINT: Kevin Foy, Project Manager, gave a power point presentation to Council.
- COMCAST: Terry Davis, Director Government Affairs/Franchising, gave a power point and two video presentations to Council.
- CENTURYLINK: Don Hartzog, Engineering Senior Lead Analyst, gave a power point presentation to Council.
- AT&T: Carol Tagayun, AT&T External Affairs, gave a power point and a video presentation to Council.

No formal action was taken.

At 8:15 p.m. Councilmember Sheckler left the meeting.

**NEXT MEETING DATE**

July 9, 2015

**ADJOURNMENT**

**Direction/Action**

**Motion** made by Councilmember Nutting to adjourn; seconded by Councilmember Pennington.  
The motion passed 4-0.

The meeting was adjourned at 9:02 p.m.

Respectfully Submitted,  
Bonnie Wilkins  
City Clerk

## MINUTES

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

**July 9, 2015 – 7:00 p.m.**

### CALL TO ORDER

Mayor Kaplan called the meeting to order at 7:01 p.m.

### PLEDGE OF ALLEGIANCE

The flag salute was led by Councilmember Bangs.

### ROLL CALL

Council present: Mayor Dave Kaplan; Mayor Pro Tem Matt Pina; Councilmembers Jeremy Nutting, Melissa Musser, Luisa Bangs, Bob Sheckler and Vic Pennington.

Staff present: City Manager Tony Piasecki; City Attorney Pat Bosmans; Assistant City Manager Michael Matthias; Planning, Building and Public Works Director Dan Brewer; Transportation Manager Brandon Carver; Police Chief George Delgado; Finance Director Dunyele Mason; Parks, Recreation & Senior Services Director Patrice Thorell; Surface Water Management Loren Reinhold; Management Consultant Grant Fredricks; Budget Manager Cecilia Pollock; City Clerk Bonnie Wilkins.

### CORRESPONDENCE

There were no correspondences.

### COMMENTS FROM THE PUBLIC

- There were no comments from the public.

### BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Councilmember Pennington:

- Finance & Economic Development Committee Meeting.
- Wednesday Farmer's Market.
- Concerts in the Park:
  - Great band last night.
- 4<sup>th</sup> of July.
- Busy weekend.
  - After action report if possible.
- Thanked the public for showing up.

Councilmember Sheckler:

- No report.

Councilmember Bangs:

- Concert in the Park:
  - Uncle Ernie.
  - Well attended, approximately 600.
- Farmer's Market.

Mayor Pro Tem Pina:

- Finance & Economic Development Committee:
  - Nuisance properties.
    - Progress being made.
    - Junk vehicles.
    - Homeless Encampment Ordinance.
    - Adult Entertainment Ordinance.
- Community Barbeque:
  - 393 meals sold.
- Concert in the Park:
  - Beer/wine sales did well.
  - Arts Commission donations, almost \$600.
  - Thanked all volunteers, staff and community.

Councilmember Musser

- Sound Cities Meeting:
  - Best Starts for Kids Levy.
  - Solid Waste:
    - Road to 70% composting.
  - Committee to review 911 systems:
    - Councilmember interested in being on Committee contact King County Councilmember Upthegrove.

Councilmember Nutting:

- Wednesday Farmer's Market.
- Concerts in the park.
- Grand Re-opening of the Beach Park Dining Hall.
- Community Barbeque.
- July 17-19 Waterland Weekend:
  - Kid's carnival at the Field House.
  - 5K.
  - Parade.
  - Wheels & Keels.
  - Freedom Walk, *A Journey In Her Shoes*.
- Thanked Police Department for a great job on the 4<sup>th</sup>.
- Des Moines Police Foundation:
  - Booth at Farmer's Market on July 18<sup>th</sup>.
  - Selling raffle tickets for a trip to Disneyland.
- Be safe around the pool.

**PRESIDING OFFICER'S REPORT**

- Thanked Destination Des Moines for 4<sup>th</sup> of July Fireworks show.
- Second Quarter 2015 Employee Recognition:
  - Catherine Agnew.
  - Kory Batterman.
  - Tyler Beekley-Employee of the Quarter
  - Bob Bohl.
  - Brandon Carver.
  - Mike Graddon.
  - Tim Kissler.
  - Don Leadbetter.
  - Vicki Sheckler.
- South King County Sound Transit Leadership Meeting:
  - Result of Letter sent by South End City Mayor's.
  - Representation on Sound Transit Board.
  - Concerns about Station Location.
- Toured the reconstruction of the second runway at SeaTac Airport:
  - Grinding up existing concrete to use a base for new concrete.
  - Producing concrete on site.
  - Being mindful of any contaminants.

**ADMINISTRATION REPORT**

Thanked staff for all their hard work for the summer events:

- 4<sup>th</sup> of July, Farmer's Market, Concerts in the Park.

**CONSENT AGENDA**

Item 1: APPROVAL OF VOUCHERS

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

Total A/P Checks/Vouchers	#143513-143639	\$222,620.36
Electronic Wire Transfers	#568-574	\$205,007.45
Payroll Checks	#18660-18669	\$ 8,103.88
Payroll Direct Deposit	#250001-250162	\$294,730.77
Total Certified Wire Transfers, Voids, A/P and Payroll Vouchers:		\$730,462.46

Item 2: APPROVAL OF MINUTES

Motion is to approve the minutes from the May 21, June 11 and June 18, 2015 Regular City Council meetings.

Item 3: NATIONAL RECOVERY MONTH PROCLAMATION

Motion is to approve the Proclamation supporting September as National Recovery Month.

Item 4: DRAFT RESOLUTION NO. 15-107 RELATED TO NATIONAL PARKS AND RECREATION MONTH

Motion is to approve Draft Resolution No. 15-107 recognizing July 1, 2015 as Parks and Recreation Day in Des Moines and July as Parks and Recreation Month in Des Moines.

- Item 5: RECREATION AND CONSERVATION OFFICE YOUTH ATHLETIC FACILITIES PROJECT AUTHORIZING RESOLUTION  
Motion is to adopt Draft Resolution No. 15-112, authorizing the City Manager to submit a grant application for a Youth Athletic Facilities project to the Recreation and Conservation Office (RCO) as provided in chapter 79.A.15 RCW, Acquisition of Habitat Conservation and Outdoor Recreation Lands, for grant funding in the amount of up to \$100,000 for the Des Moines Field House Park Tennis Court Renovation Project.

**Direction/Action**

Motion made by Councilmember Nutting to approve the consent agenda; seconded by Councilmember Musser.

Mayor Pro Tem Pina pulled Consent Agenda Item #5.

The remainder of the Consent Agenda passed 7-0.

**Direction/Action**

Motion made by Councilmember Sheckler to adopt Draft Resolution No. 15-112, authorizing the City Manager to submit a grant application for a Youth Athletic Facilities project to the Recreation and Conservation Office (RCO) as provided in chapter 79.A.15 RCW, Acquisition of Habitat Conservation and Outdoor Recreation Lands, for grant funding in the amount of up to \$100,000 for the Des Moines Field House Park Tennis Court Renovation Project; seconded by Councilmember Musser. The motion failed 1-6.

**For:** Councilmember Sheckler.

**Against:** Mayor Kaplan; Mayor Pro Tem Pina; Councilmembers Nutting, Musser, Bangs and Pennington.

**NEW BUSINESS**

Mayor Kaplan took New Business Agenda items out of order.

- Item 2: SOUND TRANSIT 3 DRAFT PROJECT LIST  
Staff Presentation: Planning, Building and Public Works Director  
Dan Brewer

Management Consultant Fredricks gave a power point presentation to Council.

**Direction/Action**

Motion made by Councilmember Musser to authorize staff to send the attached letter to Sound Transit commenting on their draft ST3 project list for possible inclusion in a November 2016 regional ballot measure; seconded by Councilmember Nutting.

The motion passed 7-0.

- Item 3: PLANNING, BUILDING AND PUBLIC WORKS STAFFING  
Staff Presentation: Planning, Building and Public Works Director  
Dan Brewer

Planning, Building and Public Works Director Brewer gave a brief presentation to Council.

**Direction/Action**

**Motion** made by Councilmember Sheckler to authorize an additional 4 FTE's for the Planning, Building and Public Works Department for the remainder of 2015, with 2.6 FTE's funded out of the General Fund, and 1.4 FTE's funded out of the SWM Fund, and direct administration to bring forward a corresponding budget amendment to reflect the added staff in 2015; seconded by Councilmember Nutting.  
The motion passed 7-0.

At 8:10 p.m. Councilmember Sheckler left the meeting.

- Item 1: DISCUSSION OF 2016-2021 CAPITAL IMPROVEMENT PLAN  
Staff Presentation: Finance Director Donyele Mason

Finance Director Mason presented to Council the 2016-2021 draft version of the Capital Improvement Plan.

No formal action was taken.

**NEXT MEETING DATE**

July 23, 2015

**ADJOURNMENT**

**Motion** made by Councilmember Nutting to adjourn; seconded by Mayor Pro Tem Pina.  
The motion passed 6-0.

The meeting was adjourned at 9:47 p.m.

Respectfully Submitted,  
Bonnie Wilkins  
City Clerk

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## MINUTES

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

**July 23, 2015 – 7:00 p.m.**

### CALL TO ORDER

Mayor Kaplan called the meeting to order at 7:01 p.m.

### PLEDGE OF ALLEGIANCE

The flag salute was led by Councilmember Musser.

### ROLL CALL

Council present: Mayor Pro Tem Matt Pina; Councilmembers Jeremy Nutting, Melissa Musser, Luisa Bangs, Bob Sheckler and Vic Pennington.

Mayor Kaplan was absent.

#### **Direction/Action**

**Motion** made by Councilmember Nutting to excuse Mayor Kaplan; seconded by Councilmember Musser.

The motion passed 6-0.

Staff present:

City Manager Tony Piasecki; City Attorney Pat Bosmans; Assistant City Manager Michael Matthias; Planning, Building and Public Works Director Dan Brewer; Transportation Manager Brandon Carver; Police Chief George Delgado; Finance Director Donyele Mason; Surface Water Management Loren Reinhold; Project Manager Scott Romano; Associate Transportation Engineer Andrew Merges; Marina Maintenance Manager Scott Wilkins; Code Enforcement Nancy Uhrich; Parks, Recreation & Senior Services Director Patrice Thorell; City Clerk Bonnie Wilkins.

### CORRESPONDENCE

There were no correspondences.

### COMMENTS FROM THE PUBLIC

There were no comments from the public

### BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Councilmember Pennington:

- Waterland Events:
  - Thanked the volunteers.
- Met with Finance Director.
- Thanked the public for showing up.

Councilmember Sheckler:

- No report.

Councilmember Bangs:

- Attended Concerts in the Park:
  - \$600 in donations for yesterday.
- Attended Wednesday's Farmer's Market.

Councilmember Musser:

- Thanked volunteers and City staff for a great Waterland weekend.
- Wesley Homes Annual Barbeque on July 30<sup>th</sup>.

Councilmember Nutting:

- Senior Services Advisory Committee meeting:
  - Encouraging good nutrition.
  - Communicating with Elected Officials.
  - Mental health for older adults.
  - September 26:
    - Free shredding.
    - Take back your meds.
      - Located at the Marina.
- Thanked City staff and volunteers for a great Waterland weekend.
- Sunset Farmer's Market:
  - 3:00-7:00.
- Free concert Wednesday's provided by the Arts Commission.
- National Night Out:
  - August 4<sup>th</sup>.

**PRESIDING OFFICER'S REPORT**

- MaST Center Advisory Board meeting:
  - Discovery Days, Thursday and Saturdays.
  - Farmer's Market.
- Third Annual Summer Carnival on the Dock:
  - July 25<sup>th</sup>.
  - Mini-Camp for Kids:
    - Ages 8-11.
    - August 17-21.
- Judge Lisa Leone swearing in.
- Waterland Weekend:
  - Genesis 5K Fun Run & Walk.
  - Parade.
  - Wheels & Keels Car Show.
  - Thanked Destination Des Moines, Farmer's Market, Marina, Police Department, City Staff and Volunteers.
  - Received several thank you e-mails.
- New business in Marina:
  - Paddleboards & Kayaks.
- Highline College has been nationally recognized as one of the Top Colleges to work for:
  - One of 3 in Washington State.

**ADMINISTRATION REPORT**

- Attended the Sound Transit Board Meeting:
  - Preferred alignment and station location:
  - Board took following action:
    - 509/I-5 Alignment.
    - King County Councilmember Upthegrove offered an amendment to have Sound Transit study the eastern side of Highline College for a possible station location.
      - Cost would be \$50 million more for that location.

**Action/Direction**

**Motion** made by Councilmember Sheckler to remand a code issue in the Pacific Ridge area to the Finance & Economic Development Committee for further review; seconded by Councilmember Musser.

The motion passed 6-0.

**Motion** made by Councilmember Sheckler to remand a code issue in the Redondo area to the Finance & Economic Development Committee for a quick review; seconded by Councilmember Nutting.

The motion passed 6-0.

**CONSENT AGENDA**

- Item 1: APPROVAL OF MINUTES  
Motion is to approve the minutes from the June 25, 2015 regular City Council meeting.
  
- Item 2: WATER RESOURCE INVENTORY AREA 9 – INTERLOCAL AGREEMENT RENEWAL  
Motion is to approve the 2016-2025 Interlocal Agreement between the jurisdictions located within Water Resource Inventory Area 9 for the purpose of sharing the staffing cost for implementing the Salmon Habitat Plan, and to authorize the City Manager to sign such agreement substantially in the form submitted.
  
- Item 3: DES MOINES CREEK BASIN – DEPARTMENT OF NATURAL RESOURCES AQUATIC LANDS OUTFALL EASEMENT (FOR HIGH FLOW BYPASS PIPE)  
Motion is to approve the final draft Aquatic Lands Outfall Easement No. 51-075748 with the Washington State Department of Natural Resources for the Des Moines Creek Basin high-flow bypass pipe, and further the City Manager to sign said easement substantially in the form as submitted.
  
- Item 4: AMENDMENT TO CONTRACT WITH AMERICAN BUILDING SERVICES FOR JANITORIAL SERVICES IN CITY BUILDINGS-BEACH PARK DINING HALL  
Motion is to approve the Amendment to the contract with American Building Services for janitorial services for City owned buildings, for an additional amount of \$9,000, bringing the total estimated cost for 2015 to \$124,000, and additionally to authorize the City Manager to sign the Contract Amendment/Addendum substantially in the form as submitted.
  
- Item 5: TRANSPORTATION GATEWAY PROJECT SOUTH 216<sup>TH</sup> STREET, SEGMENT 1-A RIGHT OF WAY ACQUISITION: MAJESTIC BAY APARTMENTS LLC, TAX PARCELS 215640-0025; 858270-005; PROJECT PARCELS 17 & 18  
Motion is to purchase 3077 square feet of land from Majestic Bay Apartments, LLC in the amount of \$46,200, a 204 square foot Slope Easement in the amount of \$800, a 457 square foot utility easement in the amount of \$1,700, as well as compensate the owner \$1,900 for taken improvements and \$28,500 for damages including cost of sign relocation and parking redesign/replacement for a grand total of \$79,100 (rounded dollars), plus associated closing costs, and further authorize the City Manager to sign the Statutory Warranty Deed, Slope Easement, Utility Easement, Construction Easement & Right of Entry and Real Property Voucher Agreement substantially in the form submitted and accept the right of way on behalf of the City of Des Moines.

Item 6: JOINT UTILITY TRENCH AGREEMENT WITH CENTURYLINK FOR THE S 216<sup>TH</sup> STREET, SEGMENT 1-A IMPROVEMENTS (24<sup>TH</sup> AVENUE S TO PACIFIC HIGHWAY S)

Motion is to approve the attached Statement of Work pursuant to the Agreement between CenturyLink and the City of Des Moines, No. NCA7932, for utility undergrounding on the S 216<sup>th</sup> Street, Segment 1-A project (24<sup>th</sup> Avenue South to Pacific Highway South), which includes reimbursing the City for approximately \$40,626 in costs, and further authorize the City Manager to sign the Statement of Work, substantially in the form as submitted.

Item 7: RESOLUTION SETTING A PUBLIC HEARING REGARDING THE MARINA DISTRICT DEVELOPMENT INCENTIVE

Motion is to adopt Draft Resolution No. 15-127 setting a public hearing on August 20, 2015 to consider Draft Ordinance No. 15-127 amending DMMC 18.115.060(2) in the Marina District Neighborhood.

Item 8: RESOLUTION SETTING A PUBLIC HEARING REGARDING LUA2015-0030, THE PINNACLES AT DES MOINES MODIFIED SUBDIVISION

Motion is to adopt Draft Resolution No. 15-123 setting a public hearing on August 20, 2015 to consider Draft Ordinance No. 15-123 relating to the preliminary plat of The Pinnacles at Des Moines Modified Subdivision.

Councilmember Musser removed Item #4 from the Consent Agenda.

**Direction/Action**

Motion made by Councilmember Nutting to approve the amended consent agenda; seconded by Councilmember Bangs.  
The motion, as amended, passed 6-0.

Motion made by Councilmember Musser to approve the Amendment to the contract with American Building Services for janitorial services for City owned buildings, for an additional amount of \$9,000, bringing the total estimated cost for 2015 to \$124,000, and additionally to authorize the City Manager to sign the Contract Amendment/Addendum substantially in the form as submitted to end December 31, 2015; seconded by Councilmember Nutting.  
The motion passed 6-0.

**OLD BUSINESS**

Item 1: DRAFT RESOLUTION NO. 15-126, 2016-2021 CAPITAL IMPROVEMENTS PLAN

Staff Presentation: Finance Director Donyele Mason

Finance Director Mason gave a presentation to Council on the 2016-2021 Capital Improvements Plan.

**Direction/Action**

Motion made by Councilmember Musser to adopt Draft Resolution No. 15-126 approving the City of Des Moines 2016-2021 Capital Improvements Plan; seconded by Councilmember Nutting.  
The motion, as amended, passed 5-0.

At 8:05 p.m. Councilmember Sheckler left the meeting.

- Item 2: REDONDO BOARDWALK UPDATE AND CONSULTANT AGREEMENT  
SUPPLEMENT FOR ADDITIONAL DESIGN SERVICES  
Staff Presentation: Associate Transportation Engineer Andrew Merges

Associate Transportation Engineer Merges gave a power point presentation to Council.

**Direction/Action**

**Motion** made by Councilmember Musser to approve the Supplemental Agreement Number 1 with Exeltech Consulting for the Redondo Boardwalk Repair in the amount of \$49,993.06 to complete the design of Alternative 3, facility replacement, and further authorize the City Manager to sign said Supplemental Agreement Number 1 substantially in the form as submitted after FHWA & WSDOT provide concurrence with the Alternative selection; seconded by Councilmember Nutting.  
The motion passed 5-0.

**NEW BUSINESS**

- Item 1: COMMUNICATIONS PLAN  
Staff Presentation: City Manager Tony Piasecki

City Manager Piasecki gave a power point presentation to Council.

No formal action was taken.

**NEXT MEETING DATE**

August 8, 2015 City Council Retreat

**ADJOURNMENT**

**Motion** made by Councilmember Nutting to adjourn; seconded by Councilmember Pennington.  
The motion passed 5-0.

The meeting was adjourned at 8:55 p.m.

Respectfully Submitted,  
Bonnie Wilkins  
City Clerk

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MINUTES

SPECIAL MEETING TO HOLD EXECUTIVE SESSION

July 23, 2015

**CALL MEETING TO ORDER**

The Special Meeting was called to order at 5:31 p.m. by Mayor Pro Tem Pina in Council Chambers.

**ROLL CALL**

Present were: Mayor Pro Tem Pina; Councilmembers Jeremy Nutting, Melissa Musser, Luisa Bangs and Vic Pennington; City Manager Tony Piasecki; Assistant City Manager Michael Matthias; City Attorney Pat Bosmans; Assistant City Attorney Tim George; Human Resource Manager Maureen Murphy; Legal Counsel Bruce Schroeder;

Mayor Kaplan phoned in.

**PURPOSE**

The purpose of the Special Meeting was to hold an Executive Session to discuss Labor Negotiations under RCW 42.30.140(4)(a) and the Performance of a Public Employee under RCW 42.30.110(1)(g).

At 6:15 p.m. City Manager Piasecki, Assistant City Manager Matthias, City Attorney Bosmans, Assistant City Attorney George, Human Resource Manager Murphy and Legal Counsel Schroeder left the meeting.

No formal action was taken.

The meeting was adjourned at 6:59 p.m.

Respectfully submitted,  
Tony Piasecki  
City Manager

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

20-Aug-15

**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 Aug 20, 2015 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:

*Cecilia Robert for Dunyale Mason*  
 Dunyale Mason, Finance Director

	# From	# To	Amounts
<b>Claims Vouchers:</b>			
Total A/P Checks/Vouchers	143640 -	144139	2,472,910.83
Electronic Wire Transfers	575 -	591	606,926.93
<b>Total claims paid</b>			<b>3,079,837.76</b>
<b>Payroll Vouchers</b>			
Payroll Checks	18670 -	18678	9,587.63
Direct Deposit	270001 -	270175	310,441.17
Payroll Checks	18679 -	18690	10,901.04
Direct Deposit	290001 -	290165	306,397.05
Payroll Checks	18691 -	18699	8,701.28
Direct Deposit	320001 -	320171	302,260.27
<b>Total Paychecks/Direct Deposits paid</b>			<b>948,288.44</b>
<b>Total checks and wires for A/P &amp; Payroll</b>			<b>4,028,126.20</b>

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# AGENDA ITEM

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: CHILDHOOD CANCER  
AWARENESS MONTH

AGENDA OF: August 20, 2015

DEPT. OF ORIGIN: Legislative

ATTACHMENTS:  
1. Proclamation

DATE SUBMITTED: August 11, 2015

CLEARANCES:

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

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: 

**Purpose and Recommendation:**

Cancer is the leading cause of death by disease among U.S children between infancy and age 15. This tragic disease is detected in nearly 15,000 of our country’s young people each and every year.

The impact of having a child diagnosed with cancer is deeply felt by the entire family. The diagnosis of a child with cancer often comes at a time when the family is young and has a limited income. Often there are other small children to care for, and one parent has to stop working to care for their sick child.

Childhood Cancer Awareness Months focuses on greater public awareness because all children deserve a chance to dream, discover and realize their full potential.

**Suggested Motion**

**MOTION:** “I move to approve the Proclamation supporting September as Childhood Cancer Awareness Month”

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# City of Des Moines



ADMINISTRATION  
21630 11<sup>th</sup> AVENUE S, SUITE A  
DES MOINES, WASHINGTON 98198-6398  
(206) 878-4595 T.D.D: (206) 824-6024 FAX: (206) 870-6540



## Proclamation

**WHEREAS**, the American Cancer Fund for Children and Kids Cancer Connection report cancer is the leading cause of death by disease among U.S. children between infancy and age 15. This tragic disease is detected in nearly 15,000 of our country's young people each and every year.

**WHEREAS**, one in five of our nation's children loses his or her battle with cancer. Many infants, children and teens will suffer from long-term effects of comprehensive treatment, including secondary cancers; and

**WHEREAS**, founded over twenty years ago by Steven Firestein, a member of the philanthropic Max Factor cosmetics family, the American Cancer Fund for Children, Inc. and Kids Cancer Connection, Inc. are dedicated to helping these children and their families; and

**WHEREAS**, the American Cancer Fund for Children and Kids Cancer Connection provide a variety of vital patient psychosocial services to children undergoing cancer treatment at Seattle Children's Hospital, Mary Bridge Children's Hospital in Tacoma, as well as participating hospitals throughout the country, thereby enhancing the quality of life for these children and their families; and

**WHEREAS**, the American Cancer Fund for Children and Kids Cancer Connection also sponsor Courageous Kid Recognition Award ceremonies, community get well cards and hospital celebrations in honor of a child's determination and bravery to fight the battle against childhood cancer.

**NOW THEREFORE, THE DES MOINES COUNCIL HEREBY PROCLAIMS** the month of September as

### **CHILDHOOD CANCER AWARENESS MONTH**

**SIGNED** this day 20<sup>th</sup> of August, 2015.

---

Dave Kaplan, Mayor

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**Discussion**

The properties listed below are both nuisance properties owned by Victor Golka. Mr. Golka has been unresponsive to numerous letters as well as citations issued through the Municipal Court. All penalties associated with the previously issued citations have been sent to collections.

Address: 2828 S. 224<sup>th</sup> St., Des Moines 98198  
 Parcel No: 5514600050

Address: 24813 16<sup>th</sup> Ave. S., Des Moines 98198  
 Parcel No: 9456200162

Neither property has a structure that is fit for habitation. The photographs attached demonstrate the current state of the properties.

At this point, staff has run out of options through the Des Moines Municipal Court to compel compliance with the DMMC. By filing an action in Superior Court, the City will be seeking an order to abate the nuisance. The City Attorney will also ask the Superior Court to order a lien to be placed on the property for the City's cost of the clean up.

**Alternatives**

Not seek abatement and allow the properties to remain in their current condition.

**Financial Impact**

The cost of the abatement action will consist of filing fees, staff time, as well as the cost of abating the nuisance. We will attempt to recover the costs pursuant to a court order.

**Recommendation or Conclusion**

Approve Draft Resolution No. 15-122.

## CITY ATTORNEY'S FIRST DRAFT 08/03/2015

## DRAFT RESOLUTION NO. 15-122

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, relating to nuisance properties located in Des Moines and authorizing the City Attorney to commence legal action in King County Superior Court for property abatement.

WHEREAS, the City of Des Moines is a non charter code city operating pursuant to chapters 35A.02 and 35A.13 RCW, and

WHEREAS, the Des Moines City Council has declared both a short term and long term objective to aggressively remediate nuisance properties, and

WHEREAS, City staff has aggressively pursued property owners who maintain a nuisance on their property, and

WHEREAS, Victor Golka is the owner of two nuisance properties in Des Moines at 2828 S. 224<sup>th</sup> St. and 24813 16<sup>th</sup> Ave S., and

WHEREAS, staff has exhausted existing options through the Des Moines Municipal Court to compel Mr. Golka to bring his properties into compliance, and

WHEREAS, the City Attorney seeks authority to commence legal action in King County Superior Court for nuisance property abatement; now therefore,

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

**Sec. 1.** By the adoption of this Resolution the City Attorney is hereby authorized and directed to prosecute the action in a manner provided by law to abate the nuisances located at 2828 S 224th Street and 24813 16th Ave S, Des Moines, WA, and legally described as attached in Exhibit "A".

**Sec. 2.** Passage of this Resolution, absent amendments, will be taken as approval for the City Attorney to seek all necessary relief afforded by law.

Resolution No. \_\_\_\_  
Page 2 of \_\_\_\_

**ADOPTED BY** the City Council of the City of Des Moines,  
Washington this \_\_\_\_ day of \_\_\_\_\_, 2015 and signed in  
authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2015.

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

APPROVED AS TO FORM:

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

ATTEST:

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

## EXHIBIT "A"

## Legal Descriptions

2828 S. 224th St., Des Moines, WA

MIDWAY SOUNDVIEW ADD  
Plat Lot: 10

24813 16th Ave S, Des Moines, WA

WILSONS FIVE-ACRE TRS LOT 2 KCSP 181029 REC # 8203180693 SD SP  
DAF - POR TR 5 SD SUBD DAF - BEG AT SE COR OF N 1/2 SD TR 5 TH N  
ALG WLN 16TH AVE S 66 FT TO TPOB TH CONTG N ALG SD W LN 110 FT  
TO S MGN MEDGARDS ADD TH WLY ALG SD S LN 220 FT TO NE COR LOT 5  
SD MEDGARDS ADD TH S ALG E LN SD LOT 5 110 FT TH E 220 FT M/I TO  
TPOB  
Plat Lot: 5

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# AGENDA ITEM

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

SUBJECT: Transportation Gateway Project  
South 216<sup>th</sup> Street, Segment 1-A  
Right of Way Acquisition Des  
Moines Center, LLC, Project  
Parcel 50

AGENDA OF: August 20, 2015

DEPT. OF ORIGIN: Planning, Building & Public  
Works

DATE SUBMITTED: August 11, 2015

ATTACHMENTS:

1. Statutory Warranty Deed, Parcel # 092204-9054
2. Wall Easement, Parcel # 092204-9054
3. Utility Easement, Parcel # 092204-9054
4. Construction Easement/Right of Entry
5. Real Property Voucher
6. Project Map

CLEARANCES:

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

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: [Signature]

**Purpose and Recommendation:**

The purpose of this agenda item is to seek City Council approval for the purchase of right-of-way from, Des Moines Center, LLC for widening and capital improvement of S. 216<sup>th</sup> Street, Segment 1-A between 24<sup>th</sup> Avenue S and Pacific Highway S. The following motion will appear on the Consent Calendar:

**Suggested Motion**

**Motion:** "I move to purchase 987 square feet of land from Des Moines Center, LLC in the amount of \$26,700.00, a 489 square foot Wall Easement in the amount of \$9,900.00, a 150 square foot utility easement in the amount of \$1,000.00, as well as compensate the owner \$4,000.00 for taken improvements a grand total of \$41,600.00 (rounded dollars), plus associated closing costs, and further authorize the City Manager to sign the Statutory Warranty Deed, Wall Easement, Utility Easement, Construction Easement & Right of Entry and Real Property Voucher Agreement substantially in the form submitted and accept the right of way on behalf of the City of Des Moines."

**Background:**

Widening and improvement of S. 216<sup>th</sup> Street, Segment 1-A, between 24<sup>th</sup> Avenue S. and Pacific Highway South, is an element of the City of Des Moines Comprehensive Plan and the 2015-2020 Capital Improvement Program, Project 319.332. This arterial is one of the three roadway segments referred collectively as the Des Moines Transportation Gateway Project. The project will include new travel lanes, bicycle lanes, wider sidewalks, landscaping and pedestrian lighting, as well as other utility and related urban design elements. The City Council passed Ordinance No. 1616 on January 22, 2015 authorizing staff to proceed with acquisition of right-of-way from these properties. The City is following adopted right-of-way procedures conforming to WSDOT and Federal Highway Administration guidelines.

**Discussion:**

Design of this project is complete including all environmental documentation under NEPA and SEPA. The approved right-of-way plan requires 987 square feet of property in fee (Attachment 1), 489 square feet for a wall easement (Attachment 2), and 150 square feet for a utility easement (Attachment 3) from Parcel Number 092204-9054. A temporary Construction Easement & Right of Entry (Attachment 4) was negotiated including an agreement to entry on the owner's property to match needed improvements. The cost of acquisition is summarized in the proposed Real Property Voucher (Attachment 5). An appraisal and review appraisal of the proposed acquisition was performed establishing the fair market value that was offered to the owner as compensation.

The land area cited above needs to be acquired so that the State may certify that the City has clear entitlement to the right-of-way prior to advertizing the project for construction. As shown on Attachment 6 this property is referred to as project parcel #50 in the right of way plan. Negotiations are continuing on one (1) remaining parcel.

**Alternatives:**

No other alternatives are currently available. The final design and alignment for the roadway requires this right-of-way. Alternatives were considered during pre-design (symmetrical verses an offset alignment) resulting in settling on a right-of-way plan supported by final design.

**Financial Impact:**

Right-of-Way acquisition is funded in part by a grant from the Federal Highways Administration. The project is funded by CIP Project 319.332.

**Recommendation/Conclusion:**

Staff recommends the Council approve the proposed motion.

**Concurrence:**

The Legal, Finance, and Planning, Building and Public Works Department concur.

**After Recording, Return to:**  
 CITY OF DES MOINES  
 ATTN: CITY ATTORNEY  
 21630 11<sup>th</sup> Avenue South, Suite C  
 Des Moines, WA 98198

**STATUTORY WARRANTY DEED**

Grantor:	Des Moines Center, LLC, as Washington limited liability company
Grantee:	City of Des Moines, a municipal corporation of the State of Washington
Legal Description/STR:	Lt B, LLA-LUA 00-002, Rec. No. 20001228900023
Assessor's Tax Parcel ID#:	092204-9054
Property Address:	21425 Pacific Highway South, Des Moines, WA 98198

**Transportation Gateway Project**  
**South 216<sup>th</sup> Street, Segment 1-A, Improvements**  
**24<sup>th</sup> Avenue S. to Pacific Highway S.**

THE GRANTOR(S), **Des Moines Center, LLC**, a Washington limited liability company, for and in consideration of sum of Ten Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, hereby conveys and warrants to the **City of Des Moines, a Washington municipal corporation of the State of Washington**, its successors and assigns, under the imminent threat of the Grantee's exercise of its rights of Eminent Domain per Chapter 8.12 RCW, for the use of the public, the real property described and attached hereto as Exhibit A and illustrated and attached hereto as Exhibit A-1, situated in City of Des Moines, in King County, Washington.

Parcel No. 092204-9054

Also, the Grantor requests the Assessor and Treasurer of said County to set over to the remainder of Tax Parcel No. 092204-9054, the lien of all unpaid taxes, if any, affecting the real estate herein conveyed, as provided by RCW 84.60.070

DATED this 22nd day of July, 2015.

**GRANTOR(S): Des Moines Center, LLC, a Washington limited liability company**

  
By: Roger Belarich, Managing Member

**GRANTEE:**

CITY OF DES MOINES,  
a Washington municipal corporation

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

Date: \_\_\_\_\_

*At the direction of the Des Moines City Council on \_\_\_ day of \_\_\_\_\_, 2015.*

APPROVED as to form only:

\_\_\_\_\_  
Pat Bosmans, City Attorney

Date: \_\_\_\_\_

STATE OF WASHINGTON }  
 }  
COUNTY OF Snohomish } SS.

I certify that I know or have satisfactory evidence that Roger Belanich is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it as the Managing Member of Des Moines Center, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.



Dated: 7/22/15

Signature: Pamela K Gasaway

Notary Public in and for the State of Washington

Notary (print name): Pamala K. Gasaway

Residing at: Bothell

My appointment expires: 8-1-17

STATE OF WASHINGTON }  
 }  
COUNTY OF KING } SS.

This instrument was acknowledged before me on \_\_\_\_\_ (date of acknowledgment) by Anthony Piasecki as City Manager, City of Des Moines, a State of Washington municipal corporation, on behalf of said corporation.

Dated: \_\_\_\_\_

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

Notary Public in and for the State of Washington

Notary (print name): \_\_\_\_\_

Residing at: \_\_\_\_\_

My appointment expires: \_\_\_\_\_

**EXHIBIT A**  
**PARCEL NO. 092204-9054**  
**RIGHT OF WAY ACQUISITION**

THAT PORTION OF THE HEREINAFTER DESCRIBED TRACT "A" DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT "A", SAID CORNER ALSO BEING ON THE NORTH MARGIN OF SOUTH 216<sup>TH</sup> STREET;

THENCE NORTH 05° 31' 54" EAST ALONG THE EAST LINE OF SAID TRACT "A", 8.12 FEET;

THENCE WESTERLY ON A CURVE TO THE RIGHT WHOSE CENTER BEARS NORTH 02° 33' 07" EAST, 5,950.50 FEET, AN ARC DISTANCE OF 107.69 FEET TO THE WEST LINE OF SAID TRACT "A";

THENCE SOUTH 01° 04' 07" WEST ALONG SAID WEST LINE, 10.61 FEET TO SAID NORTH MARGIN OF SOUTH 216<sup>TH</sup> STREET;

THENCE SOUTH 88° 15' 51" EAST ALONG SAID NORTH MARGIN, 107.00 FEET TO THE POINT OF BEGINNING.  
CONTAINING 987 SQUARE FEET, MORE OR LESS.

TRACT "A":

(PER STEWART TITLE COMPANY ORDER NO. 01148-29575 THIRD REPORT, DATED JUNE 9, 2015)

PARCEL 2:

LOT B OF CITY OF DES MOINES LOT LINE ADJUSTMENT NO. LUA 00-002, RECORDED UNDER RECORDING NO. 20001229900023, EXCEPT THAT PORTION THEREOF DESCRIBED AS FOLLOWS:

THAT PORTION OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, W. M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SUBDIVISION;

THENCE NORTH 01°04'15" EAST 178.05 FEET ALONG THE WEST LINE THEREOF TO THE NORTHWEST CORNER OF LOT B, CITY OF DES MOINES LOT LINE ADJUSTMENT NO. LUA-LLA 99-019, RECORDED UNDER KING COUNTY RECORDING NO. 19990804900004, AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 01°04'15" EAST 32.55 FEET ALONG SAID WEST LINE;

THENCE SOUTH 83°54'32" EAST 119.84 FEET TO THE NORTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID LOT B;

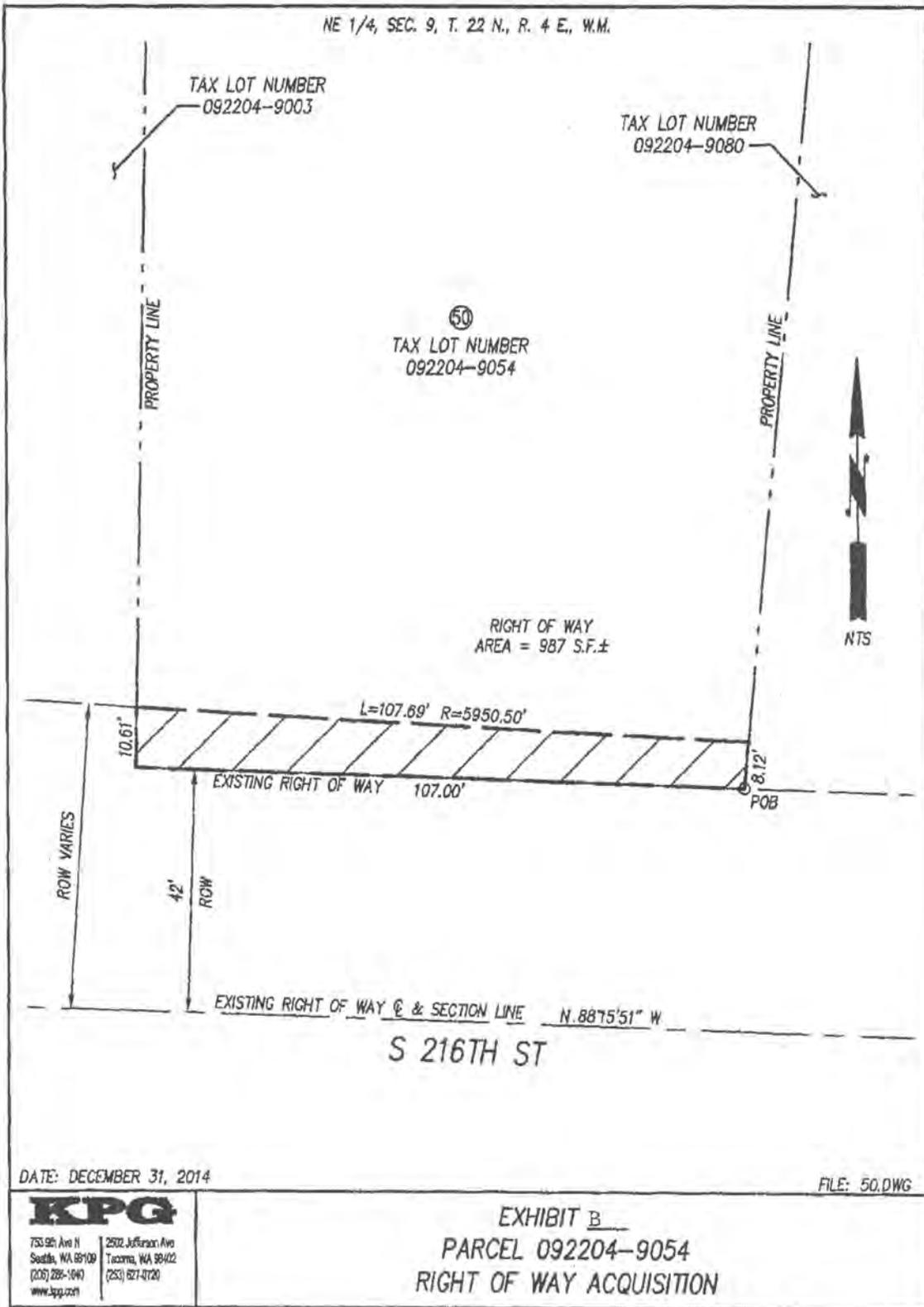
THENCE SOUTH 05°32'05" WEST 31.76 FEET ALONG SAID PROLONGATION TO THE NORTHERLY LINE OF SAID LOT B;

THENCE NORTH 84°14'04" WEST 117.35 FEET ALONG SAID NORTHERLY LINE TO THE TRUE POINT OF BEGINNING.

PARCEL 3:

NON-EXCLUSIVE EASEMENTS FOR ROADWAYS, WALKWAYS, INGRESS, EGRESS, AND PARKING AS ESTABLISHED IN DECLARATION OF EASEMENTS WITH COVENANTS AND RESTRICTIONS, AS RECORDED UNDER RECORDING NUMBERS 19990804000802, AND AMENDMENTS THERETO UNDER RECORDING NUMBERS 20001229000562 AND 20080826000844.





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**After Recording, Return to:**

CITY OF DES MOINES  
 ATTN: CITY ATTORNEY  
 21630 11<sup>th</sup> Avenue South, Suite C  
 Des Moines, WA 98198

**WALL EASEMENT**

Grantor:	Des Moines Center, LLC, as Washington limited liability company
Grantee:	City of Des Moines, a municipal corporation of the State of Washington
Legal Description/STR:	Lt B, LLA-LUA 00-002, Rec. No. 20001228900023
Assessor's Tax Parcel ID#:	092204-9054
Property Address:	21425 Pacific Highway South, Des Moines, WA 98198

**Transportation Gateway Project**  
**South 216<sup>th</sup> Street, Segment 1-A, Improvements**  
**24<sup>th</sup> Avenue S. to Pacific Highway S.**

THIS EASEMENT AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between **Des Moines Center, LLC, as Washington limited liability company**, ("Grantor" herein), and the **CITY OF DES MOINES**, a municipal corporation of the State of Washington, ("Grantee" herein),

**WITNESSETH:**

- 1. Grant of Easement.** The Grantors, for and in consideration of TEN DOLLARS (\$10.00), and other good and valuable consideration, receipt of which is hereby acknowledged, hereby grant and convey to the City of Des Moines, a municipal corporation of the State of Washington, its contractors, employees, agents, successors and assigns, (Grantee), for the purposes set forth herein, a non-exclusive perpetual easement for constructing and maintaining roadway walls and slopes in excavation and /or embankment ("Easement" herein) over, under, along, across, and through the following described real property ("Easement Area" herein) in King County, Washington.

2. **Property Subject to Easement**

a. **Property Description.** The Property subject to this Easement is legally described and shown in Exhibit "A" and Exhibit "A-1" attached hereto and incorporated by reference.

b. **Easement Areas.** Except as is otherwise set forth herein, Grantee's rights shall be exercised only upon that portion of the property legally described in Exhibit "A" and Exhibit "A-1" ("Easement Areas" herein) attached hereto and incorporated by reference.

3. **Purpose.** Grantee shall have the right to construct, operate, maintain, repair, replace, improve, remove, and walls and/or slopes in excavation and/or embankment, and other associated features within the Easement Areas for the purpose constructing and maintaining roadway side slopes.
4. **Access.** Grantee shall have the right of access to the Easement Areas over and across the Property to enable Grantee to exercise its rights hereunder. Grantee shall compensate Grantor for any damage to the Property caused by the exercise of such right of access by Grantee.
5. **Easement Area Clearing and Maintenance.** Grantee shall have the right to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Areas. Grantee shall also have the right to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, tree or other vegetation in the Easement Area.
6. **Grantor's Use of Easement Area.** Grantors reserve the right to use the Easement Areas for any purpose so long as the use does not interfere with the Easement rights herein granted. Grantors may install groundcover and shrub landscaping plantings within the Easement Area with Grantee's prior written consent. Grantors shall not alter the ground surface and subsurface with the Easement Area by excavation, placement of fill material, or installation of any wall or rockery, without written consent from the Grantee's Public Works Director or authorized designee. Grantee's prior written consent, where required, shall not be unreasonably withheld. Grantor shall not construct or maintain any buildings within the Easement Areas.
7. **Indemnity.** Grantee agrees to indemnify Grantors from and against liability incurred by Grantors as result of Grantee's negligence in the exercise of the rights herein granted to Grantee, but nothing herein shall require Grantee to indemnify Grantors for that portion of any such liability attributable to the negligence of Grantors or the negligence of others.
8. **Covenant Running With the Land.** This Easement shall be covenant running with the land and shall forever bind Grantors, their heirs, successors, and assigns.

Grantors acknowledge that property and/or property rights conveyed herein are in consideration of mutual benefit to be derived; and Grantors has been informed of its right to receive just compensation and have waived said rights.

The lands herein described can be found in design plans on file with the Director of the City of Des Moines Public Works in Des Moines, Washington, CIP 319.332, S. 216<sup>th</sup> Street, Segment 1-A.

DATED this 22nd day of July, 2015.

**GRANTOR(S): Des Moines Center, LLC, a Washington limited liability company**

  
By: Roger Belanich, Managing Member

**GRANTEE:**

CITY OF DES MOINES,  
a Washington municipal corporation

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

Date: \_\_\_\_\_

At the direction of the Des Moines City Council on \_\_\_ day of \_\_\_\_\_, 2015.

APPROVED as to form only:

\_\_\_\_\_  
Pat Bosmans, City Attorney

Date: \_\_\_\_\_

STATE OF WASHINGTON }  
COUNTY OF Des Moines } SS.

I certify that I know or have satisfactory evidence that Roger Belanich is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it as the Managing Member of Des Moines Center, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.



Dated: 7/22/15  
Signature: Pamala K Gasaway  
Notary Public in and for the State of Washington  
Notary (print name): PAMALA K GASAWAY  
Residing at: Bothell  
My appointment expires: 8-1-17

STATE OF WASHINGTON }  
COUNTY OF KING } SS.

This instrument was acknowledged before me on \_\_\_\_\_ (date of acknowledgment) by Anthony Piasecki as City Manager, City of Des Moines, a State of Washington municipal corporation, on behalf of said corporation.

Dated: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Notary Public in and for the State of Washington  
Notary (print name): \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

**EXHIBIT A**  
**PARCEL NO. 092204-9054**  
**WALL EASEMENT**

THAT PORTION OF THE HEREINAFTER DESCRIBED TRACT "A" DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT "A", SAID CORNER ALSO BEING ON THE NORTH MARGIN OF SOUTH 216<sup>TH</sup> STREET;

THENCE NORTH 05° 31' 54" EAST ALONG THE EAST LINE OF SAID TRACT "A", 8.12 FEET TO THE TRUE POINT OF BEGINNING;

THENCE WESTERLY ON A CURVE TO THE RIGHT WHOSE CENTER BEARS NORTH 02° 33' 07" EAST, 5,950.50 FEET, AN ARC DISTANCE OF 97.68 FEET;

THENCE NORTH 01° 04' 07" EAST, 5.00 FEET;

THENCE EASTERLY ON A CURVE TO THE LEFT WHOSE CENTER BEARS NORTH 03° 29' 40" EAST, 5,945.50 FEET, AN ARC DISTANCE OF 98.07 FEET TO THE EAST LINE OF SAID TRACT "A";

THENCE SOUTH 05° 31' 54" WEST ALONG SAID EAST LINE, 5.01 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 489 SQUARE FEET, MORE OR LESS.

TRACT "A":

(PER STEWART TITLE COMPANY ORDER NO. 01148-29575 THIRD REPORT, DATED JUNE 9, 2015)

PARCEL 2:

LOT B OF CITY OF DES MOINES LOT LINE ADJUSTMENT NO. LUA 00-002, RECORDED UNDER RECORDING NO. 20001229900023, EXCEPT THAT PORTION THEREOF DESCRIBED AS FOLLOWS:  
THAT PORTION OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, W. M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

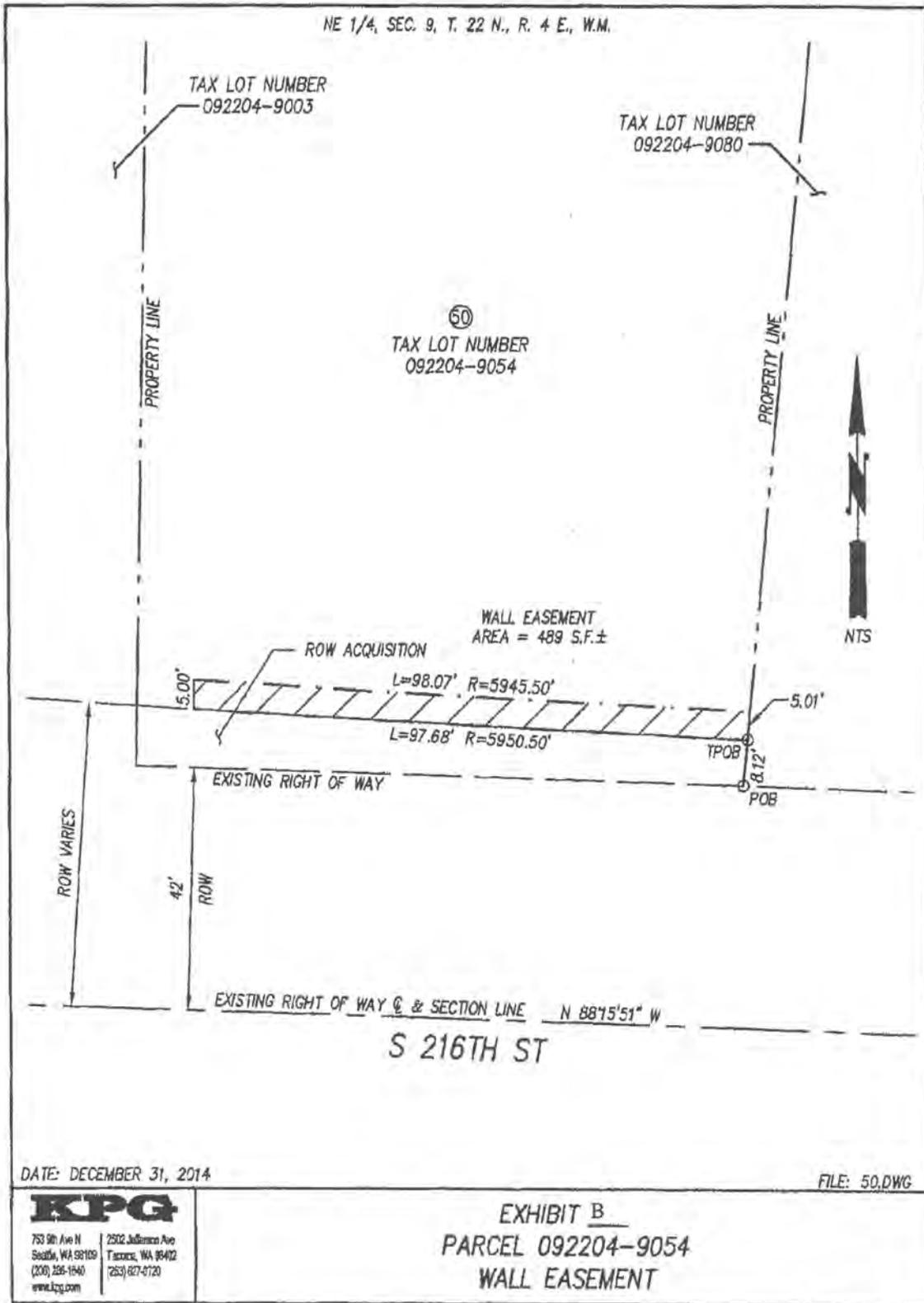
COMMENCING AT THE SOUTHWEST CORNER OF SAID SUBDIVISION;  
THENCE NORTH 01°04'15" EAST 178.05 FEET ALONG THE WEST LINE THEREOF TO THE NORTHWEST CORNER OF LOT B, CITY OF DES MOINES LOT LINE ADJUSTMENT NO. LUA-LLA 99-019, RECORDED UNDER KING COUNTY RECORDING NO. 19990804900004, AND THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING NORTH 01°04'15" EAST 32.55 FEET ALONG SAID WEST LINE;  
THENCE SOUTH 83°54'32" EAST 119.84 FEET TO THE NORTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID LOT B;  
THENCE SOUTH 05°32'05" WEST 31.76 FEET ALONG SAID PROLONGATION TO THE NORTHERLY LINE OF SAID LOT B;  
THENCE NORTH 84°14'04" WEST 117.35 FEET ALONG SAID NORTHERLY LINE TO THE TRUE POINT OF BEGINNING.

PARCEL 3:

NON-EXCLUSIVE EASEMENTS FOR ROADWAYS, WALKWAYS, INGRESS, EGRESS, AND PARKING AS ESTABLISHED IN DECLARATION OF EASEMENTS WITH COVENANTS AND RESTRICTIONS, AS RECORDED UNDER RECORDING NUMBERS 19990804000802, AND AMENDMENTS THEREOF UNDER RECORDING NUMBERS 20001229000562 AND 20080826000844.

7/7/2015





**After Recording, Return to:**  
 CITY OF DES MOINES  
 ATTN: CITY ATTORNEY  
 21630 11<sup>th</sup> Avenue South, Suite C  
 Des Moines, WA 98198

**UTILITY EASEMENT**

Grantor:	Des Moines Center, LLC, as Washington limited liability company
Grantee:	City of Des Moines, a municipal corporation of the State of Washington
Legal Description/STR:	Lt B, LLA-LUA 00-002, Rec. No. 20001228900023
Assessor's Tax Parcel ID#:	092204-9054
Property Address:	21425 Pacific Highway South, Des Moines, WA. 98198

**Transportation Gateway Project**  
**South 216<sup>th</sup> Street, Segment 1-A, Improvements**  
**24<sup>th</sup> Avenue S. to Pacific Highway S.**

THIS EASEMENT AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between **Des Moines Center, LLC, a Washington limited liability company**, ("Grantor" herein), and the **CITY OF DES MOINES**, a municipal corporation of the State of Washington, ("Grantee" herein),

**WITNESSETH:**

1. **Grant of Easement.** The Grantors, for and in consideration of TEN DOLLARS (\$10.00), and other good and valuable consideration, receipt of which is hereby acknowledged, hereby grant and convey to the City of Des Moines, a municipal corporation of the State of Washington, its contractors, employees, agents, successors, franchisors and assigns, (Grantee), for the purposes set forth herein, a non-exclusive perpetual easement for the placement, operation, and maintenance of public and private utility equipment ("Easement" herein) over, under, along, across, and through the following described real property ("Easement Area" herein) in King County, Washington.

**2. Property Subject to Easement**

a. **Property Description.** The Property subject to this Easement is legally described and shown in Exhibit "A" and Exhibit "A-1" attached hereto and incorporated by reference.

b. **Easement Areas.** Except as is otherwise set forth herein, Grantee's rights shall be exercised only upon that portion of the property legally described in Exhibit "A" and Exhibit "A-1" ("Easement Areas" herein) attached hereto and incorporated by reference.

3. **Purpose.** Grantee shall have the right to construct, operate, maintain, repair, replace, improve, remove, and enlarge utility structures and associated features within the Easement Areas for the purpose of constructing and maintaining utilities. Such utilities may include, but is not limited to:

4. **Utility Features.**

Above and below ground handholes, conduits, vaults, switches, pedestals, transformers, fire hydrant connection, water meters, valves, and all other facilities and/or appurtenances necessary and/or convenient to any and/or all of the forgoing.

Following the initial construction of all and/or portion of its utility features, Grantee may, from time to time, construct such additional facilities as it may require for such utility features.

4. **Access.** Grantee shall have the right of access to the Easement Areas over and across the Property to enable Grantee to exercise its rights hereunder. Grantee shall compensate Grantor for any damage to the Property caused by the exercise of such right of access by Grantee.
5. **Easement Area Clearing and Maintenance.** Grantee shall have the right to cut, remove and dispose of any and all brush, trees or other vegetation in the Easement Areas. Grantee shall also have the right to control, on a continuing basis and by any prudent and reasonable means, the establishment and growth of brush, tree or other vegetation in the Easement Area.
6. **Grantor's Use of Easement Area.** Grantors reserve the right to use the Easement Areas for any purpose so long as the use does not interfere with the Easement rights herein granted. Grantors may install groundcover and shrub landscaping plantings within the Easement Area with Grantee's prior written consent. Grantors shall not alter the ground surface and subsurface with the Easement Area by excavation, placement of fill material, or installation of any wall or rockery, without Grantee's Public Works Director, or authorized designee, prior written consent. Grantee's prior written consent, where required, shall not be unreasonably withheld. Grantor shall not construct or maintain any buildings within the Easement Areas.

- 7. **Indemnity.** Grantee agrees to indemnify Grantors from and against liability incurred by Grantors as result of Grantee's negligence in the exercise of the rights herein granted to Grantee, but nothing herein shall require Grantee to indemnify Grantors for that portion of any such liability attributable to the negligence of Grantors or the negligence of others.
- 8. **Covenant Running With the Land.** This Easement, and the duties, restrictions, limitations and obligations herein created, run with the land, burden the Property and are binding upon Grantor and its successors, assigns, mortgagees and sublessees and each and every person who, at any time, has a fee, leasehold, mortgage or other interest in any part of the Easement Area.
- 9. **Assignment.** Grantee shall have the right to assign this Easement to franchised utilities.

Grantors acknowledge that property and/or property rights conveyed herein are in consideration of mutual benefit to be derived; and Grantors has been informed of its right to receive just compensation.

The lands herein described can be found in design plans on file with the Director of the City of Des Moines Public Works in Des Moines, Washington, CIP 319.332, S. 216<sup>th</sup> Street, Segment 1-A.

DATED this 24<sup>th</sup> day of July, 2015.

GRANTOR(S): Des Moines Center, LLC, a Washington limited liability company

  
 By: Roger Belanich, Managing Member

GRANTEE:

CITY OF DES MOINES,  
 a Washington municipal corporation

By: Anthony A. Piasecki, City Manager

Date: \_\_\_\_\_

At the direction of the Des Moines City Council on \_\_\_ day of \_\_\_\_\_, 2015.

APPROVED as to form only:

\_\_\_\_\_  
 Pat Bosmans, City Attorney

\_\_\_\_\_  
 Date

STATE OF WASHINGTON }  
 }  
COUNTY OF Inchewash } SS.

I certify that I know or have satisfactory evidence that Roger Belanich is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it as the Managing Member of Des Moines Center, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.



Dated: 7/22/15  
Signature: Pamela K Gasaway  
Notary Public in and for the State of Washington  
Notary (print name): PAMALA K GASAWAY  
Residing at: Bothell  
My appointment expires: 8-1-17

STATE OF WASHINGTON }  
 }  
COUNTY OF KING } SS.

This instrument was acknowledged before me on \_\_\_\_\_ (date of acknowledgment) by Anthony Piasecki as City Manager, City of Des Moines, a State of Washington municipal corporation, on behalf of said corporation.

Dated: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Notary Public in and for the State of Washington  
Notary (print name): \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

**EXHIBIT A**  
**PARCEL NO. 092204-9054**  
**UTILITY EASEMENT**

THAT PORTION OF THE HEREINAFTER DESCRIBED TRACT "A" DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT "A", SAID CORNER ALSO BEING ON THE NORTH MARGIN OF SOUTH 216<sup>TH</sup> STREET;

THENCE NORTH 05° 31' 54" EAST ALONG THE EAST LINE OF SAID TRACT "A", 8.12 FEET;

THENCE WESTERLY ON A CURVE TO THE RIGHT WHOSE CENTER BEARS NORTH 02° 33' 07" EAST, 5,950.50 FEET, AN ARC DISTANCE OF 97.68 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ON SAID CURVE TO THE RIGHT WHOSE CENTER BEARS NORTH 03° 29' 33" EAST, 5,950.50 FEET, AN ARC DISTANCE OF 10.01 FEET TO THE WEST LINE OF SAID TRACT "A";

THENCE NORTH 01° 04' 07" EAST ALONG SAID WEST LINE, 14.89 FEET;

THENCE SOUTH 88° 15' 51" EAST, 10.00 FEET;

THENCE SOUTH 01° 04' 07" WEST 15.21 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 150 SQUARE FEET, MORE OR LESS.

TRACT "A":

(PER STEWART TITLE COMPANY ORDER NO. 01148-29575 THIRD REPORT, DATED JUNE 9, 2015)

PARCEL 2:

LOT B OF CITY OF DES MOINES LOT LINE ADJUSTMENT NO. LUA 00-002, RECORDED UNDER RECORDING NO. 20001229900023, EXCEPT THAT PORTION THEREOF DESCRIBED AS FOLLOWS:  
 THAT PORTION OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, W. M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SUBDIVISION;

THENCE NORTH 01° 04' 15" EAST 178.05 FEET ALONG THE WEST LINE THEREOF TO THE NORTHWEST CORNER OF LOT B, CITY OF DES MOINES LOT LINE ADJUSTMENT NO. LUA-LLA 99-019, RECORDED UNDER KING COUNTY RECORDING NO. 19990804900004, AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 01° 04' 15" EAST 32.55 FEET ALONG SAID WEST LINE;

THENCE SOUTH 83° 54' 32" EAST 119.84 FEET TO THE NORTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID LOT B;

THENCE SOUTH 05° 32' 05" WEST 31.76 FEET ALONG SAID PROLONGATION TO THE NORTHERLY LINE OF SAID LOT B;

THENCE NORTH 84° 14' 04" WEST 117.35 FEET ALONG SAID NORTHERLY LINE TO THE TRUE POINT OF BEGINNING.

PARCEL 3:

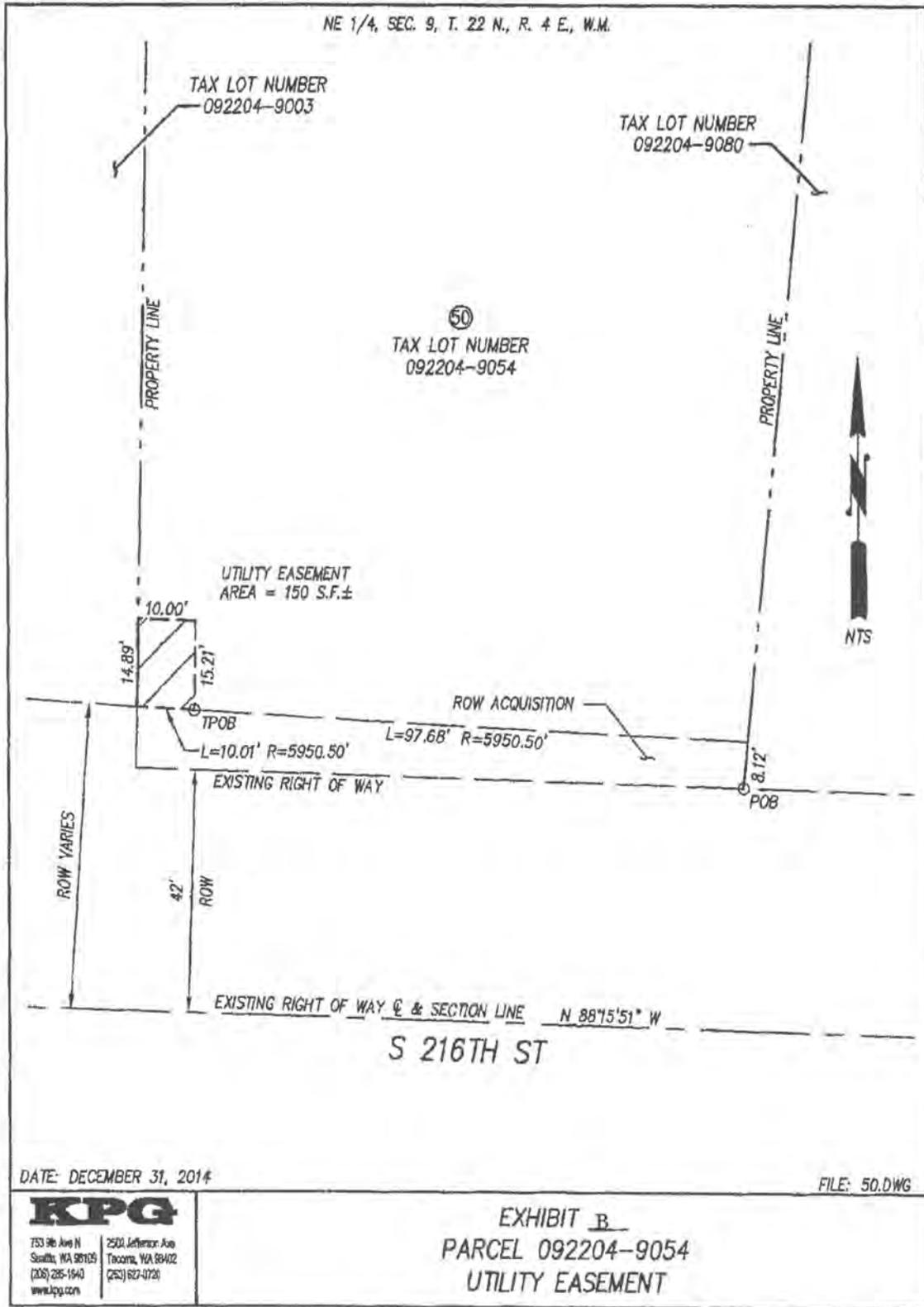
NON-EXCLUSIVE EASEMENTS FOR ROADWAYS, WALKWAYS, INGRESS, EGRESS, AND UTILITIES AS ESTABLISHED IN DECLARATION OF EASEMENTS WITH COVENANTS AND RESTRICTIONS RECORDED UNDER RECORDING NUMBERS 19990804000802, AND AMENDMENTS THERE TO RECORDING NUMBERS 20001229000562 AND 20080826000844.

7/7/2015 ✓



50-0922049054 UTILITY ESMT.DOCX

Page 1 of 1  
**KPG**  
 TACOMA · SEATTLE



Return Address:  
 City of Des Moines  
 Attn: City Attorney  
 21630 11<sup>th</sup> Avenue So., Suite C  
 Des Moines, WA 98198-6398

**CONSTRUCTION EASEMENT/  
 RIGHT OF ENTRY**

Grantor:	Des Moines Center, LLC, as Washington limited liability company
Grantee:	City of Des Moines, a municipal corporation of the State of Washington
Legal Description/STR:	Lt B, LLA-LUA 00-002, Rec. No. 20001228900023
Assessor's Tax Parcel ID#:	092204-9054
Property Address:	21425 Pacific Highway South, Des Moines, WA 98198

**Transportation Gateway Project**  
**South 216<sup>th</sup> Street, Segment 1A, Improvements**  
**29<sup>th</sup> Avenue South to 24<sup>th</sup> Avenue South**

THIS EASEMENT AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between **Des Moines Center, LLC, a Washington limited liability company**, ("Grantor" herein), and the **CITY OF DES MOINES, a municipal corporation of the State of Washington**, ("Grantee" herein),

In consideration of the transportation, sidewalk, utility and general improvements planned to occur immediately on or adjacent to property that is subject to this easement as a result of the above S. 216<sup>th</sup> Street Improvements, the Grantor(s) hereby grants to the Grantee, its contractors, employees, agents, successors and assigns the right to enter upon land known as King County Assessor's Parcel Number 092204-9054 located adjacent to S. 216<sup>th</sup> St, Des Moines, WA 98198, as required for the purpose of placing personnel and equipment on said premises to re-construct driveway access, restore fences, utility services, mailboxes, plantings, walls and/or walkways to match newly constructed roadway and sidewalk grades within right of way as shown in the plans and specifications found on file with the City Engineer of the Grantee.

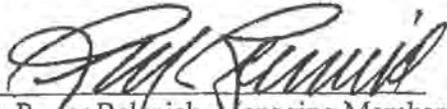
Parcel No. 092204-90541

### **SPECIAL STIPULATIONS**

1. This license shall remain in force until such time as the construction of street improvements has been accepted for operation and maintenance by the Grantee. Specific details concerning the public street improvements may be found on maps, plans, and specifications on file with Grantee's City Engineer.
2. Grantee, its agents and assigns, will notify Grantor their agents, successors, and assigns, of its construction schedule, and will, to the greatest extent practicable, schedule the construction activity so as to minimize any inconvenience to the property and business operations. Temporary closure of the drive-thru is expected during wall construction. The Grantee agrees to require that the Contractor implement a City approved traffic control plan that maintains 24 hour business access to S. 216<sup>th</sup> Street.
3. The Grantee agrees, to the extent practicable, to leave the property in as good condition as existed on the day construction commenced. This shall include the timely removal of any and all debris, rubbish or combustible material resulting from construction activities.
4. Compensation: Grantor acknowledges that the property and/or property rights conveyed herein are in consideration for benefits to be derived by matching the roadway improvements with the Grantor's property.
5. Grantor authorizes and appoints Grantee as its agent and attorney-in-fact to make application for any and all permits required to complete the project.
6. The rights herein granted shall include all incidental rights, including but not limited to, rights of ingress and egress necessary to properly perform the work indicated for construction of the project. Grantee and those entitled to exercise the rights granted herein shall exercise all due diligence in their activities upon the property. Grantee hereby agrees to indemnify and hold harmless Grantor against and from any and all liability for losses, damages and expenses on account of damage to property or injury to persons resulting from or arising out of the rights herein granted to Grantee and/or its contractors, employees, agents, successors or assigns.
7. The termination date for this easement shall be by the physical completion date of the project.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**GRANTOR(S): Des Moines Center, LLC, a Washington limited liability company**

  
By: Roger Belanich, Managing Member

**GRANTEE:**

CITY OF DES MOINES,  
a Washington municipal corporation

By: Anthony A. Piasecki, City Manager

Date: \_\_\_\_\_

*At the direction of the Des Moines City Council on \_\_\_ day of \_\_\_\_\_, 2015.*

APPROVED as to form only:

Pat Bosmans, City Attorney

Date \_\_\_\_\_

STATE OF WASHINGTON }  
 }  
COUNTY OF Inatomish } SS.

I certify that I know or have satisfactory evidence that Roger Belanich is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it as the Managing Member of Des Moines Center, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.



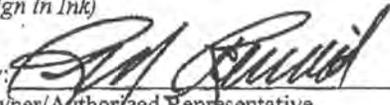
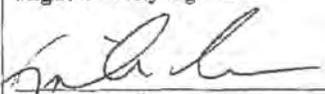
Dated: 7/22/15  
Signature: Pamela K Gasaway  
Notary Public in and for the State of Washington  
Notary (print name): PAMALAK GASAWAY  
Residing at: Bothell  
My appointment expires: 8-1-17

STATE OF WASHINGTON }  
 }  
COUNTY OF KING } SS.

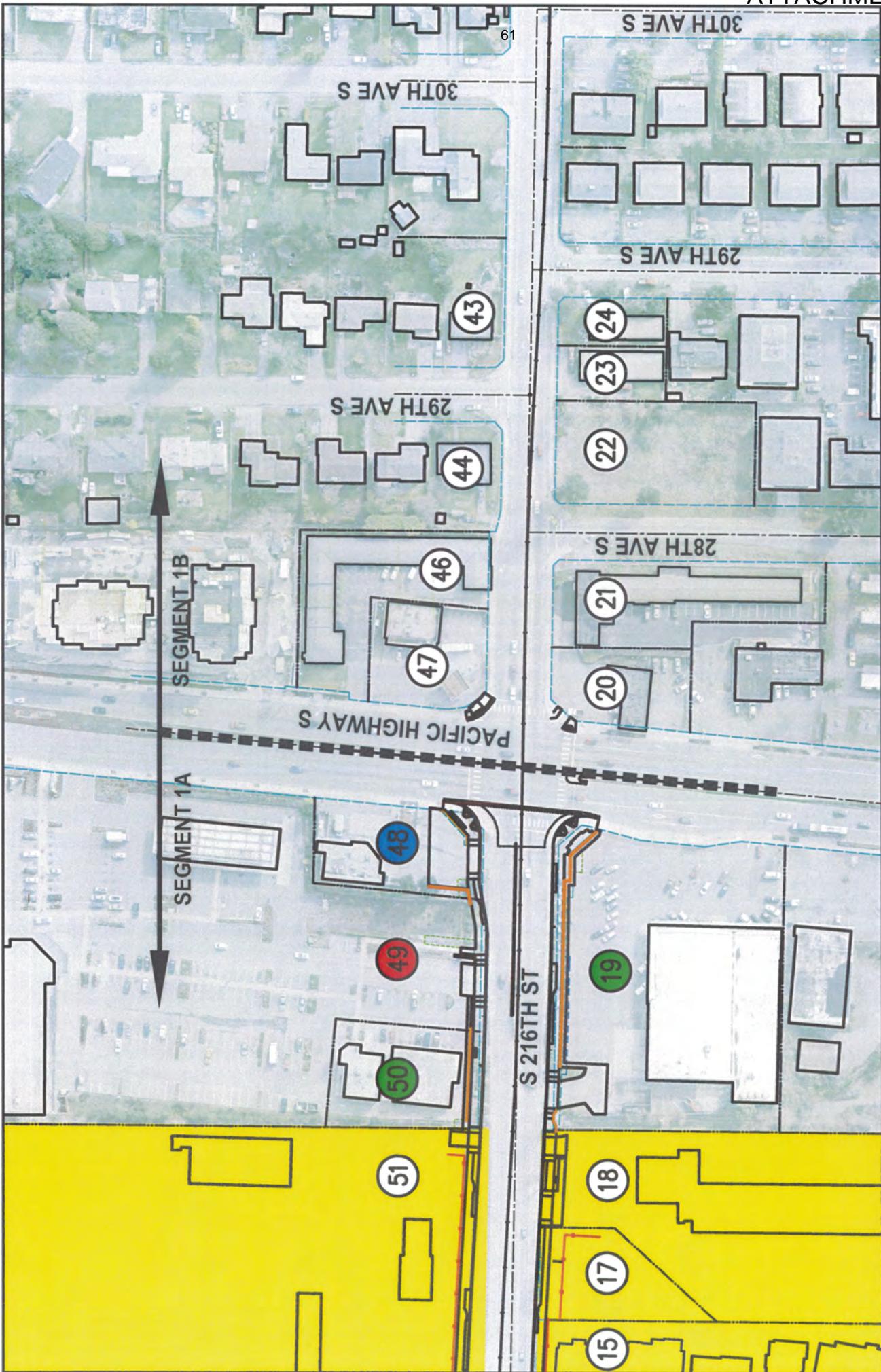
This instrument was acknowledged before me on \_\_\_\_\_ (date of acknowledgment) by Anthony Piasecki as City Manager, City of Des Moines, a State of Washington municipal corporation, on behalf of said corporation.

Dated: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Notary Public in and for the State of Washington  
Notary (print name): \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

## REAL PROPERTY VOUCHER AGREEMENT

<p style="text-align: center;"><b>AGENCY NAME</b></p> <p>City of Des Moines Public Works Department 21630 11<sup>th</sup> AVE South, Suite C Des Moines, WA 98198 Phone: (206) 870-6522</p>	<p>I hereby agree to the terms and conditions listed below and hereby certify under penalty of perjury that the items and amounts listed herein are proper charges, that the same or any part thereof has not been paid, and that I am authorized to sign for the Claimant: <i>(Sign In Ink)</i></p>																								
<p style="text-align: center;"><b>GRANTOR or CLAIMANT</b></p> <p>Des Moines Center, LLC 22022 17<sup>th</sup> Ave NE #200 Bothell, WA 98021</p>	<p>By:  Owner/Authorized Representative Date: <u>7-22-15</u></p>																								
<p>Re: Transportation Gateway Project, South 216<sup>th</sup> Street, Segment 1-A Improvements (24<sup>th</sup> Ave S. to Pacific Highway S.</p>	<p>TAX PARCEL NUMBER: 092204-9054 PROJECT PARCEL NUMBER: 50</p>																								
<p><b>In Full, Complete and Final Payment and Settlement for the Title or Interest Conveyed or Released, as Fully Set Forth In Attached Documents:</b> Statutory Warranty Deed Date: _____</p>																									
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">For All Lands Convey: Fee Simple</td> <td style="width: 20%;">987 SF @ \$27/SF</td> <td style="width: 20%; text-align: right;">+\$26,700.00</td> </tr> <tr> <td style="padding-left: 40px;">Permanent Wall Easement</td> <td>489 SF @ \$27/SF @ 75%</td> <td style="text-align: right;">+\$ 9,900.00</td> </tr> <tr> <td style="padding-left: 40px;">Permanent Utility Easement</td> <td>150 SF @ \$27/SF @ 25%</td> <td style="text-align: right;">+\$ 1,000.00</td> </tr> <tr> <td>For All Improvements: landscaping</td> <td></td> <td style="text-align: right;">+\$ 4,000.00</td> </tr> <tr> <td>For All Damages:</td> <td></td> <td style="text-align: right;">+\$</td> </tr> <tr> <td>Less Special Benefits:</td> <td></td> <td style="text-align: right;">+\$</td> </tr> <tr> <td>Statutory Evaluation Allowance</td> <td></td> <td style="text-align: right;">+\$</td> </tr> <tr> <td colspan="2" style="text-align: right;"><b>JUST COMPENSATION</b></td> <td style="text-align: right;"><b>\$ 41,600.00</b></td> </tr> </table>	For All Lands Convey: Fee Simple	987 SF @ \$27/SF	+\$26,700.00	Permanent Wall Easement	489 SF @ \$27/SF @ 75%	+\$ 9,900.00	Permanent Utility Easement	150 SF @ \$27/SF @ 25%	+\$ 1,000.00	For All Improvements: landscaping		+\$ 4,000.00	For All Damages:		+\$	Less Special Benefits:		+\$	Statutory Evaluation Allowance		+\$	<b>JUST COMPENSATION</b>		<b>\$ 41,600.00</b>	<b>AMOUNT</b>
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Less Special Benefits:		+\$																							
Statutory Evaluation Allowance		+\$																							
<b>JUST COMPENSATION</b>		<b>\$ 41,600.00</b>																							
<p>Legal / Administrative: _____</p> <p>Other Items: _____</p> <p>Deductions: _____</p>	<p><b>FINAL SETTLEMENT</b>      <b>\$41,600.00</b></p> <p><b>SUBTOTAL</b>                      <b>\$</b></p> <p><b>TOTAL AMOUNT TO BE PAID:</b>      <b>\$ 41,600.00</b></p>																								
<p><b>Right-of-Way Agent:</b></p> <p> By: <u>Kristina Gorman</u> <u>7-22-15</u> Date</p> <p>The City of Des Moines agrees to the terms and conditions listed above.</p> <p>By: _____ Date</p>																									

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- NOTES:
- ROW ACQUISITION COMPLETE
  - PROPOSED ROW SETTLEMENT
  - ROW ACQUISITION REQUIRED
  - ROW POSSESSION AND USE

CITY OF DES MOINES  
 TRANSPORTATION GATEWAY PROJECT  
 SOUTH 216TH STREET - SEGMENT 1A  
 ROW EASEMENT & ACQUISITION  
 AUGUST 3, 2015



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## A G E N D A   I T E M

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

SUBJECT: Draft Ordinance No. 15-140,  
Municipal Court Judge Salary Certification

ATTACHMENTS:

1. Draft Ordinance No. 15-140

FOR AGENDA OF: August 20, 2015

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: August 5, 2015

CLEARANCES:

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

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: AI

#### **Purpose and Recommendation**

The purpose of Draft Ordinance is to seek City Council approval of Draft Ordinance No. 15-140 setting the Municipal Court Judge salary in accordance with state law.

#### **Suggested Motion**

**First Motion:** I move to suspend Rule 26(a) to pass Draft Ordinance No. 15-140 on first reading.

AND

**Second Motion:** I move to enact Draft Ordinance No. 15-140 setting the Municipal Court Judge salary in accordance with state law.

#### **Background**

State law requires that the salaries of municipal court judges be fixed by ordinance. RCW 3.50.080. Additionally, in order to be eligible for state contribution to the Judge's compensation, the City judicial position must be an elected position with a compensation rate equivalent to 95% of a district court judge salary, as set by the Washington Citizen's Commission on Salaries for Elected Officials. RCW 2.56.030.

**Discussion**

The Municipal Court Judge position in Des Moines is currently an elected position that receives a state contribution for judicial compensation in accordance with RCW 2.56.030. Enacting this Draft Ordinance will codify the salary as required under state law to continue to receive the state contribution.

**Alternatives**

None given.

**Financial Impact**

There will be no additional financial impact as the Draft Ordinance codifies the current salary.

**Recommendation or Conclusion**

Staff recommends passing this Draft Ordinance as written.

## CITY ATTORNEY'S FIRST DRAFT 08/03/2015

## DRAFT ORDINANCE NO. 15-140

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the Municipal Court, establishing the salary of the Municipal Court Judge.

WHEREAS, RCW 2.56.030 provides that the Office of the Administrator for the Court will fund a portion of the salary of the Municipal Court Judge in qualifying jurisdictions, and

WHEREAS, in order to be eligible for state contribution to the Municipal Court Judge's compensation, the position must be subject to election, the compensation must be set by ordinance to at least ninety-five percent of a district court judge salary, and the City must create a trial court improvement account into which shall be deposited an amount equal to 100 percent of the state's contribution received by the City, which shall be used to fund improvements to the municipal department's staffing, programs, facilities, or services, and

WHEREAS, the salary of district court judges is set by the Washington Citizens' Commission on Salaries for Elected Officials, and

WHEREAS, the City Council desires that the Des Moines Municipal Court Judge salary be adjusted automatically to reflect future adjustments made by the Washington Citizens' Commission on Salaries for Elected Officials; now therefore,

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

Sec. 1. DMMC 2.28.060 (formerly DMMC 2.52.060) and section 7 of Ordinance No. 610 as amended by section 6 of Ordinance No. 610 as amended by as amended by section 2(7)(part) of Ordinance No. 1135 as amended by section 2 of Ordinance No. 1349 are amended to read as follows:

Compensation for the municipal court judge and magistrate shall be set in the annual budget ordinance of the city. Judges pro tem shall be compensated pro rata at the compensation rate of the municipal court judge. Commencing September 1, 2015, and thereafter on the first day of September

Ordinance No. \_\_\_\_\_  
Page 2 of 3

of each successive year, the salary of the Des Moines Municipal Court Judge shall automatically be adjusted to an amount equal to 95% of the salary of district court judges as set by the Washington Citizens' Commission on Salaries for Elected Officials for the succeeding year.

**NEW SECTION. Sec. 2. Savings clause.** DMMC 2.28.060, which is amended by this Ordinance, shall remain in force and effect until the effective date of this Ordinance.

**NEW SECTION. Sec. 3. 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.

**NEW SECTION. Sec. 4. Effective date.** This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication in accordance with law.

**PASSED BY** the City Council of the City of Des Moines this \_\_\_\_\_ day of \_\_\_\_\_, 2015 and signed in authentication thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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

APPROVED AS TO FORM:

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

ATTEST:

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

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

Published: \_\_\_\_\_

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## AGENDA ITEM

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

SUBJECT: Sale of Abandoned Vessel

ATTACHMENTS:

Draft Resolution No. 15-137

FOR AGENDA OF: August 20, 2015

DEPT. OF ORIGIN: Marina

DATE SUBMITTED: July 31, 2015

CLEARANCES:

- Legal NO
- Finance N/A
- Marina NO
- Economic Development N/A
- Parks, Recreation & Senior Services N/A
- 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 ask the City Council for authorization to sell a vessel that has been abandoned in the Marina. The vessel, a 32 foot Bayliner, has been determined to be abandoned according to the conditions set forth in Marina Rule 5.1. Accordingly, the Council may authorize the sale of the vessel to recover the fees owed to the Marina.

**Suggested Motion: “I move that Council adopt Draft Resolution No. 15-137, authorizing the sale of the abandoned vessel, hull identification number USDA55ER1596 by public auction, with a reserve large enough to cover the charges owed to the Marina.”**

#### Background

In January, 2015, a Marina tenant, Thomas R. Hicks, stopped making his moorage payments on a vessel he owns that is moored in a slip on L Dock. All attempts to contact Mr. Hicks have failed and the vessel has been declared abandoned and seized for non-payment of moorage fees following the process set forth in Marina Rule 5.1. The information on the title indicates that Key Bank has a note secured by the vessel. In situations like this one, the Marina’s normal procedure is to immediately notify any lien holder once a vessel has been seized; and, usually, the lien holder comes forth to protect its interest in the vessel. In this case, Marina staff was not able to get a response from Key Bank. Key Bank has a

large backlog of non-performing loans left over from the recession and this loan may have been written off.

### **Discussion**

Normally, seized vessels are listed for sale on “Public Surplus”, an on-line auction site for government agencies. In this case, because the staff has not been able to determine the extent of Key Banks interest in the vessel, a prospective buyer will probably have a difficult time getting a clear title to the vessel. Staff is recommending that a local broker, Classic Yachts, Inc., be used to auction off the vessel because their staff has experience dealing with “cloudy” titles and can help a buyer do the necessary paper work. Staff believes that using a local broker who has experience dealing with the Department of Licensing will result in a higher sale price.

### **Financial Impact**

Currently, the moorage and other fees against the vessel total \$10,626.03. The estimated value of the vessel is \$16,000. The consignment to the broker can be set up so that the buyer pays the broker, which is similar to how Public Surplus works. Staff will set the reserve at the amount owed.

### **Conclusion**

Staff recommends that the Council adopt Draft Resolution No. 15-137 and authorize the staff to consign the abandoned vessel to be sold at auction by Classic Yachts, Inc.

## CITY ATTORNEY'S FIRST DRAFT 07/31/2015

## DRAFT RESOLUTION NO. 15-137

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, authorizing disposal of an abandoned 32-foot Bayliner vessel by auction or sale.

WHEREAS, during regular business the City accumulates equipment and property, and

WHEREAS, a 32-foot Bayliner vessel was abandoned at the Marina by the owner in January, 2015, and

WHEREAS, the City intends to dispose of abandoned and unneeded property as allowed by law, and

WHEREAS, the City of Des Moines typically sells property and equipment at public auction to the highest bidder or disposes of such property, and

WHEREAS, the property described in Exhibit "A" was abandoned at the Des Moines Marina and proper notification was given to the owner and lien holder with no response, , and

WHEREAS, the vessel has an approximate value of \$16,000.00 and the owner of the abandoned currently owes the Marina \$10,626.03 in unpaid moorage and other fees, and

WHEREAS, the City desires to sell the item identified in Exhibit "A" attached to this Resolution to recover the costs owed to the City; now therefore,

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

**Sec. 1.** The property identified by Exhibit "A" is hereby declared by this Resolution to be abandoned property and not needed for any public purpose.

**Sec. 2.** The City Manager is authorized to dispose of the item identified by Exhibit "A" through an auction by broker Classic Yachts, Inc., with a reserve to be set by Marina staff.

Resolution No. \_\_\_\_\_  
Page 2 of 2

**Sec. 3.** The City Manager is authorized to establish a minimum bid/sale amount for the property identified in Exhibit "A" as deemed to protect the City's interests.

**ADOPTED BY** the City Council of the City of Des Moines, Washington this \_\_\_\_\_ day of \_\_\_\_\_, 2015 and signed in authentication thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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

APPROVED AS TO FORM:

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

ATTEST:

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

EXHIBIT "A"  
Resolution No. \_\_\_\_\_

Number	Description	Approximate Value
1	32-Foot Bayliner Vessel, Hull ID # USDA55ER1596	\$16,000.00

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

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Surplus Property – Vehicles and Equipment

AGENDA OF: August 20, 2015

DEPT. OF ORIGIN: Planning, Building & Public Works

ATTACHMENTS:

- 1. Draft Resolution No. 15-141

DATE SUBMITTED: August 10, 2015

CLEARANCES:

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

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: AA

**Purpose and Recommendation:**

The purpose of this agenda item is to seek Council authorization to surplus a certain City vehicle. Consistent with the adopted 2015 budget, the Planning, Building and Public Works Department recommends that the vehicle identified in Attachment 1 be declared surplus and disposed of. The following motion will appear on the consent calendar:

**Suggested Motion**

**Motion:** “I move to adopt Draft Resolution No. 15-141 declaring a certain vehicle identified in Attachment 1 as surplus and authorizing disposal of said surplus vehicle by auction or trade-in.”

**Background:**

The adopted 2015 budget approved replacing the following vehicles:

- 6 Police patrol vehicles
- 1 Police detective vehicle
- 2 Parks mowers
- 1 Public Works ¾ ton extra cab truck
- Orca Boat
- 1 Fleet vehicle

The 7 police vehicles were ordered in February, and were delivered last month. The vehicles are currently being setup and outfitted, and should be placed in service by September. The Parks mowers have been placed in service. The ¾ ton extra cab truck has been ordered, but has not yet arrived.

The Harbor Master has decided to postpone the Orca Boat replacement until 2016.

The last vehicle scheduled for replacement is the fleet vehicle (currently a Ford Escort) that has been assigned to the IT Department. This vehicle will be replaced with an electric vehicle.

**Discussion:**

As part of the annual fleet evaluation and inventory, it has become apparent that we can capitalize on some efficiency by combining two vehicles into one shared-use fleet vehicle. The Dodge Stratus assigned to the Community Development Division can be surplused, and the new electric vehicle can be shared between the two Departments.

**Alternatives:**

Council could decide to not surplus this vehicle.

**Financial Impact:**

Combining these two vehicles into one shared-use vehicle will reduce ongoing maintenance and annual costs.

**Recommendation/Conclusion:**

Staff recommends surplusing the identified vehicle and asks Council to approve the suggested motion.

**Concurrence:**

The Finance, Legal, and Planning, Building and Public Works Departments concur.

CITY ATTORNEY'S FIRST DRAFT 08/06/2015

DRAFT RESOLUTION NO. 15-141

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON declaring a certain City vehicle surplus, and authorizing disposal of the surplus vehicle by auction or trade.

WHEREAS, during regular business the City accumulates vehicles and equipment, and

WHEREAS, the City intends to dispose of unneeded vehicles and equipment as allowed by law as surplus, and

WHEREAS, the City of Des Moines typically sells surplus vehicles and equipment at public auction to the highest bidder or trades-in surplus vehicles and equipment at reputable dealerships, and

WHEREAS, the City desires to surplus the identified in Exhibit "A" attached to this Resolution; now therefore,

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

**Sec. 1.** The vehicle identified by Exhibit "A" is hereby declared by this Resolution to be a surplus vehicle.

**Sec. 2.** The City Manager is authorized to dispose of the item identified by Exhibit "A" by auction or trade-in.

**Sec. 3.** The City Manager is authorized to establish a minimum bid/sale amount for the property identified in Exhibit "A" as deemed to protect the City's interests.

**Sec. 4.** The City Manager is authorized to contract for professional auction services where the cost of such services does not exceed twenty-five percent (25%) of the amount bid, plus reasonable advertising fees.

**Sec. 5.** All net proceeds from the disposal of the surplus property identified in Exhibit "A" shall be deposited into the Equipment Rental Fund.

Resolution No. \_\_\_\_\_  
Page 2 of 2

**ADOPTED BY** the City Council of the City of Des Moines,  
Washington this \_\_\_\_ day of \_\_\_\_\_, 2015 and signed in  
authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2015.

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

APPROVED AS TO FORM:

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

ATTEST:

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

## EXHIBIT "A"

Resolution No. \_\_\_\_\_

Number	Description	Approximate Value
CD-13	White 2002 Dodge Stratus SE, License 34233D, VIN # 1B3EL36R62N230962	\$5,500

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

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

SUBJECT: Resolution setting a Public Hearing regarding Temporary Encampments for the Homeless

FOR AGENDA OF: August 20, 2015

DEPT. OF ORIGIN: Planning, Building and Public Works

DATE SUBMITTED: August 12, 2015

ATTACHMENTS:

1. Draft Resolution No. 15-030

CLEARANCES:

- Legal PB  
 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 MM

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

#### **Purpose and Recommendation**

The purpose of this agenda item is for City Council to consider Draft Resolution No. 15-030 (Attachment 1), that will set a public hearing date to consider Draft Ordinance No. 15-030 related to the establishment of legislation on Temporary Encampments for the Homeless, pursuant to RCW 35.21.915, RCW 35A.21.360 and RCW 36.01.290. The following motion will appear on the consent calendar:

#### **Suggested Motion**

**Motion 1:** "I move to adopt Draft Resolution No. 15-030 setting a public hearing on September 24, 2015 to consider Draft Ordinance No. 15-030 related to the establishment of legislation on Temporary Encampments for the Homeless, pursuant to RCW 35.21.915, RCW 35A.21.360 and RCW 36.01.290."

#### **Background**

In 2010, the Washington State Legislature passed Engrossed Substitute House Bill 1956 (ESHB 1956), codified as RCW 36.01.290 which authorized religious organizations to host temporary encampments for homeless persons on property owned or controlled by a religious organization. The legislation grants broad authority to religious organizations to provide shelter or housing to homeless persons on property

owned or controlled by such organizations. It prohibits local governments from enacting an ordinance or regulation that imposes conditions other than those necessary to protect the public health and safety and that do not substantially burden the decisions or actions of a religious organization with respect to the provision of homeless housing. It also prohibits the imposition of permit fees in excess of the actual costs associated with the review and approval of the required permit applications for homeless housing encampments. (From House Bill Report ESHB 1956 ).

### **Discussion**

On June 23, 2014, Washington Cities Insurance Authority completed their 2014 Annual Review and Audit of the City of Des Moines' land use practices. The Land Use Liability Audit identified four mandatory audit requirements for follow-up in 2015. One of the audit findings related to Des Moines compliance with legislation on Temporary Encampments for the Homeless, pursuant to RCW 35.21.915, RCW 35A.21.360 and RCW 36.01.290.

**Q1.22:** *Do your code and practices comply with current legislative enactments governing temporary encampments for the homeless?*

Draft Ordinance No. 15-030 would amend DMMC 18.01.050 to add new definitions, and add new sections to Chapter 18.170 Temporary Uses. Specific amendments would address:

- ***Frequency and Duration*** – limits the frequency of a homeless encampment at a particular site to no more than once per 365-day period at a duration not to exceed 92 days.
- ***Noticing Requirements:***
  - Establishes noticing requirements for new locations that include notice of application, public informational meeting, and decision as well as mailing and posting; and
  - Establishes noticing requirements for repeat locations that include mailing and posting notices 14 days prior to the anticipated start of the encampment.
- ***Options for Modifying Standards*** – establishes the process by which standards that differ from the DMMC can be modified, including application requirements, a comment period and appeal to the Hearing Examiner.

### **Alternatives**

The City Council may:

1. Adopt the proposed Draft Resolution.
2. Adopt the proposed Draft Resolution with a different hearing date.
3. Decline to adopt the Draft Resolution.

### **Financial Impact**

Establishing temporary use provisions that allow temporary homeless encampments will enable religious institutions in our community to perform a valuable public service that, for many, offers a temporary, stop-gap solution to the larger social problem of increasing numbers of homeless persons. The financial impact to the City is unknown at this time.

### **Recommendation**

Staff recommends Council set the public hearing for consideration of Draft Ordinance No. 15-030.

CITY ATTORNEY'S FIRST DRAFT 08/12/2015

DRAFT Resolution NO. 15-030

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, fixing a time for a public hearing to consider draft ordinance No. 15-030 relating to temporary encampments for the homeless, amending DMMC 18.01.050 by adding definitions, amending DMMC 18.20.080A project review chart, and adding and codifying new sections to chapter 18.170 DMMC.

WHEREAS, the City Council is considering amendments to Title 18 to establish provisions that allow temporary encampments for the homeless and enable religious institutions in our community to perform a valuable public service that, for many, offers a temporary, stop-gap solution to the larger social problem of increasing numbers of homeless persons, and

WHEREAS, a public hearing is necessary to receive public comment regarding this proposal, and

WHEREAS, a public hearing is required for adoption of an ordinance which amends a portion of the Title 18 DMMC commonly referred to as the Zoning Code; now therefore,

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

The matter of amendments to Title 18 relating to temporary encampments for the homeless is set for a public hearing before the City Council on Thursday, September 24, 2015, at 7:00 p.m., or as soon thereafter as the matter may be heard, in the City Council Chambers, 21630 11th Avenue South, Suite B, Des Moines, Washington.

ADOPTED BY the City Council of the City of Des Moines, Washington this 20<sup>th</sup> day of August, 2015 and signed in authentication thereof this \_\_\_\_ day of August, 2015.

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M A Y O R

APPROVED AS TO FORM:

Resolution No. \_\_\_\_\_  
Page 2 of 2

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

ATTEST:

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

## AGENDA ITEM

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

SUBJECT: Draft Ordinance 15-146 – Amending DMMC 12.30.080, Establishment of vehicle license fee revenue source.

ATTACHMENTS:

1. Draft Ordinance 15-146

FOR AGENDA OF: August 20, 2015

DEPT. OF ORIGIN: Planning, Building & Public Works

DATE SUBMITTED: August 13, 2015

CLEARANCES:

Legal SG

Finance N/A

Marina N/A

Parks, Recreation & Senior Services N/A

Planning, Building & Public Works DSS

Police N/A

Courts N/A

APPROVED BY CITY MANAGER

FOR SUBMITTAL: SA

### Purpose

The purpose of this item is to seek City Council approval of Draft Ordinance 15-146 (Attachment 1), amending Des Moines Municipal Code (DMMC) 12.30.080, Establishment of vehicle license fee revenue source. The following motions will appear on the consent calendar:

### Suggested Motions

**Motion 1:** “I move to suspend Rule 26(a) to pass Draft Ordinance No 15-146 on first reading.”

AND

**Motion 2:** “I move to enact Draft Ordinance No. 15-146, amending DMMC 12.30.080 entitled Establishment of vehicle license fee revenue source, to allow for an annual vehicle license fee consistent with state law.”

## **Background**

The Des Moines TBD was established in late 2008 and began collecting a vehicle license fee in 2009 in accordance with chapter 36.73 RCW which gave local jurisdictions the legislative authority to create Transportation Benefit Districts for the purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the district, that are consistent with any existing state, regional, and local transportation plans and necessitated by existing or reasonable foreseeable congestion levels. The current fee has been and continues to be collected and transferred to the City of Des Moines in order to cover expenditures in the Street Fund related to the preservation of transportation needs on the City's arterial roadways. These include but are not limited to such expenditures as: pavement repairs, annual striping, traffic signal maintenance, snow plowing activities and the administration and labor to execute these activities.

Effective July 1, 2015, the Washington State Legislature in RCW 82.80.140 increased the allowable per vehicle fee to forty dollars (\$40) if a vehicle fee of twenty dollars (\$20) has been imposed for at least twenty-four months.

## **Discussion**

DMMC 12.30.080 currently lists the annual vehicle license fee in the amount of twenty dollars (\$20). With the recent legislative change, the Des Moines Transportation Benefit District is considering increasing the amount to forty dollars (\$40) as authorized in RCW 82.80.140, with the additional twenty dollars (\$20) being specifically dedicated to pavement overlays and repairs. The proposed amendment edits the dollar specific language to be consistent with RCW 36.73.065.

## **Alternatives**

Council could modify/edit the proposed draft ordinance language.

## **Recommendation or Conclusion**

Staff recommends Council approve the draft ordinance.

## **Concurrence**

Legal, and Planning, Building, and Public Works concur.

## CITY ATTORNEY'S FIRST DRAFT 08/11/2015

## DRAFT ORDINANCE NO. 15-146

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON authorizing the Transportation Benefit District to increase the annual vehicle license fee in accordance with state law.

WHEREAS, on November 20, 2008, the City Council enacted Ordinance No. 1447 establishing a Transportation Benefit District (hereinafter "TBD") and authorizing a Transportation Benefit District Board annual vehicle license fee in the amount of \$20.00 per vehicle to be used for eligible expenditures on the City's arterial roadways, and

WHEREAS, Ordinance No. 1447 was repealed and replaced by Ordinance No. 1578 in September 26, 2013 in the City's reorganization of Title 12 DMMC, and

WHEREAS, recent Washington State Legislative changes to RCW 36.63.065 authorize a TBD to increase the vehicle fee above \$20.00 provided that a vehicle fee of \$20.00 had been imposed for at least twenty-four months, and

WHEREAS, the City of Des Moines has not been able to fund the pavement overlay program within the City since 2009, and

WHEREAS, the City Council finds it in the best interest of the City of Des Moines to authorize the TBD Board to increase the annual vehicle fee to an amount authorized by law for the purposes of pavement preservation of the arterial infrastructure of the City of Des Moines, consistent with chapter 36.73 RCW; now therefore,

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

**Sec. 1.** DMMC 12.30.080 and section 99 of Ordinance No. 1578 are amended to read as follows:

**Establishment of vehicle license fee revenue source.** The board shall have the authority to establish an annual vehicle license fee in ~~the~~ an amount ~~of \$20.00,~~ consistent with RCW 36.73.065, to

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

be collected by the Washington Department of Licensing on qualifying vehicles, set forth in RCW 82.80.140 and chapters 36.73 and 46.16 RCW.

**NEW SECTION. 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.

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

**PASSED BY** the City Council of the City of Des Moines this \_\_\_\_ day of \_\_\_\_\_, 2015 and signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2015.

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

APPROVED AS TO FORM:

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

ATTEST:

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

Published: \_\_\_\_\_

## AGENDA ITEM

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

SUBJECT: Public Hearing regarding the Marina District Development Incentive Establishing a Commercial Building Height Bonus Area

FOR AGENDA OF: August 20, 2015

DEPT. OF ORIGIN: Planning, Building and Public Works

DATE SUBMITTED: August 11, 2015

ATTACHMENTS:

1. Draft Ordinance No. 15-127
2. Public Comments on DNS
3. Staff Response to DNS Comments

CLEARANCES:

- Legal PB  
 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 mm

APPROVED BY CITY MANAGER

FOR SUBMITTAL: SA

#### **Purpose and Recommendation**

The purpose of this agenda item is for City Council to consider Draft Ordinance No. 15-127 (Attachment 1), relating to the establishment of a Marina District Development Incentive Building Height Bonus and amending DMMC 18.115.060 and DMMC 18.115.080, and adding an "Area 2" on "Figure 2 Downtown Commercial Height Bonus Areas" in the Marina District Neighborhood, providing for up to three properties fronting on the west side of Marine View Drive South, between South 219th Street and South 227th Street, to qualify for a 10 foot building height bonus from 35 feet up to a maximum of 45 feet.

#### **Suggested Motions**

**Motion 1:** "I move to suspend Rule 26(a) in order to enact Draft Ordinance No 15-127 on first reading."

**Motion 2:** “I move to enact Draft Ordinance No. 15-127 amending DMMC 18.115.060 and DMMC 18.115.080, and adding an “Area 2” on “Figure 2 Downtown Commercial Height Bonus Areas” in the Marina District Neighborhood, providing for up to three properties fronting on the west side of Marine View Drive South, between South 219th Street and South 227th Street, to qualify for a 10 foot building height bonus from 35 feet up to a maximum of 45 feet.”

### **Background**

In 2011, 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. Per DMMC 18.115.060(2), there is currently no commercial height bonus area along Marine View Drive.

Several vacant and under developed properties along Marine View Drive are ripe for redevelopment. These properties are located in the heart of the Marina District and front the west side of Marine View Drive which is classified as a State Route (SR 509) where traffic counts are approximately 17,000 trips daily. Redevelopment of properties such as these will help encourage new and increased economic activity in the downtown business core.

### **Discussion**

The *Marina District Development Incentive* presents an opportunity to maximize economic development, to provide higher quality design, and to create vibrant community venues, all of which are target goals of the Des Moines City Council as articulated in the *Des Moines 2035 Comprehensive Plan* and the Marina District Design Guidelines.

Draft Ordinance No. 15-127, the “Marina District Development Initiative” would establish a building height bonus area providing for up to three properties located on the west side of Marine View Drive South, between South 219<sup>th</sup> Street and South 227<sup>th</sup> Street, to qualify for a 10 foot building height bonus from 35 feet to a maximum of 45 feet, and establish an associated public benefit system, consistent with RCW 36.70A.130 (see Attachment 1). The Marina District Development Initiative and associated public benefit system was developed with the intent of minimizing potential impacts on surrounding land use and neighborhoods:

- It limits the geographic area to properties fronting the west side of Marine View Drive S between S 219<sup>th</sup> Street and S 227<sup>th</sup> Street;
- It limits the maximum building height in the identified height bonus area to 45 feet which is still in character with a traditional low-rise central business district;
- It limits number of properties that can qualify for a height bonus to three (3) buildings which limits the density of the area (e.g., equates to about 36,000 - 72,000 square feet of additional floor area depending upon the lot size);
- It sets a minimum lot size of 15,000 square feet to enable a reasonable sized development;
- It establishes a separation requirement of 300 feet from any properties that are granted the height bonus which would help to maintain view corridors between taller buildings; and
- It establishes a public benefit system whereby specific criteria and benefits must be provided in order for a project to be eligible for a height bonus. Public benefits range from design elements and dedicated uses, to civic contributions and streetscape improvements.
- It requires that a notice of complete land use application be issued by December 31, 2017 to be eligible for the height bonus which will help incentivize projects to move forward.

The text code and zoning map amendments are a Type IV land use action and the decision authority is the City Council. A SEPA Determination of Nonsignificance (DNS) and notice of public hearing was issued on July 24, 2015. The 15-day SEPA comment period concluded on August 7, 2015. Ten comment letters were received on the DNS (see Attachment 2). Key comments focused on the SEPA process; building height, bulk and scale; loss of views; compatibility with adjacent land use; consistency with *Des Moines 2035* Comprehensive Plan; and environmental impacts related to surface water, groundwater, erosion, transportation, parking and public services. Staff prepared a consolidated response that addresses the comments received during the SEPA comment period (see Attachment 3). While the City is not required to respond to DNS comments per SEPA (WAC 197-11-550(8)), it does so as a courtesy.

### **Alternatives**

The City Council may:

1. Enact Draft Ordinance No. 15-127 as proposed.
2. Enact Draft Ordinance No. 15-127 as amended by Council.
3. Decline to enact Draft Ordinance No. 15-127.

### **Financial Impact**

For the past twenty years, there are a number of properties along the west side of Marine View Drive that have remained in disrepair or vacant representing visual and economic blight in the Marina District and an enforcement challenge for South King Fire and Rescue and the Des Moines Building and Code Enforcement Divisions. Enactment of Draft Ordinance No. 15-127 is intended to spur development which 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 that the City Council enact Draft Ordinance No. 15-127.

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## CITY ATTORNEY'S FIRST DRAFT 07/20/14

## DRAFT ORDINANCE NO. 15-127

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON**, amending DMMC 18.115.060 and DMMC 18.115.080, and adding an "Area 2" on "Figure 2 Downtown Commercial Height Bonus Areas" in the Marina District Neighborhood, providing for up to three properties fronting on the west side of Marine View Drive South, between South 219th Street and South 227th Street, to qualify for a 10 foot building height bonus from 35 feet up to a maximum of 45 feet.

**WHEREAS**, approximately 53 acres of land area exists in the City's Marina District adjacent to Marine View Drive, 7th Avenue South, and within the City's Marina that is zoned D-C, 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**, for the past 20 years, economic investment in the Marina District Neighborhood has been on the decline, 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 the DMMC to include an Area 2 on Figure 2 which would include property located on the west side of Marine View Drive South, between South 219th Street and South 227th Street, would help to spur economic investment within the Marina District Neighborhood, and

**WHEREAS**, Comprehensive Plan Land Use Policies LU 2.1 and LU 2.2 stress the importance of enhancing and improving the City's business districts through redevelopment, rehabilitation and other available means to provide long-term economic vitality 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

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

that is inviting to new businesses, development shoppers and residents, and

**WHEREAS**, Marina District Element Policy MD 2.2 states that "building height should not adversely impact the adjacent street environment or nearby land uses," and

**WHEREAS**, the intent of Marina District Element implementation strategy MD 2.3.1 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* (2010), 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 zoning map amendment proposed by this Ordinance has been processed in accordance with the requirements of SEPA, and

**WHEREAS**, the zoning map amendment 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 amendments are made pursuant to Chapter 18.30 DMMC, 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 Draft Resolution No. 15-127, fixing the public hearing for August 20, 2015, and

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

**WHEREAS**, notice of the public hearing was issued on July 24, 2015 in accordance with the DMMC, and

**WHEREAS**, a public hearing was held on \_\_\_\_\_ and all persons wishing to be heard were heard, and

**WHEREAS**, the City Council finds that the amendments contained in this Ordinance are appropriate and necessary for the benefit and welfare of the public; now therefore,

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

**Sec. 1.** DMMC 18.115.060 and section 278 of Ordinance No. 1591 are amended as follows:

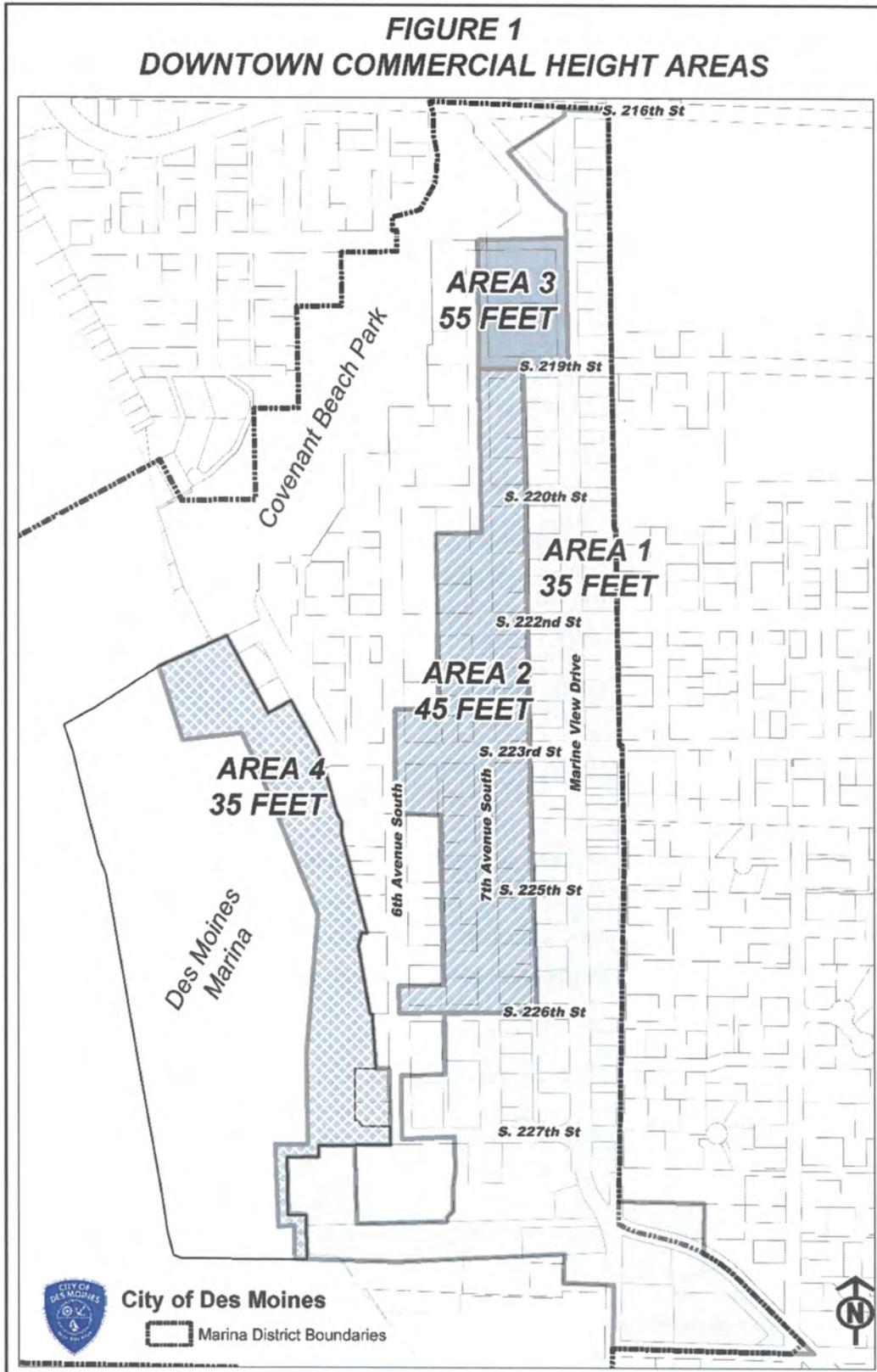
(1) Maximum Building Height.

(a) Area 1 on Figure 1. The maximum building height is 35 feet as measured from the highest sidewalk grade of the north-south roadway adjacent to the property; provided, that building heights shall not be measured from 8th Avenue South or the alleys.

(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.

(c) Area 3 on Figure 1. The maximum building height is 55 feet as measured from the highest sidewalk grade of 7th Avenue South adjacent to the property line.

(d) Area 4 (the Des Moines Marina) on Figure 1. The maximum building height is 35 feet as measured from the Des Moines Marina floor.



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

(2) Building Height Bonus. In the D-C Zone, the City Manager or the City Manager's designee may authorize additional building heights as provided in this subsection:

(a) Area 1 on Figure 2. The maximum building height is 55 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.

(~~ib~~) The ~~total~~ maximum number of buildings within the ~~bonus area~~ Area 1 that can be authorized to utilize the height bonus by the City Manager or the City Manager's designee under this section is three buildings.

(~~ie~~) The total floor area of the building does not exceed the total allowable floor area ratio as determined by DMMC 18.115.080(3).

(~~iid~~) The minimum building site area is 20,000 square feet.

(~~ive~~) Pedestrian-oriented spaces as defined in the Marina District Guidelines are shall be provided.

(~~vf~~) The property owner shall enter into a no protest agreement regarding the formation of a Parking Business Improvement Area as regulated in chapter 35.87A RCW.

(b) Area 2 on Figure 2. The maximum building height is 45 feet as measured from the highest sidewalk grade of Marine View Drive, subject to the following conditions:

(i) The maximum number of buildings within Area 2 that can be authorized to utilize the height bonus by the City Manager or the

Ordinance No. \_\_\_\_  
Page 6 of \_\_\_\_

City Manager's designee under this section is three buildings.

(ii) The property must be located at least 300 feet from other properties that are granted a height bonus within Area 2.

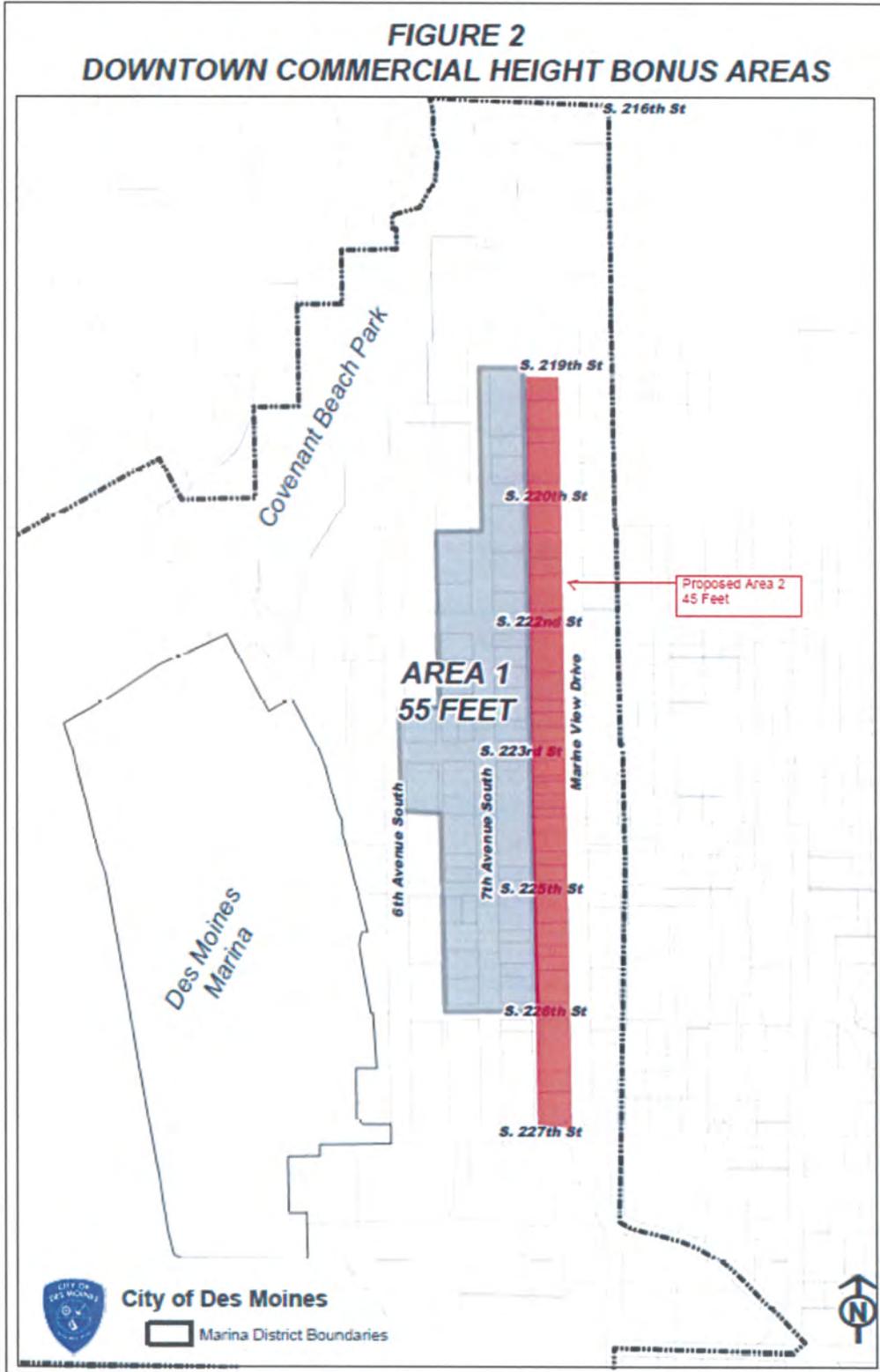
(iii) The total floor area of the building shall not exceed the total allowable floor area ratio as determined by DMMC 18.115.080(3).

(iv) The minimum building site area shall be 15,000 square feet.

(v) Pedestrian-oriented spaces as defined in the Marina District Guidelines shall be provided.

(vi) The property owner shall enter into a no protest agreement regarding the formation of a Parking Business Improvement Area as regulated in chapter 35.87A RCW.

(vii) To be eligible for the height bonus, a notice of complete land use application must be issued by December 31, 2017.



Ordinance No. \_\_\_\_  
Page 8 of \_\_\_\_

**Sec. 2.** DMMC 18.115.080 and section 280 of Ordinance No. 1591 are amended as follows:

Development within the D-C Zone shall conform to the following building design requirements:

(1) Structural encroachments into the right-of-way, such as cornices, signs, eaves, sills, awnings, bay windows, balconies, facade treatment, marquees, etc. shall conform to the provisions set forth by Titles 12 and 14 DMMC, and the following provisions:

(a) Structural encroachments into the right-of-way shall be capable of being removed without impact upon the structural integrity of the primary building;

(b) Structural encroachments into the right-of-way shall not result in additional building floor area than would otherwise be allowed;

(c) Except for awnings, signs, and marquees, the maximum horizontal encroachment into the right-of-way shall be two feet;

(d) The maximum horizontal encroachment in the right-of-way by signs shall be four feet;

(e) The maximum horizontal encroachment in the right-of-way by awnings and marquees shall be six feet;

(f) The minimum horizontal distance between the structural encroachment and the curblines shall be two feet;

(g) Except for awnings over the public sidewalk which may be continuous, the maximum length of each balcony, bay window, or similar feature that encroaches the right-of-way shall be 12 feet;

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(h) The applicant shall demonstrate proof of public liability insurance and consent to a public place indemnity agreement;

(i) Owners of structural encroachments into the right-of-way must clear the public right-of-way when ordered to do so by City authorities for reasons of public health or safety; and

(j) In reviewing a proposed structural encroachment into the public right-of-way, the City Manager or the City Manager's designee may include conditions as may be reasonably needed to ensure that the structure is consistent with the purpose of the D-C Zone, and to minimize the likelihood of adverse impacts. The City Manager or the City Manager's designee shall deny the request if it is determined that adverse impacts cannot be mitigated satisfactorily.

(2) Pedestrian entrances at street level shall conform to all applicable provisions of chapter 51-10 WAC, Barrier-Free Facilities, as presently constituted or as may be subsequently amended.

(3) Maximum Gross Floor Area.

(a) Area 1 and Area 4, Figure 1. The maximum gross floor area allowed on a site is determined by multiplying the lot area of the site by 2.5.

(b) Area 2, Figure 1. The maximum gross floor area allowed on a site is determined by multiplying the lot area of the site by 3.2.

(c) Area 3, Figure 1. The maximum gross floor area allowed on a site is determined by multiplying the lot area of the site by 3.5.

(d) Using the public benefit incentive system in subsection (4) of this section, the maximum gross floor area allowed is: ~~on a site in~~

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(i) Area 1, Figure 2, the maximum gross floor area allowed is determined by multiplying the lot area of the site by 3.5.

(ii) Area 2, Figure 2, the maximum gross floor area allowed is determined by multiplying the lot area of the site by 3.2.

(e) For the purposes of this section, gross floor area does not include any underground areas designed and used for parking.

(f) For the purpose of this section, when more than one building is located on a single property the sum of all gross floor areas of all the buildings shall not exceed the total gross floor area allowed for the property.

(4) Public Benefit Incentive System. The City Manager or the City Manager's designee may approve additional building square footage based on the ratios in Table 18.115.080 subject to the following:

(a) The gross floor area and/or building height limits cannot exceed the limits allowed in subsection (3) of this section and DMMC 18.115.060(2), as provided in Table 18.115.080 and the requirements of this section.

(b) The City Manager or the City Manager's designee may approve a public benefit feature not listed in Table 18.115.080 if a public benefit is located within the Marina District, a public benefit will be derived from the proposed feature that is roughly equivalent to the benefit derived from a feature in Table 18.115.080.

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**Table 18.115.080 Public Benefit  
 Incentive System Ratios**

PUBLIC BENEFIT FEATURE	BONUS FLOOR AREA PER UNIT OF PUBLIC BENEFIT FEATURE
<b>1. Streetscape</b>	
Each \$1,000 spent on additional roadway improvements above what is required by chapter <u>12.20</u> DMMC	100 square feet
<b>2. Design Elements</b>	
1 sq. ft. of underground parking	5 square feet
1 sq. ft. of below-ground public parking structure	2.5 square feet
1 sq. ft. of shared parking (for other sites)	0.5 square feet
1 sq. ft. of rooftop garden	2 square feet
1 sq. ft. of rooftop beautification	2 square feet
<u>Each additional design element aimed at reducing building bulk and mass (e.g., overhead awning for weather protection, distinctive entry features, building modulation, varied roofline)</u>	<u>100 square feet</u>
<b>3. Civic Contributions</b>	
1 sq. ft. of public parking area	0.5 square feet
1 sq. ft. of public meeting/conference facilities	1 square foot
Each \$1,000 spent on public art or water features	100 square feet

Ordinance No. \_\_\_\_  
Page 12 of \_\_\_\_

**Table 18.115.080 Public Benefit  
Incentive System Ratios**

PUBLIC BENEFIT FEATURE	BONUS FLOOR AREA PER UNIT OF PUBLIC BENEFIT FEATURE
Each \$1,000 spent to improve connections to the Des Moines Marina to include signage, way finding, and improved pedestrian connections	100 square feet
Each \$1,000 spent to improve Covenant Beach Park National Historic District	100 square feet
<b>4. Uses</b>	
1 sq. ft. restaurant (not fast-food or take-out)	1 square foot
1 sq. ft. rooftop or top floor restaurant (not fast-food or take-out)	4 square feet
<del>1 sq. ft. of day-care facilities</del>	<del>6 square feet</del>
1 sq. ft. of public restroom	4 square feet
1 sq. ft. of public open space	4 square feet
1 sq. ft. of <u>additional</u> retail use on ground floor, <u>above that required by DMMC 18.115.050(9)</u>	2 square feet
1 sq. ft. of theater or performing arts venue	5 square feet

**Sec. 3. Severability - Construction.**

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional

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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. 4. 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 \_\_\_\_, 2015 and signed in authentication thereof this \_\_\_\_ day of \_\_\_\_, 2015.

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

APPROVED AS TO FORM:

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

ATTEST:

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

Published:

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**Denise Lathrop**

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**From:** billlinscott@yahoo.com  
**Sent:** Friday, July 24, 2015 11:47 AM  
**To:** Denise Lathrop  
**Subject:** Clarification Regarding Public Notice of Determination of Nonsignificance and Public Hearing

Denise Lathrop,

I am reviewing the decision on July 24, 2015 and its Notice of Determination or Nonsignificance and Public Hearing. I am confused by the notice and the map on the backside. Under the *Proposal* section, it states there is an "Area 2" on "Figure 2 Downtown Commercial Height Bonus Areas." When I look at the map on the backside, I do not find identification of this new Area 2. Could you help clarify where Area 2 is placed?

It also states this provides for up to three properties, located on the west side of Marine View Drive South, to have the ten-foot building height bonus. Does this statement imply these three properties will be literally located along Marine View Drive South (its west side), or is it intended to mean three properties anywhere west of Marine View Drive South (to include 7th Avenue, 6th Avenue, and Dock Street)?

I also notice that South 227th street is not identified on the map. Those individuals not familiar with the area will have difficulty spotting 227th. It would be good to have you revise this map to be complete with each of the streets identified. This would be helpful for the public in future reviews.

A quick response is appreciated to ensure I can get comments in by August 7th. (Email response, please.)

Thanks for your help and assistance.

*Bill*

Bill and Patti Linscott  
22335 6th Ave So  
Des Moines WA 98198  
206-445-2099

Sent from Windows Mail

## Denise Lathrop

---

**From:** Jan Jones-Hickling <janhickling@gmail.com>  
**Sent:** Tuesday, July 28, 2015 11:56 AM  
**To:** Denise Lathrop; CityCouncil  
**Subject:** Comments on the DNS for Height Increase in the Marina District

Hello to Denise and City Council -

I have read the DNS for the proposed height increase between 227th and 219th in the Marina District and I have looked at the map of the proposed area and find the whole project strange and confusing. Why would the City go through the time and expense of a zoning change without anybody asking for it. The project is described as a "non-project action". Unless somebody is planning to sell their property or build on one of the properties I am confused why is this even being considered?

I also have specific questions and comments for the following:

Page 1, paragraph 2 "Does not have a probable significant adverse affect on the environment" and an EIS is not required. How can the City, who wants to change the zoning, be allowed to make this decision? It is clear they would be biased to their own end.

B - Environmental elements - If nobody knows what will be built how can a you claim it won't cause any problem.

1-Earth - Digging any place close to the water table or the bottom of a hill can have unpredictable results. All buildings have footings that go far below the surface of the street and water traveling below the surface, down the hill could be blocked and pop up in unexpected places. Once water has found an easy path it is hard to stop it

3-Water - If you put more pavement on the ground, there is less dirt to absorb the water. If you put large buildings in the way of the natural downhill flow the water will pour around them. Where will the excessive water go? Will the drains be able to handle the extra water? Will the excessive water flood the two creeks? Our weather has also been changing; The summers are drier and the winters are wetter. Has this been considered?

## 10-Aesthetics

B-Views I can guarantee you if a 45 ft. building (measured to the roof line) with all the necessary HVAC and un-necessary adornments is built behind the Jack-in-the-Box restaurant, the 180' view from my duplex will be ruined!! And every other house parallel to mine and behind me will lose their views too. And to say otherwise is a LIE!!!!

## 14-Transportation

a- If you add hundreds of new cars onto the existing streets the cars will be backed up into Anthony's parking lot. Along Marine Dr. the light at Red Robin and the next light at 7-11 are often backed up during busy times. If there is a over-sized apartment building right there it will be an awful mess. Traffic jams will ruin the peaceful water-front town image Des Moines has tried to project.

c- Lack of parking is a killer for business. People might drive around and around looking for a parking spot once. But they will not be back. There is minimal parking now and the site behind Jack-in-the-Box is small and won't offered more than the amount of parking legally required. If the building wasn't excessively high this wouldn't be a problem. But with the extra units where will they all park their 2nd car? Bank of America? There might be a few free spots along the back roads but they won't hold the excessive amount of cars coming in by adding a third story. The proposed change is too much a burden to the existing parking. It is more than was planned for with the current zoning.

F - This statement acknowledges new jobs and housing which is great and the amount originally considered and approved with the current zoning will work. The proposed addition is too much of an overload.

I realize the Des Moines City Council wants to grow the city but the growth need not come at the cost of ruining the present appealing, walkable, water-front town. There is a fine line between enough and too much. What will work? New buildings that fit into the existing code and landscape or large, ugly, piggish buildings exceeding the current, planned zoning that congest the streets and ruin views.

I encourage the City Council to look at other water front towns and see what works and what doesn't. Lahaina Maui - great place, very busy for business and restaurants but they have preserved the image of a harbor town primarily due to strict height limits. Honolulu, Hawaii - Beautiful golden beaches filled rows of buildings without charm due to the unrestricted growth. And the buildings in Honolulu with the water views/on the water are the nice ones - high values, high rents but just a few streets back where there is no view it get trashy and cheap. The back hotels/apartments attract low rate people- noisy, drinking, drugging and stealing from the nice people a with the views. More people yes, but it's nothing more than an LA with trade winds.

Des Moines is a safe place. It is a peaceful water front town so many visit to escape their stressful lives. I always feel safe at the 4th of July show which is not true at many of the others. If you allow excessively tall buildings and the troubles that come with them will the many retirees feel safe and secure?

The city of Renton made quick decisions without taking the time to check the results of similar decisions in other towns and the result is empty buildings and a strong criminal element in their downtown.

It makes more sense to wait until there is a builder at hand and offer them potential of a zoning variance to build higher based on the plans and designs. Smarter decisions will be made looking at drawings which give the real height. A sweeping zoning change covering the front of the city is extreme. Growth must come carefully; the big buildings will never go away and the views will never come back once their gone.

Thanks you for your time. I hope you take the time to consider my views and reconsider the proposed change.

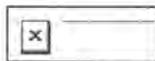
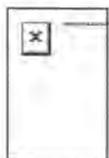
Jan Hickling

846 S 227th Pl

Des Moines, Wa.

425-442-8606

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*Jan Jones-Hickling*  
*The Force Realty*  
*425-442-8606*



*"Who you work with matters."*

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Victoria L Nichols  
 916 S. 226 Place  
 Des Moines, WA 98198

August 5, 2015

Denise Lathrop, AICP

Des Moines Planning, Building & Public Works Dept.

21630 11<sup>th</sup> Ave. S., Suite D

Des Moines, WA 98198

Dear Ms. Lathrop:

The following are comments regarding the SEPA checklist for the DNS on LUA2015-0040:

Page 3, Item #9 It is stated that non specific but were addressing the council about this issue last summer on the Fortun property and the Des Moines Theater Property is mentioned later on. This has recently changed hands and the three properties that bonus would go to?

Page 3, Item #11: Differing to your assertions, the vision and policy framework for the Marina District as set forth in the Des Moines 2035 Comprehensive Plan actually would seem to be against this ordinance. The following address the adjacent neighborhood to the east as well as the pedestrian experience downtown:

On page 2-2, Goal LU1: "Actively guide and manage growth in a way that preserves and enhances the quality of life."

On page 2-4, Policies and Implementation Strategies LU 1.5.3: "Apply development standards and strategies that address land use transitions in order to manage impacts on residents and businesses, including but not limited to the following: site access and circulation; structure height, bulk, and scale separation of buildings: ( a large concern) landscaping; density; and noise buffering"

On page 2-5, Policies and Implementation Strategies LU 1.7: "Preserve the integrity of single family neighborhoods."

On page 7-4, Housing Element; Policies and Implementation Strategies HOU 3.1: "Protect residential areas from adverse impacts associated with incompatible land uses"

On page 10-2, Marina District; Goals MD1: “Ensure that Marina District will be: (#9) An area with views of Puget Sound and the Olympic Mountains

On page 10-3, Marina District; Policies and Implementation Strategies: MD 1.1.3: “Ensure that new development at the edge of the D-C Downtown Commercial Zone has minimal impact upon nearby residences.” (increase noise, traffic and density)

On page 10-3, Marina District; Policies and Implementation Strategies: MD 2.2: “Building height should not adversely impact the adjacent street environment or nearby land uses.” ( lost of sun light, cars )

On page 10-3, Marina District; Policies and Implementation Strategies; MD 2.2.1: “Encourage new construction to incorporate design elements that provide view corridors, visual interest, and pedestrian scale.”

On page 10-3: Marina District; Policies and Implementation Strategies: MD 2.2.2: “Require the terracing and modulation of upper floors of buildings.” How is this a benefit to the general residents of the community.?

Page 6, Item #1 There are underground springs in the area, with construction this could affect the surface water runoff. Which would be a problem to community as a whole (Lake Taco was if a previous time when surface water was not taken into account.)

On page DG-10: “Projects should be compatible with the scale of development anticipated by the applicable land use policies and zoning for the surrounding area and should be sited and designed to provide a sensitive transition to nearby, less-intensive zones. Projects on zone edges should be developed in a manner that creates a step in perceived height, bulk and scale between the anticipated development potential of the adjacent zones.” ( this not step in )

On page DG-13: “Views from outside the area as well as from within the neighborhood should be considered, and roof-top elements should be organized to minimize view impacts from elevated areas.” (They add structure and height to the building see Dom)

On page DG-21: “A primary goal stated in the Marina District’s Vision Statement is to “enhance the image of Des Moines as a special Puget Sound waterfront community.”( How this proposal enhancing the image with large building with bulk adding it oversize to the existing structures?)

Page 16, Item #10.a: The tallest structures are known even if this is a “non-project” action since any property applying under this ordinance is requesting an additional 10 feet of height. Additionally, there will be additional height for appurtenances that in a recently approved downtown structure can add 16 feet (elevator shaft) and can increase the majority of the façade by approximately 10 feet above the “stated” height. ( Thus making the building 55 ft in true height)

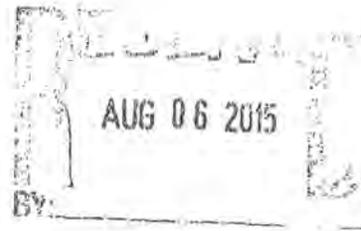
Page 20, Item #14.d: This is based on Transportation plan from 2009 and does take in account extra height on 7<sup>th</sup> Avenue and this bonus proposal, thus increase transportation needs of all types. Thus this would be placing additional extra pressure on already existing roads and sidewalks in the area. Further would you not need extra road capacity for the increase traffic, since not of all these new people not use public transportation?

In conclusion, this ordinance requires an Environmental Impact Statement that addresses the issues brought out in this comment letter. The DNS is incorrect.

Sincerely

Victoria L Nichols

Denise Lathrop, AICP  
 Des Moines Planning, Building  
 & Public Works  
 21630 11<sup>th</sup> Ave S., D  
 Des Moines, WA 98198  
 File Number: LUA2015-0040  
 SEPA Checklist



Ms. Lathrop,

I received a notice in the mail concerning the proposed raising of building heights in downtown Des Moines. (LUA2015-0040).

I went back and looked over my previous numerous comments to the City Council regarding this building height issue. There were letters dated 2010, 2012, and 2014. I have attended numerous city council meetings on this subject. I and other citizens of Des Moines have met personally with individual members of the city council only to be re-assured and promised that raising bldg. heights will not happen while they are on the council.

Why then are we still discussing this? The City Council can just tell the land developers that the plan was passed and it was determined that the bldg. heights are set at 35 feet, period. That's it. Tell them to drive over to Kent Station and see the low heights of buildings there. The stores are busy. The restaurants are busy. Kent is making MONEY on that development project. And all THEIR buildings are less than 35 feet !

What's better for downtown Des Moines? Is it the good of a few greedy land developers or the good of the people who live/walk/and shop the businesses of the downtown area? Other businesses are against this too!

The people of Des Moines are the ones that have elected the city council to PROTECT their land. Protect their home values. The people pay the taxes. If home values decrease due to no views, then tax revenues will go down. People will move away. No one will want to live here. And why not?

All there will be is a wall of concrete and no place to even park !

Consider this:

The charm and beauty of the city is our most valuable asset. It is a walkable city. With access to the Marina and the beaches. This type of waterfront town will be rare in the future of Puget Sound. We need to preserve it.....instead of destroying it. This can be done with attractive building structures. (Think New England fishing village). We can have nice upscale businesses.

Once you decide to destroy Des Moines, there's no going back. There's no "UNDO" button. The consequences are permanent. People and businesses whose views are destroyed will move away. Cheap Dollar Tree stores and apartment slums will take over.

Also consider this:

Senior apartments, hotels, and tall condo type buildings need to be built. We all agree on that. But build them up on highway 99 where they can go up 500 feet or more. There will also be room for parking garages. They will have great views of Puget Sound from there. They will be next to bus lines, and the light rail train !! That is the appropriate location.

**Stick to your previous promises and agreements with the people of Des Moines.**  
Keep the downtown building heights at 35 feet.

**You PROMISED us this.**

Sincerely,

Anita Johnson  
Resident and tax payer  
of Des Moines for 52 years

22555 10<sup>th</sup> Ave South  
206-824-2444

References:

Marina District: Policies and Implementation Strategies  
Des Moines 2035 Comprehensive Plan

## Denise Lathrop

---

**From:** Terri DiMartino <girdog2007@gmail.com>  
**Sent:** Thursday, August 06, 2015 7:36 PM  
**To:** Denise Lathrop  
**Cc:** girdog2007@gmail.com  
**Subject:** COMMENTS ON LUA2015-0040

Dear Ms. Lathrop,

Please see our comments regarding the SEPA checklist for the DNS on LUA2015-0040:

Page 3, Item #9: The Tryg Fortun property had a development proposal in last year and even if there is nothing right now in front of you formally, this ordinance appears to be responsive to his development proposal. Please inform us of any other proposals even if not formally before you. The Resolution setting the Public Hearing clearly mentions the Des Moines Theater property and since that was recently bought, it would appear that the city has been in conversation with the new owners. What are their plans? What other plans are in the formative stage that would be affected by this ordinance based on conversations staff has had but about which the public may not be informed?

Page 3, Item #11: Contrary to your assertions, the vision and policy framework for the Marina District as set forth in the Des Moines 2035 Comprehensive Plan actually would seem to be against this ordinance. The following address the adjacent neighborhood to the east as well as the pedestrian experience downtown:

On page 2-2, Goal LU1: "Actively guide and manage growth in a way that preserves and enhances the quality of life."

On page 2-4, Policies and Implementation Strategies LU 1.5.3: "Apply development standards and strategies that address land use transitions in order to manage impacts on residents and businesses, including but not limited to the following: site access and circulation; **structure height, bulk, and scale** (my emphasis); separation of buildings; landscaping; density; and noise buffering"

On page 2-5, Policies and Implementation Strategies LU 1.7: "Preserve the integrity of single family neighborhoods."

On page 7-4, Housing Element; Policies and Implementation Strategies HOU 3.1: "Protect residential areas from adverse impacts associated with incompatible land uses"

On page 10-2, Marina District; Goals MD1: "Ensure that Marina District will be: (#9) Anarea with views of Puget Sound and the Olympic Mountains.

On page 10-3, Marina District; Policies and Implementation Strategies: MD 1.1.3: "Ensure that new development at the edge of the D-C Downtown Commercial Zone has minimal impact upon nearby residences."

On page 10-3, Marina District; Policies and Implementation Strategies: MD 2.2: "Building height should not adversely impact the adjacent street environment or nearby land uses."

On page 10-3, Marina District; Policies and Implementation Strategies: MD 2.2.1: “Encourage new construction to incorporate design elements that provide view corridors, visual interest, and pedestrian scale.”

On page 10-3: Marina District; Policies and Implementation Strategies: MD 2.2.2: “Require the terracing and modulation of upper floors of buildings.”

You state that there was input from the Council Finance and Economic Development Committee. I cannot find this ordinance or building height increase along MVDS in agenda or minutes from that committee. Please cite pertinent Minutes and include transcript if claiming this as input. Also, the same for the City Council. Although it was placed on the agenda, there is no public documentation I can find of any discussion or input from the Council on this matter. Please include a transcript of such input.

You discuss a public benefit system similar to that used on 7<sup>th</sup> Ave. S. However, it appears that there is little to no public benefit to most of these items. Rooftop gardens and rooftop “beautification” benefit building residents, not the public. Underground parking may give more development space to the developer, but is not a benefit to the public. Public meeting/conference facilities are not a public benefit if fees are charged which simply make it a profit center for the building owner. Restaurants, day care, and retail space are zoning requirements or expected businesses in any downtown, not special benefits warranting some special incentive.

Page 6, Item #1f: There are underground springs in this area that might result in erosion if uncovered. Disturbance of these springs can result in changed drainage patterns or new problems with surface water management. These comments apply to checklist item on Water as well (see especially page 9 checklist items).

Page 6, Item #1g: Projects in the downtown area almost universally have 100% site coverage with impervious surface.

Page 12, Item #6: There does not have to be a specific site known to acknowledge that taller buildings will throw more shadows on structures to west in this situation and this will impair the ability of these structures to utilize solar power.

Page 15, item #8l: This ordinance is not compatible with existing and projected land uses and plans. See my comments above related to current Comprehensive Plan. Also, from the Marina Design Guidelines:

On p.4: “Employ façade modulation and articulation to provide appropriate human and architectural scale, view corridors, and visual interest.”

On page DG-2: “Encourage provision of “outlooks and overlooks” for the public to view Puget Sound, Olympic Mountains and cityscapes. Examples include provision of public plazas and/or other public open spaces and changing the form or setbacks of the building to enhance views.”

On page DG-10: “Projects should be compatible with the scale of development anticipated by the applicable land use policies and zoning for the surrounding area and should be sited and designed to provide a sensitive transition to nearby, less-intensive zones. Projects on zone edges should be developed in a manner that creates a step in perceived height, bulk and scale between the anticipated development potential of the adjacent zones.”

On page DG-13: “Views from outside the area as well as from within the neighborhood should be considered, and roof-top elements should be organized to minimize view impacts from elevated areas.”

On page DG-21: “A primary goal stated in the Marina District’s Vision Statement is to “enhance the image of Des Moines as a special Puget Sound waterfront community.” Besides its excellent waterfront, an important natural feature of the Marina District is its bowl-shaped topography which provides views from surrounding neighborhoods down toward the district. The valley topography also helps to define the Marina District’s edges and facilitates the transition from largely commercial activities in the valley floor to the mostly residential areas in the uplands.”

On page DG-23: “The landscape design should take advantage of special on-site conditions such as high-bank front yards, steep slopes, view corridors, or existing significant trees and off-site conditions such as greenbelts, ravines, and natural areas.”

Page 16, Item #10.a: The tallest structures are known even if this is a “non-project” action since any property applying under this ordinance is requesting an additional 10 feet of height. Additionally, there will be additional height for appurtenances that in a recently approved downtown structure can add 16 feet (elevator shaft) and can increase the majority of the façade by approximately 10 feet above the “stated” height.

Page 16, Item #10.b: It is known that views will be altered considerably, see Item #10.a above.

Page 16, Item #10.c: The Comprehensive Plan and Marina District Design Guidelines clearly state that mitigation should occur, with the Comp Plan “requiring” step-backs of upper stories. In fact, the Planning Department has recently approved the largest building downtown ignoring this requirement completely as well as ignoring all the above quotes from both the Comp Plan and the Design Guidelines that clearly state how important views and view corridors are. So even if specific views are not protected, there is ample evidence that the city considers view preservation important and necessary.

Page 19, Item #14.b: RapidRide is 2 miles from any of the impacted sites. This is known even though this is “non-project” action.

Page 20, Item #14.d: The city has not updated its Comprehensive Transportation Plan since 2009. That Plan does not include the increased building heights (to 45 feet) all along 7<sup>th</sup> Ave. S. downtown nor the “bonus heights”, and certainly not this ordinance. These events have all increased the number of people and vehicles that will be in the downtown area (I estimate at 750 increased dwelling units if built out according to code). This ordinance will clearly increase the number of potential dwelling units and since we do not have any documentation of the effects of the last Marina District rezone on traffic or congestion, the environmental effects are not accounted for. These should be considered for full build out of the entire Marina District as the city has not updated its Comprehensive Transportation Plan to include the effects of these legislative actions. This comment applies to this entire section of the Checklist.

Page 21, Item # 15.a and b: Your statement that the proportional increase I need for public services is not beyond the capacity anticipated is not based on fact. Actions taken to increase densities in the Marina District in the past 5 years regarding increased demand on services are not accounted for and appear beyond the capacity of the city which is near bankruptcy according to Auditor’s Accountability Report for the year 2013.

Page 24, Item #1: You have not demonstrated that concentrating population density will reduce auto dependency, traffic congestion, or petroleum consumption. Just because a resident lives in a multi-housing dwelling does not mean in any way that that resident will not have a vehicle and use it in the same manner as a single resident living in single family housing.

Page 25, Item #3: Taller buildings block more light than shorter ones and will have an impact on any solar panels on neighboring structures. This will increase the carbon footprint downtown.

Page 26, 27, 28, 29, Item #5: This zoning amendment is not necessary 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. That vision is already sustained by the increased densities, signage laws, reduced parking requirements, etc. already in the code. Your quote that “A revitalized Downtown with a small-town charm reflecting the City’s rich history invites...” does not support this ordinance which helps create a dense, mid-sized city, not a small town. Regarding the Land Use Element section: This ordinance does not “reduce poverty”. Regarding the Marina District Element: The first three bullet points are the opposite of what this ordinance will create and are exactly counter to the assertions you are trying to forward. The proposed measures to avoid or reduce land use impacts do not accomplish this goal. Spacing taller buildings on Marine View Drive S. does nothing to mitigate the fact that taller buildings can occupy that north/south “space” on 7<sup>th</sup> Ave. S., creating the wall of view blockage and building mass that you claim is mitigated. The public benefit system is largely a “private benefit system” benefiting the property developer/owner and its residents (e.g. rooftop garden, underground parking) or is a “benefit” that is already zoned for in that district. You claim that the city does not regulate view protection, but the Comprehensive Plan and the Marina District Design Guidelines have numerous references to the importance of view corridors and even specific statements of how to preserve them. See my comments and quotes earlier in this comment letter. Unfortunately, the city has chosen to ignore these documents with the most recent development proposals.

Page 30, Item #6: Please see my comments above regarding the failure of the city to account for transportation impacts anticipated due to zoning changes since the last Comprehensive Transportation Plan which is now outdated. To claim that this ordinance alone will have small impact turns a blind eye to the fact that this ordinance has an additive effect to transportation impacts unaccounted for over the past 5 years.

In conclusion, this ordinance requires an Environmental Impact Statement that addresses the issues brought out in this comment letter. The DNS is incorrect.

Sincerely,

Peter and Terri DiMartino  
22540 8th Ave S.  
Des Moines, WA 98198

Sent from my iPad

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

July 30, 2015

Denise Lathrop, AICP  
Des Moines Planning, Building & Public Works Dept.  
21630 11<sup>th</sup> Ave. S., Suite D  
Des Moines, WA 98198

Dear Ms. Lathrop,

The following are comments regarding the SEPA checklist for the DNS on LUA2015-0040:

Page 3, Item #9: The Tryg Fortun property had a development proposal in last year and even if there is nothing right now in front of you formally, this ordinance appears to be responsive to his development proposal. Please inform us of any other proposals even if not formally before you. The Resolution setting the Public Hearing clearly mentions the Des Moines Theater property and since that was recently bought, it would appear that the city has been in conversation with the new owners. What are their plans? What other plans are in the formative stage that would be affected by this ordinance based on conversations staff has had but about which the public may not be informed?

Page 3, Item #11: Contrary to your assertions, the vision and policy framework for the Marina District as set forth in the Des Moines 2035 Comprehensive Plan actually would seem to be against this ordinance. The following address the adjacent neighborhood to the east as well as the pedestrian experience downtown:

On page 2-2, Goal LU1: "Actively guide and manage growth in a way that preserves and enhances the quality of life."

On page 2-4, Policies and Implementation Strategies LU 1.5.3: "Apply development standards and strategies that address land use transitions in order to manage impacts on residents and businesses, including but not limited to the following: site access and circulation; **structure height, bulk, and scale** (my emphasis); separation of buildings; landscaping; density; and noise buffering"

On page 2-5, Policies and Implementation Strategies LU 1.7: "Preserve the integrity of single family neighborhoods."

On page 7-4, Housing Element; Policies and Implementation Strategies HOU 3.1: "Protect residential areas from adverse impacts associated with incompatible land uses"

On page 10-2, Marina District; Goals MD1: "Ensure that Marina District will be: (#9) An area with views of Puget Sound and the Olympic Mountains."

On page 10-3, Marina District; Policies and Implementation Strategies: MD 1.1.3:  
 “Ensure that new development at the edge of the D-C Downtown Commercial Zone has minimal impact upon nearby residences.”

On page 10-3, Marina District; Policies and Implementation Strategies: MD 2.2:  
 “Building height should not adversely impact the adjacent street environment or nearby land uses.”

On page 10-3, Marina District; Policies and Implementation Strategies: MD 2.2.1:  
 “Encourage new construction to incorporate design elements that provide view corridors, visual interest, and pedestrian scale.”

On page 10-3: Marina District; Policies and Implementation Strategies: MD 2.2.2:  
 “Require the terracing and modulation of upper floors of buildings.”

You state that there was input from the Council Finance and Economic Development Committee. I cannot find this ordinance or building height increase along MVDS in agenda or minutes from that committee. Please cite pertinent Minutes and include transcript if claiming this as input. Also, the same for the City Council. Although it was placed on the agenda, there is no public documentation I can find of any discussion or input from the Council on this matter. Please include a transcript of such input.

You discuss a public benefit system similar to that used on 7<sup>th</sup> Ave. S. However, it appears that there is little to no public benefit to most of these items. Rooftop gardens and rooftop “beautification” benefit building residents, not the public. Underground parking may give more development space to the developer, but is not a benefit to the public. Public meeting/conference facilities are not a public benefit if fees are charged which simply make it a profit center for the building owner. Restaurants, day care, and retail space are zoning requirements or expected businesses in any downtown, not special benefits warranting some special incentive.

Page 6, Item #1f: There are underground springs in this area that might result in erosion if uncovered. Disturbance of these springs can result in changed drainage patterns or new problems with surface water management. These comments apply to checklist item on Water as well (see especially page 9 checklist items).

Page 6, Item #1g: Projects in the downtown area almost universally have 100% site coverage with impervious surface.

Page 12, Item #6: There does not have to be a specific site known to acknowledge that taller buildings will throw more shadows on structures to the west in this situation and this will impair the ability of these structures to utilize solar power.

Page 15, item #8l: This ordinance is not compatible with existing and projected land uses and plans. See my comments above related to current Comprehensive Plan. Also, from the Marina Design Guidelines:

On p.4: “Employ façade modulation and articulation to provide appropriate human and architectural scale, view corridors, and visual interest.”

On page DG-2: “Encourage provision of “outlooks and overlooks” for the public to view Puget Sound, Olympic Mountains and cityscapes. Examples include provision of public plazas and/or other public open spaces and changing the form or setbacks of the building to enhance views.”

On page DG-10: “Projects should be compatible with the scale of development anticipated by the applicable land use policies and zoning for the surrounding area and should be sited and designed to provide a sensitive transition to nearby, less-intensive zones. Projects on zone edges should be developed in a manner that creates a step in perceived height, bulk and scale between the anticipated development potential of the adjacent zones.”

On page DG-13: “Views from outside the area as well as from within the neighborhood should be considered, and roof-top elements should be organized to minimize view impacts from elevated areas.”

On page DG-21: “A primary goal stated in the Marina District’s Vision Statement is to “enhance the image of Des Moines as a special Puget Sound waterfront community.” Besides its excellent waterfront, an important natural feature of the Marina District is its bowl-shaped topography which provides views from surrounding neighborhoods down toward the district. The valley topography also helps to define the Marina District’s edges and facilitates the transition from largely commercial activities in the valley floor to the mostly residential areas in the uplands.”

On page DG-23: “The landscape design should take advantage of special on-site conditions such as high-bank front yards, steep slopes, view corridors, or existing significant trees and off-site conditions such as greenbelts, ravines, and natural areas.”

Page 16, Item #10.a: The tallest structures are known even if this is a “non-project” action since any property applying under this ordinance is requesting an additional 10 feet of height. Additionally, there will be additional height for appurtenances that in a recently approved downtown structure can add 16 feet (elevator shaft) and can increase the majority of the façade by approximately 10 feet above the “stated” height.

Page 16, Item #10.b: It is known that views will be altered considerably, see Item #10.a above.

Page 16, Item #10.c: The Comprehensive Plan and Marina District Design Guidelines clearly state that mitigation should occur, with the Comp Plan “requiring” step-backs of upper stories. In fact, the Planning Department has recently approved the largest building downtown ignoring this requirement completely as well as ignoring all the above quotes from both the Comp Plan and the Design Guidelines that clearly state how important views and view corridors are. So even if specific views are not protected, there is ample evidence that the city considers view preservation important and necessary.

Page 19, Item #14.b: RapidRide is 2 miles from any of the impacted sites. This is known even though this is “non-project” action.

Page 20, Item #14.d: The city has not updated its Comprehensive Transportation Plan since 2009. That Plan does not include the increased building heights (to 45 feet) all along 7<sup>th</sup> Ave. S. downtown nor the “bonus heights”, and certainly not this ordinance. These events have all increased the number of people and vehicles that will be in the downtown area (I estimate at 750 increased dwelling units if built out according to code). This ordinance will clearly increase the number of potential dwelling units and since we do not have any documentation of the effects of the last Marina District rezone on traffic or congestion, the environmental effects are not accounted for. These should be considered for full build out of the entire Marina District as the city has not updated its Comprehensive Transportation Plan to include the effects of these legislative actions. This comment applies to this entire section of the Checklist.

Page 21, Item # 15.a and b: Your statement that the proportional increase needed for public services is not beyond the capacity anticipated is not based on fact. Actions taken to increase densities in the Marina District in the past 5 years regarding increased demand on services are not accounted for and appear beyond the capacity of the city which is near bankruptcy according to Auditor’s Accountability Report for the year 2013.

Page 24, Item #1: You have not demonstrated that concentrating population density will reduce auto dependency, traffic congestion, or petroleum consumption. Just because a resident lives in a multi-housing dwelling does not mean in any way that that resident will not have a vehicle and use it in the same manner as a single resident living in single family housing.

Page 25, Item #3: Taller buildings block more light than shorter ones and will have an impact on any solar panels on neighboring structures. This will increase the carbon footprint downtown.

Page 26, 27, 28, 29, Item #5: This zoning amendment is not necessary 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. That vision is already sustained by the increased densities, signage laws, reduced parking requirements, etc. already in the code. Your quote that “A revitalized Downtown with a small-town charm reflecting the City’s rich history invites...” does not support this ordinance which helps create a dense, mid-sized city, not a small town. Regarding the Land Use Element section: This ordinance does not “reduce poverty”. Regarding the Marina District Element: The first three bullet points are the opposite of what this ordinance will create and are exactly counter to the assertions you are trying to forward. The proposed measures to avoid or reduce land use impacts do not accomplish this goal. Spacing taller buildings on Marine View Drive S. does nothing to mitigate the fact that taller buildings can occupy that north/south “space” on 7<sup>th</sup> Ave. S., creating the wall of view blockage and building mass that you claim is mitigated. The public benefit system is largely a “private benefit system” benefiting the property developer/owner and its residents (e.g. rooftop garden, underground parking) or is a “benefit” that is already zoned for in that district. You claim that the city does not regulate view protection, but the Comprehensive Plan and the Marina District Design Guidelines have numerous references to the importance of view corridors and even specific statements of how to preserve them. See my comments and quotes earlier in this comment letter. Unfortunately, the city has chosen to ignore these documents with the most recent development proposals.

Page 30, Item #6: Please see my comments above regarding the failure of the city to account for transportation impacts anticipated due to zoning changes since the last Comprehensive Transportation Plan which is now outdated. To claim that this ordinance alone will have small impact turns a blind eye to the fact that this ordinance has an additive effect to transportation impacts unaccounted for over the past 5 years.

In conclusion, this ordinance requires an Environmental Impact Statement that addresses the issues brought out in this comment letter. The DNS is incorrect.

Sincerely,

Dan Sherman

## Denise Lathrop

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**From:** editor@northwestprimetime.com  
**Sent:** Friday, August 07, 2015 4:30 PM  
**To:** Denise Lathrop  
**Cc:** Dan Brewer; Tony Piasecki; CityCouncil; Pat Bosmans  
**Subject:** input on the SEPA checklist for the DNS on LUA2015-0040

Denise Lathrop, AICP  
 Des Moines Planning, Building & Public Works Dept.  
 21630 11<sup>th</sup> Ave. S., Suite D  
 Des Moines, WA 98198

I would like to provide input on the SEPA checklist for the DNS on LUA2015-0040.

Your assertions in LUA2015-0040 that allowing for up to three additional properties in the Marina District Neighborhood the ability to qualify for 10 foot building height bonuses is nonsignificant, and that such projects would not have adverse impact on the neighborhood and quality of life of citizens in Des Moines is patently false.

Granting building height bonuses in the area described would clearly change the existing Comprehensive Plan, and so the proposal changes the principles of the existing plan – a plan that had extensive citizen input and at great expense to Des Moines tax payers.

Adding a height bonus in the area described would clearly impact views for residents and other commercial buildings to the east of any new development in the area described. Why are you granting special privileges to a select few while decreasing the quality of life and property values of long-time residents and business owners?

The existing plan states that it will protect residential areas from adverse impacts associated with incompatible land uses, but this proposed change does not protect residential areas to the east of the proposed bonus height area – it alters residential areas negatively. The current policy states that new development will have minimal impact on nearby residences. Granting bonus heights that are not defined in the existing plan does not have “minimal impact” – it has great impact.

The current plan states that projects should be compatible with the scale of development anticipated by the applicable land use policies and zoning for the surrounding area. Projects on zone edges should be developed in a manner that creates a step in perceived height, bulk and scale between anticipated development potential of the adjacent zones, and yet the proposed building height bonuses as defined in the area you speak of are in direct opposition to this.

The current plan states that views from within the neighborhood should be considered – how are you considering the views from within the neighborhood by stating that this change is nonsignificant?

This proposed change IS significant and should be reviewed properly and not blithely classified as “insignificant.” It really feels like a slap in the face to the citizens of Des Moines to try to ram this issue through the way you are attempting to do. We thought we had put this type of thing behind us when the Comprehensive Plan was completed not so long ago.

Sincerely,  
 Michelle Roedell  
 22712 10<sup>th</sup> Avenue South  
 Des Moines, WA 98198

## Denise Lathrop

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**From:** Smoov\_ Sailing <smoov\_sailing@hotmail.com>  
**Sent:** Friday, August 07, 2015 4:25 PM  
**To:** Denise Lathrop  
**Cc:** Smoov\_ Sailing  
**Subject:** Comments Re: SEPA Checklist for the DNS on LUA2015-0040

Ms. Lathrop:

We would like to submit the following comments in regard to the SEPA checklist for the DNS on LUA2015-0040.

Page 3, Item #9: It would appear that the Resolution setting the Public Hearing clearly mentions the Des Moines Theater which was recently purchased. Has the city been in communication with the owners as to their plans? Are there other proposals, informal or formal, that would be affected by this ordinance based on conversations staff has had? Citizens would ask that we be informed as to any other proposals, informal or formal.

Page 3, Item #11: We disagree with your statements in regard to the vision and policy framework for the Marina District as set forth in the Des Moines 2035 Comprehensive Plan supporting this ordinance. In actuality, it would seem the 2035 Comprehensive Plan does the opposite.

Regarding the adjacent neighborhood to the east and the pedestrian experience downtown, there are numerous issues, including the following:

- On page 2-2, Goal LU1: "Actively guide and manage growth in a way that preserves and enhances the quality of life."
- On page 2-4, Policies and Implementation Strategies LU 1.5.3: "Apply development standards and strategies that address land use transitions in order to manage impacts on residents and businesses, including but not limited to the following: site access and circulation; **structure height, bulk, and scale**; separation of buildings; landscaping; density; and noise buffering"
- On page 2-5, Policies and Implementation Strategies LU 1.7: "Preserve the integrity of single family neighborhoods."
- On page 7-4, Housing Element; Policies and Implementation Strategies HOU 3.1: "Protect residential areas from adverse impacts associated with incompatible land uses"
- On page 10-2, Marina District; Goals MD1: "Ensure that Marina District will be: (#9) An area with views of Puget Sound and the Olympic Mountains." On page 10-3, Marina District; Policies and Implementation Strategies: MD 1.1.3: "Ensure that new development at the edge of the D-C Downtown Commercial Zone has minimal impact upon nearby residences.
- On page 10-3, Marina District; Policies and Implementation Strategies: MD 2.2: "Building height should not adversely impact the adjacent street environment or nearby land uses."
- On page 10-3, Marina District; Policies and Implementation Strategies: MD 2.2.1: "Encourage new construction to incorporate design elements that provide view corridors, visual interest, and pedestrian scale.
- On page 10-3: Marina District; Policies and Implementation Strategies: MD 2.2.2: "Require the terracing and

modulation of upper floors of buildings."

In regard to "public benefit systems" to be included that are similar to those on 7th Avenue S., we fail to see how the public benefits from the following which was mentioned by you:

- Rooftop gardens and rooftop "beautification" - benefits building residents only
- Underground parking - benefits the property developer, not the public
- Public meeting/conference facilities - benefits the building owner as fees can be charged for public use
- Restaurants, retail areas, day care - not special benefits which should provide special incentives to property developers/building owners

Page 6, Item #1f: Due to the presence of underground springs in this area, erosion could result if uncovered. Any disturbance of these springs can result in changed drainage patterns or new problems with surface water management. These comments apply to checklist item on Water as well (see especially page 9 checklist items).

Page 6, Item #1g: Projects in the downtown area almost universally have 100% site coverage with impervious surface.

Page 12, Item #6: It is not necessary to have a specific site known to acknowledge and determine that taller buildings will throw more shadows on structures to the west in this situation and this will impair the ability of these structures to utilize solar power. This should be able to be assumed as a result.

Page 15, item #8l: The ordinance is not compatible with existing and projected land uses and plans.

Per the current Comprehensive Plan and also from the Marina Design Guidelines, here are some of the incompatibilities:

- On p.4: "Employ façade modulation and articulation to provide appropriate human and architectural scale, view corridors, and visual interest."
- On page DG-2: "Encourage provision of "outlooks and overlooks" for the public to view Puget Sound, Olympic Mountains and cityscapes. Examples include provision of public plazas and/or other public open spaces and changing the form or setbacks of the building to enhance views."
- On page DG-10: "Projects should be compatible with the scale of development anticipated by the applicable land use policies and zoning for the surrounding area and should be sited and designed to provide a sensitive transition to nearby, less-intensive zones. Projects on zone edges should be developed in a manner that creates a step in perceived height, bulk and scale between the anticipated development potential of the adjacent zones."
- On page DG-13: "Views from outside the area as well as from within the neighborhood should be considered, and roof-top elements should be organized to minimize view impacts from elevated areas."
- On page DG-21: "A primary goal stated in the Marina District's Vision Statement is to "enhance the image of Des Moines as a special Puget Sound waterfront community." Besides its excellent waterfront, an important natural feature of the Marina District is its bowl-shaped topography which provides views from surrounding neighborhoods down toward the district. The valley topography also helps to define the Marina District's edges and facilitates the transition from largely commercial activities in the valley floor to the mostly residential areas in the uplands."
- On page DG-23: "The landscape design should take advantage of special on-site conditions such as high-bank front yards, steep slopes, view corridors, or existing significant trees and off-site conditions such as greenbelts,

ravines, and natural areas.

Page 16, Item #10.a: The tallest structures are known even if this is a "non-project" action since any property applying under this ordinance is requesting an additional 10 feet of height. On top of that, there will be additional height for appurtenances that in a recently approved downtown structure can add 16 feet (elevator shaft) and can increase the majority of the façade by approximately 10 feet above the "stated" height.

Page 16, Item #10.b: It is known that views will be altered considerably, see Item #10.a above.

Page 16, Item #10.c: The Comprehensive Plan and Marina District Design Guidelines clearly state that mitigation should occur, with the Comprehensive Plan "requiring" step-backs of upper stories. Most recently, the Planning Department has recently approved the largest building downtown ignoring this requirement completely as well as ignoring all the above quotes from both the Comprehensive Plan and the Design Guidelines that clearly state how important views and view corridors are. So even if specific views are not protected, there is ample evidence that the city considers view preservation important and necessary.

Page 4Page 19, Item #14.b: RapidRide is 2 miles from any of the impacted sites. This is known even though this is "non-project" action.

Page 20, Item #14.d: The city has not updated its Comprehensive Transportation Plan since 2009. The 2009 Plan does not include the increased building heights (to 45 feet) all along 7th Ave. S. downtown nor the "bonus heights", and certainly not this ordinance. These events have all significantly increased the number of people and vehicles that will be in the downtown area. This ordinance will result in an increase in the number of potential dwelling units. We have no documentation of the effects of the last Marina District rezone on traffic or congestion, therefore, the environmental effects are not accounted for in this regard. Because there is no updated Comprehensive Transportation Plan, it is clear that the city has not taken into consideration the effects of these legislative actions on the entire Marina District.

Page 21, Item # 15.a and b: The statement that the proportional increase needed for public services is not beyond the capacity anticipated is not based on fact. Actions taken to increase densities in the Marina District in the past 5 years regarding increased demand on services are not accounted for. They appear to be beyond the capacity of the city which is near bankruptcy (see Auditor's Accountability Report for the year 2013).

Page 24, Item #1: Your statement that concentrating population density will reduce auto dependency, traffic congestion, or petroleum consumption has not been based on evidence. One cannot make the assumption that because a resident lives in a multi-housing dwelling that that resident will not have a vehicle and use it in the same manner as a single resident living in single family housing.

Page 25, Item #3: Taller buildings block more light than shorter ones. They will have an impact on any solar panels on neighboring structures. This will result in an increase in the carbon footprint downtown.

Page 26, 27, 28, 29, Item #5: This zoning amendment is not necessary 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. That vision is already sustained by the increased densities, signage laws, reduced parking requirements, etc. already in the code. Your claim that "A revitalized Downtown with a small-town charm reflecting the City's rich history invites..." does not support this ordinance which helps create a dense, mid-sized city, not a small town.

In regard to the Land Use Element section: This ordinance does not "reduce poverty". Regarding the Marina District section: The first three bullet points are the opposite of what this ordinance will create and are exactly counter to the assertions you are trying to forward. The proposed measures to avoid or reduce land use impacts do not accomplish this goal. Spacing taller buildings on Marine View Drive S. does nothing to mitigate the fact that taller buildings can occupy that north/south "space" on 7th Ave. S., creating the wall of view blockage and building mass that you claim is mitigated. The public benefit system is largely a "private benefit system" benefiting the property developer/owner and its residents (e.g. rooftop garden, underground parking) or is a "benefit" that is already zoned for in that district. You claim that the city does not regulate view protection, but the Comprehensive Plan and the Marina District Design Guidelines have numerous references to the importance of view corridors and even specific statements of how to preserve them. See my comments and quotes earlier in this comment letter. Unfortunately, the city has chosen to ignore these documents with the most recent development proposals.

Page 30, Item #6: Please see comments regarding Page 20, Item #14.d. above regarding transportation impacts based on outdated Comprehensive Transportation Plan. Claiming small impact based on an outdated plan cannot be demonstrated.

We feel that this ordinance requires an Environmental Impact Statement that addresses the issues brought out in this comment letter. The DNS is incorrect.

Sincerely,

Mark and Janice Rider  
P.O. Box 13289  
Des Moines, WA 98198

Mark Peterson/8<sup>th</sup> Ave<sup>31</sup> Des Moines Properties  
820 S 226<sup>th</sup> Pl (Home/Mailing Address)  
22015 8<sup>th</sup> Ave S (Apartment Building)  
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August 5, 2015

Denise Lathrop, AICP  
Des Moines Planning, Building & Public Works Dept.  
21630 11<sup>th</sup> Ave. S., Suite D  
Des Moines, WA 98198

Dear Ms. Lathrop,

The following are comments regarding the SEPA checklist for the DNS on LUA2015-0040:

The scope and intent of this SEPA checklist is defined in Section A Background: Item #1. The answer used very often in this document is “this proposal does not affect an individual site since it is a non-project action” does not meet the INTENT of the SEPA checklist. The exact location/building site in “area 2” does not need to be known to compare the effects to the environment of adding to the bonus building height to the existing building height code, which is the intent of the SEPA checklist. It is really pretty simple math to determine adding 10 ft. to the top of a 35 ft. building will add about ~30% more floor space.

**Item #11:** Contrary to your assertions, the vision and policy framework for the Marina District as set forth in the Des Moines 2035 Comprehensive Plan actually would seem to be against this ordinance. The following address the adjacent neighborhood to the east as well as the pedestrian experience downtown:

On page 2-2, Goal LU1: “Actively guide and manage growth in a way that preserves and enhances the quality of life.”

On page 2-4, Policies and Implementation Strategies LU 1.5.3: “Apply development standards and strategies that address land use transitions in order to manage impacts on residents and businesses, including but not limited to the following: site access and circulation; structure height, bulk, and scale; separation of buildings; landscaping; density; and noise buffering”.

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On page 7-4, Housing Element; Policies and Implementation Strategies HOU 3.1: “Protect residential areas from adverse impacts associated with incompatible land uses”

On page 10-2, Marina District; Goals MD1: “Ensure that Marina District will be: (#9) An area with views of Puget Sound and the Olympic Mountains.”

On page 10-3, Marina District; Policies and Implementation Strategies: MD 1.1.3:  
 “Ensure that new development at the edge of the D-C Downtown Commercial Zone has minimal impact upon nearby residences.”

On page 10-3, Marina District; Policies and Implementation Strategies: MD 2.2:  
 “Building height should not adversely impact the adjacent street environment or nearby land uses.”

On page 10-3, Marina District; Policies and Implementation Strategies: MD 2.2.1:  
 “Encourage new construction to incorporate design elements that provide view corridors, visual interest, and pedestrian scale.”

On page 10-3: Marina District; Policies and Implementation Strategies: MD 2.2.2:  
 “Require the terracing and modulation of upper floors of buildings.”

You discuss a public benefit system but it is not defined. What EXACTLY is the “Public Benefits System”?

Do you have documentation (website links, meeting minutes, etc.) or any kind to support the statement of “input from Des Moines City Council, The Council Finance and Economics Development Committee, Marina District Stakeholders Group and citizens and leaders in the business and development communities”? I cannot find any record of these inputs.

#### **SECTION B:**

**Item#2:** Although you do not have a specific site it is obvious that increasing the building height will affect the emissions during construction proportional to the height change.

**Item#4:** I am somewhat confused as to why under “4. Plants” it says N/A but under a. it list several plants.....is it N/A or are there plants???

The correct answer is N/A: it will be the same for 35 ft. high or 45 ft. high and addressed in the specific project SEPA. This would be the same general answer that should be used for Items 1, 3 and 5.

**Item #6b:** Although you do not have a specific site it is obvious that increasing the building height will affect solar energy at neighboring properties.

**Item #7 b:** Although you do not have a specific site it is obvious that increasing the building height will affect the noise proportional to the height increase. On subsection 2 and 3 it talks about noise mitigation for the new building interior....I think the intent of this SEPA checklist is to determine the EXTERIOR noise and how it will affect the existing neighborhood, not how the new construction will mitigate interior noise.

**Item #8 i:** Although you do not have a specific site it is obvious that increasing the building height will affect the number of people proportionally

**Item #81:** This ordinance is not compatible with existing and projected land uses and plans. See my comments above related to current Comprehensive Plan. Also, from the Marina Design Guidelines:

On page DG-10: “Projects should be compatible with the scale of development anticipated by the applicable land use policies and zoning for the surrounding area and should be sited and designed to **provide a sensitive transition to nearby, less-intensive zones** (I highlighted this because it is very important and it is the biggest difference between this proposal and adding additional height down on 7<sup>th</sup> in 2011). Projects on zone edges should be developed in a manner that creates a step in perceived height, bulk and scale between the anticipated development potential of the adjacent zones.”

On page DG-13: “Views from outside the area as well as from within the neighborhood should be considered, and roof-top elements should be organized to minimize view impacts from elevated areas.”

On page DG-21: “A primary goal stated in the Marina District’s Vision Statement is to “enhance the image of Des Moines as a special Puget Sound waterfront community.” Besides its excellent waterfront, an important natural feature of the Marina District is its bowl-shaped topography which provides views from surrounding neighborhoods down toward the district. The valley topography also helps to define the Marina District’s edges and facilitates the transition from largely commercial activities in the valley floor to the mostly residential areas in the uplands.”

On page DG-23: “The landscape design should take advantage of special on-site conditions such as high-bank front yards, steep slopes, view corridors, or existing significant trees and off-site conditions such as greenbelts, ravines, and natural areas.”

**Item #10 b:** Although you do not have a specific site it is obvious that increasing the building height will affect the views proportional to the height increase.

**Item #11:** Although you do not have a specific site it is obvious that increasing the building height will create proportionally more light and glare.

**Item #14:** Although you do not have a specific site it is obvious that increasing the building height will affect transportation in the immediate area proportional to the height increase. The impact will specifically affect Marine View Drive which is already overburdened during peak traffic in the mornings and evenings.

**Item #15:** Although you do not have a specific site it is obvious that increasing the building height will affect public service proportionally.

**Item #16:** Although you do not have a specific site it is obvious that increasing the building height will affect utilities proportionally.

**Section D:**

**Item #1:** Do you have a study or some other documentation to show how adding extra building height will “avoid or reduce such increases”? The comparison should be to the EXISTING Multi-use 35 ft. height limit in the area, NOT single family homes which would never be built in this area.

**Item #3:** Taller buildings block more light than shorter ones and could have an impact on any solar panels on neighboring structures. What about Natural Gas service? As for the “measure to protest or conserve energy...” why do you compare single family homes when this is already zoned for 35 ft. multi use? No one would ever build single family homes on this street.

**Item #5:** There is nothing in this nearly four page statement that cannot be accomplished with the current 35ft building height with the exception of “create more land capacity”. There is no need to create more land capacity in the Marina District since very few, if any, buildings in “area 2” are currently built out to the max height allowable. There are several EMPTY lots currently in the Marine District, including 3 empty lots in “area 2”.

**Item #6:** Although you do not have a specific site it is obvious that increasing the building height will affect transportation in the immediate area proportional to the height increase. The Des Moines Comprehensive Transportation Plan from 2009 needs to be updated to reflect the 2 approved apartment buildings on 7th and the Des Moines Creek Business Park development before you can say there is no impact from allowing ANY building in this area, much less adding 10 more ft.

In conclusion, the SEPA checklist needs to be done correctly to accurately reflect the scope of the proposal, and then you will find you need to do an Environmental Impact Statement.

Sincerely,

Mark Peterson  
 Susan Peterson  
 820 South 226<sup>th</sup> Place  
 Des Moines, WA 98198

Denise Lathrop, AICP

Des Moines Planning, Building & public Works Dept.

21630 11<sup>th</sup> Ave. S., Suite D

Des Moines, WA. 98198

RE: SEPA checklist for the DNS on LUA2015-0040

7 pages

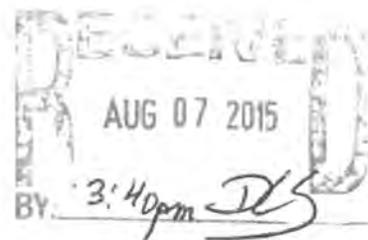
Thelma Vannoy

22532 6<sup>th</sup> Ave. So #A-1

Casa Del Mar Condominiums

Des Moines, WA. 98198

206-878-9406



## SEPA CHECKLIST OCTOBER 2014

PLEASE NOTE: BLACK INDICATES QUESTION

RED INDICATES RESPONSE TO QUESTION

GREEN INDICATES MY PERSONAL RESPONSE &/OR

CITY OF DES MOINES

### ENVIRONMENTAL ELEMENTS: 'EARTH'

#1.c "WHAT GENERAL TYPES OF SOILS ARE FOUND ON THE SITE...."

- UNKNOWN?

.d\* EARLY HISTORY OF DES MOINES SHOWS THIS AREA AS 'SWAMP-WETLANDS'

\*\*\*NOTE FROM CITY: TEMPORARY EROSION AND SEDIMENTATION. CONTROL PLAN SHALL BE REQUIRED.

g. "WHAT ABOUT PERCENTAGE..."

APPROXIMATELY 90% ???

ARSENIC AND LEAD FROM RUSTON-TACOMA SMELTER

- EPA

## SEPA CHECKLIST OCTOBER 9, 2014

PLEASE NOTE: BLACK INDICATES QUESTION

RED INDICATES RESPONSE TO QUESTION

GREEN INDICATES MY PERSONAL RESPONSE &/OR

CITY OF DES MOINES

### ENVIRONMENTAL ELEMENTS:

#7. "PLANS FOR FUTURE ADDITIONS, EXPANSION..."

- DOES NOT APPLY
- WHY NOT?

#8 "ENVIRONMENTAL INFORMATION THAT HAS BEEN PREPARED....."

- DOES NOT APPLY
- WHY NOT?

#9 "APPLICATIONS THAT ARE PENDING...."

- WE WILL BE REQUESTING A REDUCED PARKING VARIANCE"

\* PARKING IN THE DC AREA IS ALREADY A DISASTER AT THIS TIME, AS PARKING SPOTS ARE LIMITED FOR OUR CURRENT RESIDENTS. WITH CONSTRUCTION AND THE CONGESTION THAT GOES WITH IT; PARKING WOULD BE COMPLETELY UNRELIABLE FOR US WHO CALL DES MOINES OUR HOME. WHY WOULD THE CITY OF DES MOINES GRANT A PARKING VARIANCE – COMPLETELY IGNORING THE CURRENT CITIZENS AND SHOWING COMPLETE DISRESPECT FOR OUR CITIZENS?

SHAME ON YOU

SEPACHECKLISTOCTOBER2014PLEASE NOTE: BLACK INDICATES QUESTIONSRED INDICATES RESPONSE TO QUESTIONGREEN INDICATES MY PERSONAL RESPONSE &/ORCITY OF DES MOINESENVIRONMENTAL ELEMENTS: AIR

2.a "WHAT TYPE OF EMISSIONS TO THE AIR WOULD RESULT...."

\* "EXHAUST FROM CONSTRUCTION EQUIPMENT...."

EXHAUST IN ITSELF IS HAZARDOUS TO HUMANKIND – THIS SMALL/COMPACT AREA COMPOUNDS THE ISSUE. IF THIS PROPOSAL WAS RELOCATED TO A LARGER SITE OF LAND, EXHAUST WOULD DISAPPEAR MORE READILY.

2.c "DESCRIBE PROPOSED MEASURES TO REDUCE OR CONTROL...."

\* DOES NOT APPLY

CITY'S COMMENTS – 'EQUIPMENT WILL BE REQUIRED TO MEET CLASS STANDARDS FOR EMISSIONS. DUST CONTROL MEASURES SUCH AS WATERING WILL BE USED DURING CONSTRUCTION'

\*\*\*\*\*FIRST DAY OF DEMOLITION WATER WAS NOT USED.\*\*\*HAS THIS SITE BEEN TESTED FOR ASBESTOS?

DIRTY AIR--- POLLUTION

- NBCNEWS DIRTY AIR DAMAGING BRAINS
- SCIENTIFIC AMERICAN

LIGHT DEPRIVATION \* SCIENTIFIC AMERICAN \* EPA

- SCIENTIFIC AMERICAN

SEPA CHECKLIST OCTOBER 9, 2014

PLEASE NOTE: BLACK INDICATES QUESTION

RED INDICATES RESPONSE TO QUESTION

GREEN INDICATES MY PERSONAL RESPONSE &/OR

CITY OF DES MOINES

ENVIRONMENTAL ELEMENTS NOISE:

b. 1 "WHAT TYPES OF NOISE EXIST IN THE AREA..."

SOME TRAFFIC AND AIRPLANE NOISE EXISTS.

ACTUALLY IT IS HIGH IMPACT DUE TO THIS BUILDING PROPOSED IS DIRECTLY UNDER THE FLIGHT PATTERN FROM SEATTLE TACOMA AIRPORT JUST A FEW MILES TO THE NORTH. CURRENTLY 2 RUNWAYS ARE IN OPERATION, HOWEVER 2 ADDITIONAL RUNWAYS ARE CURRENTLY IN THE PLANNING.

***HOURS OF CONSTRUCTION, DAILY 7 am – 7 Ppm AND S-S 8 am – 5 pm ARE EXTREME FOR EXISTING HOME OWNERS...and for how long?***

SEPA CHECKLIST OCTOBER 9, 2014

PLEASE NOTE: BLACK INDICATES QUESTION

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GREEN INDICATES MY PERSONAL RESPONSE &/OR

CITY OF DES MOINES

ENVIRONMENTAL ELEMENTS 'ENERGY CONSERVATION'

CASA DEL MAR CONDOMINIUMS WOULD BE UNABLE TO  
INSTALL 'SOLAR PANELS'

'ANIMALS'

ROBINS, HAWKS, HERONS, SONG BIRDS, PIGEONS,  
EAGLES WOULD BE DISPLACED.

SERVICE VEHICLES

EMERGENCY VEHICLES

AT WHAT SITE WOULD RECOLOGY PICK-UP?

WHERE WOULD DELIVERY TRUCKS PARK?

WHERE WOULD RETAIL BUSINESSES HAVE PARKING?  
WITHOUT ADEQUATE PARKING, BUSINESSES WOULD  
FAIL.

SEPA CHECKLIST OCTOBER 9, 2014

PLEASE NOTE: BLACK INDICATES QUESTION

RED INDICATES RESPONSE TO QUESTION

GREEN INDICATES MY PERSONAL RESPONSE

ENVIRONMENTAL ELEMENTS: 'AESTHETICS'

THIS IS A BEAUTIFUL BUILDING WITH MANY INCREDIBLE AMENITIES AND WOULD BE A WONDERFUL ASSET FOR OUR DES MOINES RESIDENTS...IF IT WERE PLACED IN AN ENTIRELY DIFFERENT LOCATION WHERE THE BUILDING COULD AND WOULD BE APPRECIATED.

WHILE THIS STRUCTURE IS BEAUTIFUL IT DOES NOT FIT-IN WITH SURROUNDING EXISTING BUILDING STRUCTURES. THE INTEGRITY OF THIS NEIGHBORHOOD WOULD FOREVER BE CHANGED – AND NOT FOR THE BETTER. WE ARE NOT SEATTLE OR BELLEVUE. NOR DO WE WANT TO BE. DES MOINES IS UNIQUE AND CHARMING AND WE SHOULD KEEP IT THAT WAY.

AS THIS STRUCTURE IS CURRENTLY PLANNED - WITH NO SETBACKS – THE CITY OF DES MOINES IS NOT FOLLOWING THEIR OWN VISION – OR AT LEAST WHAT IS IN PRINTING IN OUR NEW 2015 COMPREHENSIVE PLAN

DES MOINES IS 2 AND ½ MILES IN WIDTH/WEST TO EAST & 6 MILES IN LENGTH/NORTH TO SOUTH. LET'S WORK TOGETHER FOR THE BEST INTERESTS OF ALL DES MOINES.

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August 12, 2015

RE: LUA2015-0040 SEPA Determination of Non Significance  
Marina District Development Incentive Commercial Height Bonus Area

Dear Concerned Citizen:

Thank you for your comment letter regarding the subject proposed nonproject action (proposal). The State Environmental Policy Act (SEPA) environmental review process is designed to work with other regulations to provide a comprehensive review of a proposal. Most regulations focus on particular aspects of a proposal, while SEPA requires the identification and evaluation of probable impacts to all elements of the built and natural environment. If the proposal is not likely to have a significant adverse environmental impact or city regulations reduce the impacts sufficiently, a determination of nonsignificance (DNS) is issued.

The City of Des Moines issued a DNS for the proposal on July 24, 2015, beginning a 15 day public comment period. Multiple comments were received by the comment due date. The City of Des Moines has reviewed the comments and determined that there is not a significant adverse environmental impact associated with the proposed project.

The following lists the primary concerns raised during the public comment period and responses:

1. **Concern:** DNS Notice and Map

**Response:** The purpose of the notice map is to indicate the area where the public notices were mailed. While the City was only required to provide notice in the newspaper of record (Seattle Times), the City expanded the noticing to include mailings to property owners, residents, businesses and tenants within the Marina District Neighborhood and some of the residential neighborhood to the east.

2. **Concern:** SEPA Authority

**Response:** The State Environmental Policy Act (SEPA) establishes the authority for the City to serve as the SEPA official and lead agency (WAC 197-11-910).

3. **Concern:** Clarification on Council Coordination

**Response:** Correction, the proposal has not been specifically discussed with the Council Finance and Economic Development Committee or the Council as a whole and there are no meeting minutes associated with the Proposal; however, historically, the topic of building heights has been discussed at length. During the 2010-2011 timeframe, City staff, City Council, the Council Finance and Economic Development Committee, Marina District Stakeholder Group and citizens and leaders in the business and development communities discussed options for raising building heights in the Marina District. This included discussions, modeling and evaluation of 45 foot building heights on Marine View Drive as documented in the SEPA evaluation under LUA11-004 and referenced under item #8 of the SEPA checklist associated with this proposal (LUA2015-0040).

#### 4. **Concern:** Nonproject Action

**Response:** "Nonproject" means actions which are different or broader than a single site specific project, such as plans, policies, and programs (WAC [197-11-704](#)). The proposal relates to the establishment of development regulations that relate to specific geographic area within the Marina District.

Since this is a nonproject action to modify the City's zoning regulations, the analysis of the nonproject action is contained in Section D of the SEPA Checklist. Information contained in Sections A and B are intended to provide background on the proposed action and an overview of the natural and built environment in the affected area.

#### 5. **Concern:** Proposed Projects

Currently there are no project proposals under review related to this matter. The City receives regular calls and/or e-mails from property owners or potential developers about properties within the Marina District. The City did hold a pre-application meeting with the current owner of the Theater Building (22325 Marine View Drive) on 3/18/15; however, no formal application has been submitted.

#### 6. **Concern:** Views

**Response:** Neither state law nor the City of Des Moines' Municipal Code have ordinances to protect private views. Since this is a nonproject action, no structures would be constructed and no views would be altered or obstructed.

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 2035 Comprehensive Plan*, *Marina District Design Guidelines* and the SEPA rules. The City's zoning regulations help to mitigate for height, bulk and scale of development through requirements such as floor area ratio, setbacks, lot coverage, landscape buffers, signage and allowable uses. 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.

The Marina District Development Incentive and associated commercial height bonus and public benefit system was developed with the intent of minimizing potential impacts on surrounding neighborhoods:

- It limits the geographic area to properties fronting the west side of Marine View Drive S between S 219<sup>th</sup> Street and S 227<sup>th</sup> Street;
- It limits the maximum building height in the identified height bonus area to 45 feet which is still in character with a traditional low-rise central business district;
- It limits number of properties that can qualify for a height bonus to three (3) buildings which limits the density of the area;
- It sets a minimum lot size of 15,000 square feet;
- It establishes a separation requirement of 300 feet from any properties that are granted the height bonus which would help to maintain view corridors between taller buildings; and
- It establishes a public benefit system whereby specific criteria and benefits must be provided in order for a project to be eligible for a height bonus.

New development and/or redevelopment along Marina View Drive would help to revitalize the Marina District which is a primary goal for the City Council and Des Moines citizens as stated in the *Des Moines 2035 Comprehensive Plan*.

Current development standards and the *Marina District Design Guidelines* would help mitigate potential view, 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. The proposed “Public Benefit Incentive System” would establish the criteria under which additional building height may be permitted. Public benefits range from design elements and dedicated uses, to civic contributions and streetscape improvements.

7. **Concern:** Building Height Measurement and Rooftop Structures

**Response:** Pursuant to DMMC 18.01.050, “building height” means the vertical distance from the grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the height of the highest gable of a pitch or hip roof. It does not include rooftop appurtenances.

Pursuant to DMMC 18.190.070 height of structures and roof structures, “penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, flagpoles, chimneys, smokestacks, church steeples and belfries, utility line towers and poles, and similar structures may be erected above the height limits of this Title; provided, however, no penthouse or roof structure or any other space above the height limit prescribed for the zone in which the building or structure is located shall be allowed for the purpose of providing additional floor space; provided further, that rooftop gardens and patios are not classified as additional floor space.”

8. **Concern:** Scale/Density for Neighborhood.

**Response:** The proposed nonproject action does not encroach into the adjacent single family residential zones. Future development that utilizes the height bonus would be similar in scale and density to other uses within the Marina District Neighborhood which include larger apartments and condominium complexes and commercial development. The proposal is consistent with the intent of the *Des Moines 2035* goals, policies and implementation strategies and corresponding zoning for the Marina District Neighborhood – to facilitate economic investment in the area in order to create a vibrant district with a quality mix of businesses and residents. The additional capacity associated with the 10 feet of additional height between three buildings equates to approximately one additional building in the Marina District. This is well within the capacity planned for in the *Des Moines 2035 Comprehensive Plan* and the Marina District Neighborhood.

9. **Concern:** Consistency with Plans and Policies

**Response:** Des Moines falls within the “Larger Cities” classification in the Central Puget Sound Region and needs to plan for an additional 3,480 housing units and 5,800 new jobs by year 2035. The City needs to consider how we can grow in ways that support economic development and job growth; create strong neighborhoods with a range of housing, commercial, and transportation options; and champion healthy neighborhoods that provide families with a clean environment.

The Marina District serves as one of the City’s primary mixed-use commercial centers. The primary purpose of the D-C Downtown Commercial Zone is to “enhance, promote and encourage development within the Marina District.” The proposal would help to facilitate key goals, policies and implementation established in the *Des Moines 2035 Comprehensive Plan*:

- Promote economic stability, growth, and vitality (Goal ED 1).
- Increase the self-reliance of the City by diversifying revenue streams, reducing dependence on property tax, and increasing revenues generated from retail sales and commercial economic activity (Policy ED 1.1).
- Identify ways the City can designate appropriate entitlements to property to encourage quality development; including land use, zoning, expedited permitting and infrastructure investment where feasible to define development patterns (Strategy ED 1.1.1).

- Promote new development and redevelopment within the Marina District to create a vibrant commercial center with a quality mix of businesses that would enhance the waterfront, serve as a destination for local residents and visitors (Strategy LU 2.1.1).
- Ensure that new construction contains and exhibits high-quality building materials and design elements as outlined in the *Marina District Design Guidelines* (Strategy LU 2.1.2).
- Encourage improvement of the Marina District Neighborhood by working with the business community and other representative organizations to achieve the goals of the *Des Moines 2035 Comprehensive Plan* (Strategy LU 2.1.4).
- It should be noted that comprehensive plans generally are not used to make specific land use decisions. A comprehensive plan is simply a guide or blueprint when making decisions but there need not be strict adherence to a comprehensive plan. Conflicts between a general comprehensive plan and a specific zoning code are resolved in the zoning code's favor.

#### 10. **Concern:** Public Services and Utilities

**Response:** The proposal would not directly create new vehicular trips or demand for parking. The proposed zoning code and zoning map amendments would increase the development capacity and service demand for the Marina District; however, given the proposal limits the number of buildings that can take advantage of the ten-foot building height bonus to three buildings. The added development capacity is not significant (e.g., equates to about 36,000 - 72,000 square feet of additional floor area depending upon the lot size). The growth potential is within the growth targets established for the City of Des Moines and planned for in the *Des Moines 2035 Comprehensive Plan* (3,480 housing units and 5,800 new jobs), the Comprehensive Transportation Plan and the Capital Facility Plans of public service providers which looked at buildout capacity under current zoning.

As it relates to transportation, future project proposals would be required to submit a traffic study that analyzes the potential transportation related impacts and mitigation associated with their project. In addition, the proposal would need to demonstrate compliance with current parking provisions.

#### 11. **Concern:** Surface Water and Groundwater Resources

**Response:** 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. As part of the permitting requirements, any specific project that is proposed would need to meet the requirements of the King County Surface Water Design Manual. During construction, projects would be required to obtain a clearing and grading permit which has requirements for erosion and sedimentation control measures to protect surface and groundwater.

Thank you for your input into the review process for this project. If you have any questions regarding this letter or need further clarification about the proposed nonproject action, please feel free to contact me.

Sincerely,



Denise E. Lathrop, AICP  
Community Development Manager  
E-Mail: [dlathrop@desmoineswa.gov](mailto:dlathrop@desmoineswa.gov)  
Phone: 206-870-6563

# A G E N D A I T E M

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

**SUBJECT:** Public Hearing for The Pinnacles at Des Moines Modified Preliminary Subdivision Application, LUA2015-0030

**ATTACHMENTS:**

1. Draft Resolution No. 15-142
2. August 13, 2015 Staff Report
3. Lot Width to Depth Ratio Graphic
4. Road A Design Features

FOR AGENDA OF: August 20, 2015

DEPT. OF ORIGIN: Planning, Building and Public Works

DATE SUBMITTED: August 11, 2015

**CLEARANCES:**

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

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: 

**Purpose and Recommendation**

The purpose of this agenda item is for City Council to consider Draft Resolution No. 15-142 (Attachment 1) and obtain approval of the proposed 22-lot modified subdivision for the development known as The Pinnacles at Des Moines. The Staff report is included as Attachment 2. This subdivision is requesting three modifications:

1. Extending the maximum length of a cul-de-sac (DMMC 17.35.060(2));
2. Exceeding the width to depth lot ratio (DMMC 17.35.050(2)); and
3. Eliminating the requirement for the corner lot to be five feet wider than the minimum lot width required by the underlying zone (DMMC 17.35.050(5));.

Per Des Moines Municipal Code (DMMC) 18.20.080, the review of a modified subdivision is a Type IV Land Use Action and as such, the final decision would be appealable to the Superior Court for King County under the Land Use Petition Act, Chapter 36.70C RCW, as set forth in DMMC 18.20.240.

Staff recommends that Council approve the modified subdivision by passing the following motion:

**Suggested Motion**

**Motion 1:** "I move to adopt Draft Resolution 15-142 to approve *The Pinnacles at Des Moines* modified subdivision as recommended by staff."

## **Background**

Section 17.15.060 DMMC establishes a mechanism whereby an applicant may propose a modified subdivision in which the City may consider and approve an innovative or unusual subdivision that does not comply with one or more of the requirements specified in Chapter 17.35 DMMC – Layout and Design of Subdivisions and Similar Requirements.

The subject modified subdivision is located between South 232<sup>nd</sup> Street and 14<sup>th</sup> Avenue South in the Zenith Neighborhood, and is zoned RS-7200 – Residential Single Family. The applicant proposes to subdivide 5.52 acres into 22 single family residential lots. The aspects of this application that do not meet standard subdivision requirements are:

1. To extend the cul-de-sac from the maximum length of 500 feet to 630 feet. Per DMMC 17.35.060(2), where topography, natural features, and the existing development pattern permit, blocks shall not exceed 500 feet in length. Additional consideration should be given to the Street Development Standards Section V.A., which states that cul-de-sacs shall be long longer than 400 feet. However, proposed draft standards extend this length to 600 feet. There are numerous existing examples throughout the City where the length of a cul-de-sac exceeds 500 feet.
2. To exceed the 2:1 ratio for fourteen (14) of the lots. Per DMMC 17.35.050(2), lots shall be shaped so that reasonable use and development is possible. Where topography, natural features, and the existing development pattern permit, the depth of lots less than 15,000 square feet in area shall be at least equal to, but not more than twice the width of the lot. Attachment 3 highlights the lots that do not comply with this code section.
3. To reduce the width for one (1) corner lot from 65 feet to 64.5 feet. Per DMMC 17.35.050(5), all corner lots shall be five feet wider than the minimum lot width required by the underlying zone. The underlying zone, RS-7200, requires a lot width of 60 feet. Lot 1 has a width of 64.5 feet.

## **Discussion**

### *Requested Modifications:*

The requested modifications to the layout and design requirements in Chapter 17.35 DMMC are minor alterations that are in response to an irregularly shaped combination of parcels.

1. The configuration of the parcels limits the potential layout and access points. Although staff would prefer a secondary access at 14<sup>th</sup> Avenue South for connectivity purposes, it is not significant enough to deny approval of the application. The addition of the “eyebrow” feature just prior to the midpoint of the street and the curvature in the design creates a visual interruption to a straight roadway (Attachment 4). This geometric horizontal deflection encourages vehicle operations in context with the surrounding environment and streetscape.
2. The topography and parcel configuration limit subdivision design options. Compliance with the width to depth ratios on all lots would be problematic or impossible without creating irregularly shaped lots. The purpose of the lot width to depth ratio is to make sure that extreme proportions that are not conducive to development are avoided. The requested deviation is not considered by staff to be a significant deviation from the code.
3. The width for lot 1 is 64.5 feet, 6” from the required width of 65 feet. The requested deviation is not considered by staff to be a significant deviation from the code.

*Unique Design Features:*

1. As an off-setting measure for the proposed cul-de-sac deviation, the applicant has included a passive park to be located over the storm vault, or "Tract A." The park is 18,003 square feet, will be open to the public, and will be maintained by the Homeowners Association.
2. As an off-setting measure for the proposed lot width to depth ratio deviation, the applicant includes a five foot Type III landscaping strip for lots 2-8 and 14-22 abutting existing residential development. A landscaping buffer is currently not required. Requiring the landscaping buffer on lots 1 and 9-13 would greatly hinder the viability of those lots as a landscaping strip alters the available square footage required to meet zoning standards.

**Alternatives**

1. Council can adopt Draft Resolution 15-142 as written, approving the application for a modified subdivision as recommended by City staff.
2. Council can adopt Draft Resolution 15-142 with amendments to the application for a modified subdivision.
  - a. The City Council can request additional features to offset the requested modifications, or make other modifications.
3. Council decline to adopt Draft Resolution 15-142, denying the application for a modified subdivision.
  - a. If the City Council does not agree with the staff recommendation, the applicant will be required to redesign the subdivision to comply with the layout and design requirements of Chapter 17.35 DMMC.

**Financial Impact**

The modified subdivision would result in the development of 22 new single family homes which will provide additional recurring property tax revenue to the City of Des Moines.

**Recommendation or Conclusion**

City staff recommends that the City Council approve the modified subdivision by adopting the Draft Resolution.

**Concurrence**

The Legal and Planning, Building, and Public Works Departments concur.

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## CITY ATTORNEY'S FIRST DRAFT 08/06/15

## DRAFT RESOLUTION NO. 15-142

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON**, approving the preliminary modified subdivision entitled *The Pinnacles at Des Moines*, (hereinafter, the "subdivision") subject to conditions specified herein, located at South 232<sup>nd</sup> Street and 14 Avenue South, Des Moines, WA 98198 (PIN 1722049072, 1722049073, 17220499086, 1722049107, 1722049084, and 1722049085).

**WHEREAS**, JK Monarch submitted (hereinafter, the "applicant") an application for a preliminary modified subdivision on June 10, 2015, and

**WHEREAS**, the subdivision is located on property within the RS-7200: Residential Single Family 7,200 zone, and

**WHEREAS**, the applicant proposes to subdivide 5.52 acres into 22 single-family lots utilizing a modified subdivision pursuant to Chapter 17.15 of the DMMC, and

**WHEREAS**, DMMC 17.15.030 states that the purpose of the modified subdivision process is to provide an alternative process for approval of plats where minor modifications are justified, and

**WHEREAS**, DMMC 17.15.050 establishes a mechanism whereby an applicant may propose and the City may consider and approve an innovative or unusual subdivision or short subdivision that does not comply with one or more requirements specified in chapter 17.35 DMMC, and

**WHEREAS**, the applicant has requested three modifications: 1. extending the maximum length of a cul-de-sac, 2. exceeding the width to depth lot ratio, and 3. eliminating the requirement for a corner lot to be five feet wider than the minimum lot width required by the underlying zone, and

**WHEREAS**, an environmental checklist for the subdivision was submitted to the City of Des Moines and was reviewed by the SEPA responsible official for the City of Des Moines, and

**WHEREAS**, the SEPA official issued a Determination of Non-Significance for the subdivision on July 7, 2015 beginning a 15-day public comment period, and

**WHEREAS**, the environmental documents have been available for review with the subdivision application during the review process, and

Resolution No. 15-142

Page 2 of 3

**WHEREAS**, pursuant to DMMC 18.20.080, a modified subdivision is a Type IV land use decision that requires a public hearing to receive public comment regarding this proposal, and

**WHEREAS**, a notice of public hearing was issued on August 4, 2015 beginning a 15-day public comment period, now therefore,

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

**Sec. 1. Decision criteria.** The criteria used in making the decision are those required by DMMC 17.15.070. The City Council finds that the subdivision is in compliance with the required criteria, as set forth in the Staff Report (Exhibit 1).

**Sec 2. Approved modifications.** Consistent with the provisions of DMMC 17.15.060 the following modifications are approved:

(1) To extend the cul-de-sac from the maximum length of 500 feet to 630 feet.

(2) To exceed the 2:1 width to depth lot ratio for fourteen (14) of the lots: 3-8, 21-22, and 14-19.

(3) To reduce the width for one (1) corner lot from 65 feet to 64.5 feet. Lot 1 has a width of 64.5 feet.

**Sec 3. Approved unique design features.** Consistent with the provisions of DMMC 17.15.060 the following unique design features are approved:

(1) As an off-setting measure for the proposed cul-de-sac deviations, the applicant has included a passive park to be located over the storm vault, or "Tract A." The park is 18,003 square feet, will be open to the public, and will be maintained by the Homeowners Association.

(2) As an off-setting measure for the proposed lot width to depth ratio deviation, the applicant includes a five foot Type III landscaping strip for lots 2-8 and 14-22 abutting existing residential development. A landscaping buffer is currently not required. Requiring the landscaping buffer on lots 1 and 9-13 would greatly hinder the viability of those lots as a landscaping strip alters the available square footage required to meet zoning standards.

Resolution No. 15-142  
Page 3 of 3

**ADOPTED BY** the City Council of the City of Des Moines, Washington this 20<sup>th</sup> day of August, 2015 and signed in authentication thereof this \_\_\_\_ day of August, 2015.

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M A Y O R

APPROVED AS TO FORM:

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City Attorney

ATTEST:

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City Clerk

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**ATTACHMENT 2 – Staff Report****BUSINESS OF THE CITY COUNCIL  
CITY OF DES MOINES, WA****SUBJECT:**

*Application for approval of a modified preliminary subdivision.*

**EXHIBITS:**

**Exhibit 1:** Vicinity Map

**Exhibit 2:** Aerial Photo

**Exhibit 3:** Site/Civil Plans

**Exhibit 4:** Project Narrative

**Exhibit 5:** Project Justification

**Exhibit 6:** Land Use Map

**Exhibit 7:** Zoning Map

**Exhibit 8:** July 7, 2015 Notice of Application and Determination of Nonsignificance

**Exhibit 9:** Public Comments Received

**Exhibit 10:** Staff Public Comment Response Letters

**Exhibit 11:** August 4, 2015 Notice of Public Hearing

STAFF REPORT FOR THE PINNACLES AT DES MOINES MODIFIED SUBDIVISION; LUA2015-0030  
**August 13, 2015**

<b>APPLICANT:</b>	JK Monarch
<b>REQUEST:</b>	The applicant submitted an application for a modified subdivision of 5.52 acres into 22 single family residential lots. The application for a modified subdivision must state why the proposed deviations from City standards are necessary and what unique design features, not ordinarily provided in traditional subdivisions, will be incorporated into the proposal to offset the need for such deviations. The project is requesting three deviations: extension of the maximum length of a cul-de-sac, exceeding the width to depth lot ratio, and not requiring a corner lot to be five feet wider than the minimum lot width required by the underlying zone.
<b>SITE DESCRIPTION:</b>	<p>The proposed subdivision is an irregularly "L" shaped property with the shorter narrower leg facing east-west fronting on 14<sup>th</sup> Avenue South and the wider longer leg facing north-south fronting South 232<sup>nd</sup> Street. The proposal consists of five (5) parcels totaling 5.52 acres. A vicinity map and aerial photo are attached as Exhibits 2 and 3.</p> <p>The property generally slopes from south to north. The majority of the slope across the site is less than 15%; however, portions of the site directly adjacent South 232<sup>nd</sup> Street contain slopes primarily between 15 – 25%. A minor portion of the slope adjacent to South 232<sup>nd</sup> Street contains slopes between 25 – 40%. The properties are lightly forested with a heavy underbrush layer. The five existing homes and associated outbuildings will be demolished as part of the redevelopment.</p>
<b>BACKGROUND:</b>	<p>The applicant submitted a Master Development Application on June 10, 2015. The following documents were submitted as part of the application:</p> <ul style="list-style-type: none"> <li>• Master Development Application</li> <li>• Vicinity Map and Lot Map</li> <li>• Site/Civil Plans (Exhibit 4)</li> <li>• Project Narrative (Exhibit 5)</li> <li>• Project Justification (Exhibit 6)</li> <li>• Traffic Assessment</li> <li>• Preliminary Technical Information Report</li> <li>• SEPA Checklist</li> <li>• Certificate of Water Availability/Certificate of Sewer Availability</li> <li>• Title Report</li> </ul>
<b>EXISTING LAND USE:</b>	<p><i>Site:</i> SF- Single Family Residential  <i>North:</i> SF - Single Family Residential  <i>South:</i> SF - Single Family Residential  <i>East:</i> SF - Single Family Residential  <i>West:</i> SF - Single Family Residential</p>

*West:* SF - Single Family Residential

A land use map is attached as Exhibit 7.

**ZONING:**

*Site:* RS-7200 – Residential: Single Family

*North:* RS-7200 – Residential: Single Family

*South:* RS-7200 – Residential: Single Family

*East:* RS-7200 – Residential: Single Family

*West:* RS-7200 – Residential: Single Family

A zoning map is attached as Exhibit 8.

**SEPA PUBLIC NOTICE:**

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the City to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. On July 7, 2015 a Notice of Application and Determination of Nonsignificance (DNS) was issued (Exhibit 9) beginning a 15-day public comment period.

During the required 15 day public comment period the City received four (4) written comments (Exhibit 10). Staff reviewed the comments and determined that all the issues raised during the comment period had been addressed and no outstanding issues remain.

Staff categorized the comments expressed and provided a response in writing. Those response letters are attached as Exhibit 11.

**PUBLIC HEARING NOTICE:**

Pursuant to DMMC 18.20.190, a Notice of Public Hearing was issued on August 4, 2015 (Exhibit 12).

**DECISION CRITERIA:**

Modified subdivisions are Type IV land use action as defined by DMMC 18.20.020. Per DMMC 17.15.060, requests for modified subdivisions shall be processed and decided upon as specified in Chapter 17.10 DMMC (Subdivisions); except that the following additional requirements shall apply:

1. Public notice shall be expanded to include a description of which aspects of the proposed modified subdivision are requested to deviate from City standards; and
2. The applicant shall submit as part of the required application materials a written narrative entitled "Modified Subdivision Design Justification" which states why proposed deviations from City standards are necessary and what unique design features, not ordinarily provided in traditional subdivisions, are incorporated into the proposal to offset the need for such standards."

Per DMMC 17.15.070, The City may approve a proposed modified subdivision or short subdivision under this chapter only if it finds that all of the following criteria are met:

1. It is consistent with the intent of the Comprehensive Plan, Zoning Code,

and Shoreline Master Program; and

2. All lots within a subdivision meet the lot area and lot width requirements for the zone classification assigned to the property proposed to be subdivided; and
3. Except for those requirements specifically requested by the applicant to be modified, it is consistent with the applicable provisions of chapter 17.35 DMMC; and
4. There are adequate provisions for open spaces, drainage ways, rights-of-way, sidewalks, and other planning features that assure safe walking conditions for pedestrians, including students who walk to and from school, easements, water supplies, sanitary waste, fire protection, power service, parks, playgrounds, and schools; and
5. It serves the public use and interest and is consistent with the public health, safety, and welfare. The City Council shall be guided by the policy and standards and may exercise the powers and authority set forth in chapter 58.17 RCW (Plats, Subdivisions, Dedications), as presently constituted or as may be subsequently amended; and
6. The proposed modified subdivision provides for coordinated development with adjoining properties or future development of adjoining properties including but not limited to provisions for improved or shared access where appropriate; and
7. The applicant has demonstrated that the proposal includes design features or improvements which are beneficial to the public, typically not found in traditional subdivision proposals, and equivalent in scale or value to the improvements or requirements from which the proposal deviates; and
8. In subdivisions containing tracts for wetlands, streams, or required buffers, as required by DMMC 17.35.190, the minimum lot size established by Title 18 DMMC for the zone classification assigned to the property proposed to be subdivided may be reduced, provided:
  - a. The number of lots within the subdivision shall be no more than allowed by Title 18 DMMC under the provisions for limited density transfer for environmentally critical areas; and
  - b. Adequate recreation area shall be provided on each lot or by establishing a separate recreation tract in addition to that required by DMMC 17.35.180. [Ord. 1585 § 70, 2013.]

**ANALYSIS:**

Following each approval criterion is a City staff response evaluating the merits of the proposal.

1. It is consistent with the intent of the Comprehensive Plan, Zoning Code, and Shoreline Master Program.

**City Response:** The proposal is consistent with the land use designation in

the Comprehensive Plan and the requirements in Chapter 18.55 DMMC, Single Family Residential Zone. The Shoreline Master Program does not apply.

2. All lots within a subdivision meet the lot area and lot width requirements for the zone classification assigned to the property proposed to be subdivided.

**City Response:** Per DMMC 18.55.050(2), in a multiple-lot subdivision containing four or more lots, the minimum lot area shall be deemed to have been met if the average lot area is not less than the minimum lot area requirement of the zone in which the property is located. In computing the average square foot area of lots in a subdivision, not more than 25 percent of the number of lots may contain an area less than the prescribed minimum for the zone, but in no case shall a lot contain less area than 6,400 square feet (SF).

Per DMMC 18.55.050(1)(d), the minimum required area of a lot in an area designated as RS-7200 shall be 7,200 SF. The average lot area is 7,646 SF.

For 22 proposed lots, five (5) lots are permitted between 7,200 SF and 6,400 SF. Lots 11, 12, 13, and 20 meet this criterion.

Per DMMC 18.55.070(4), the minimum width of a lot in an area designated as RS-7,200 shall be 60 feet. Lots 2-22 meet this criterion. Per DMMC 17.35.050(5), all corner lots shall be five feet wider than the minimum lot width required by the underlying zone. Lot 1 is 64.5 feet, 6" shorter than the required 65 feet. The applicant has requested a modification from this requirement.

3. Except for those requirements specifically requested by the applicant to be modified, it is consistent with the applicable provisions of chapter 17.35 DMMC (Layout and Design of Subdivisions and Similar Requirements).

**City Response:** The application meets all of the layout and design requirements in chapter 17.35 DMMC, besides the three requested modifications:

- a. Extending the maximum length of a cul-de-sac (DMMC 17.35.060(2));
- b. Exceeding the width to depth lot ratio (DMMC 17.35.050(2)); and
- c. Eliminating the requirement for the corner lot to be five feet wider than the minimum lot width required by the underlying zone (DMMC 17.35.050(5)).

4. There are adequate provisions for open spaces, drainage ways, rights-of-way, sidewalks, and other planning features that assure safe walking conditions for pedestrians, including students who walk to and from school, easements, water supplies, sanitary waste, fire protection, power service, parks, playgrounds, and schools.

**City Response:** The application has been reviewed by appropriate staff, including Transportation, Surface Water, Building, Parks, and South King Fire

and Rescue.

- Per DMMC 17.35.080, all rights-of-way within and abutting the subdivision shall be improved in accordance with the standards set forth in chapter 12.15 DMMC. In addition, a storm vault will be located in "Tract A," along with a rain garden directly adjacent to the north. Page 4 of the civil plans shows the preliminary grading and utility plans (Exhibit 4).
  - Per DMMC 17.35.180, proposed residential subdivisions shall either provide a minimum of 778 square feet of park area per lot or make an in-lieu fee payment in order to comply with the level of service standard of 6.5 acres of park land per 1,000 population established in the City of Des Moines 2010 Parks, Recreation and Senior Services Master Plan, Section 2.3.
  - If the land proposed to be developed as a mini-park does not meet the criteria established in DMMC 17.35.180(2) or is not approved by the Parks Department, then the applicant shall make an in-lieu cash payment to the City. The applicant will be required to pay the park in-lieu fee at the time of final plat in order to meet the park requirement pursuant to DMMC 17.35.180. The applicant has agreed to pay the park-in-lieu fee.
5. It serves the public use and interest and is consistent with the public health, safety, and welfare. The City Council shall be guided by the policy and standards and may exercise the powers and authority set forth in chapter 58.17 RCW (Plats, Subdivisions, Dedications), as presently constituted or as may be subsequently amended.

**City Response:** The proposal is consistent with chapter 58.17 RCW.

6. The proposed modified subdivision provides for coordinated development with adjoining properties or future development of adjoining properties including but not limited to provisions for improved or shared access where appropriate.

**City Response:** Although an agreement was made to provide joint access with the property owner to the south via the previous development proposal; *The Pinnacles at Des Moines* is a new application and, as such, joint access is not a requirement for approval. A good faith effort was made by the applicant to reach an agreement for joint access. Due to the unique configuration of the parcels joint access would have been preferable in order to provide a secondary access point. However, such an agreement should not be a requirement of approval.

7. The applicant has demonstrated that the proposal includes design features or improvements which are beneficial to the public, typically not found in traditional subdivision proposals, and equivalent in scale or value to the improvements or requirements from which the proposal deviates.

**City Response:** The applicant has proposed the following offsetting measures:

- As an off-setting measure for the proposed cul-de-sac deviation, the applicant has included a passive park to be located over the stormwater vault, or "Tract A." The park is 18,003 square feet, will be open to the public, and will be maintained by the Homeowners Association.
  - As an off-setting measure for the proposed lot width to depth ratio deviation, the applicant includes a five foot Type III landscaping strip for lots 2-8 and 14-22 abutting existing residential development. A landscaping buffer is currently not required. Requiring the landscaping buffer on lots 1 and 9-13 would greatly hinder the viability of those lots as a landscaping strip alters the available square footage required to meet zoning standards.
8. In subdivisions containing tracts for wetlands, streams, or required buffers, as required by DMMC [17.35.190](#), the minimum lot size established by Title [18](#) DMMC for the zone classification assigned to the property proposed to be subdivided may be reduced.

**City Response:** Not applicable. Proposal not located in critical area.

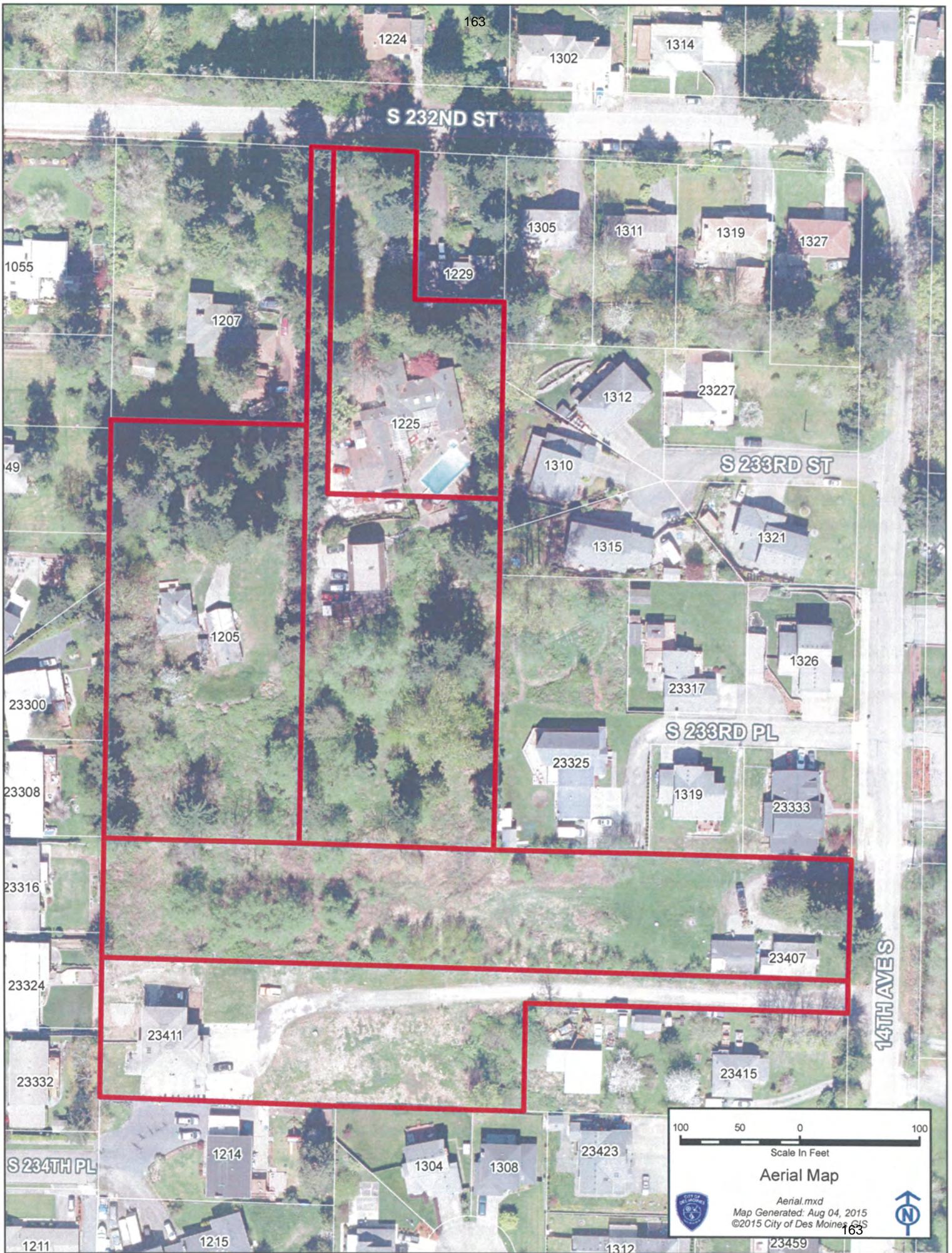
**RECOMMENDED ACTION:**

City staff recommends that the City Council approve the modified preliminary subdivision.



800 400 0 800  
 Scale In Feet  
**Vicinity Map**  
 Vicinity.mxd  
 Map Generated: Aug 04, 2015  
 ©2015 City of Des Moines



S 232ND ST

S 233RD ST

S 233RD PL

S 234TH PL

14TH AVES

100 50 0 100  
 Scale In Feet  
**Aerial Map**  
 Aerial.mxd  
 Map Generated: Aug 04, 2015  
 ©2015 City of Des Moines GIS




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ENR  
 SURVEYING  
 DAVID R. DOWNING & ASSOCIATES  
 4229 - 76th ST. N.E., SUITE 202  
 MAPLEVALE, WA 98270  
 PHONE: (206) 853-5385

**DATUM**

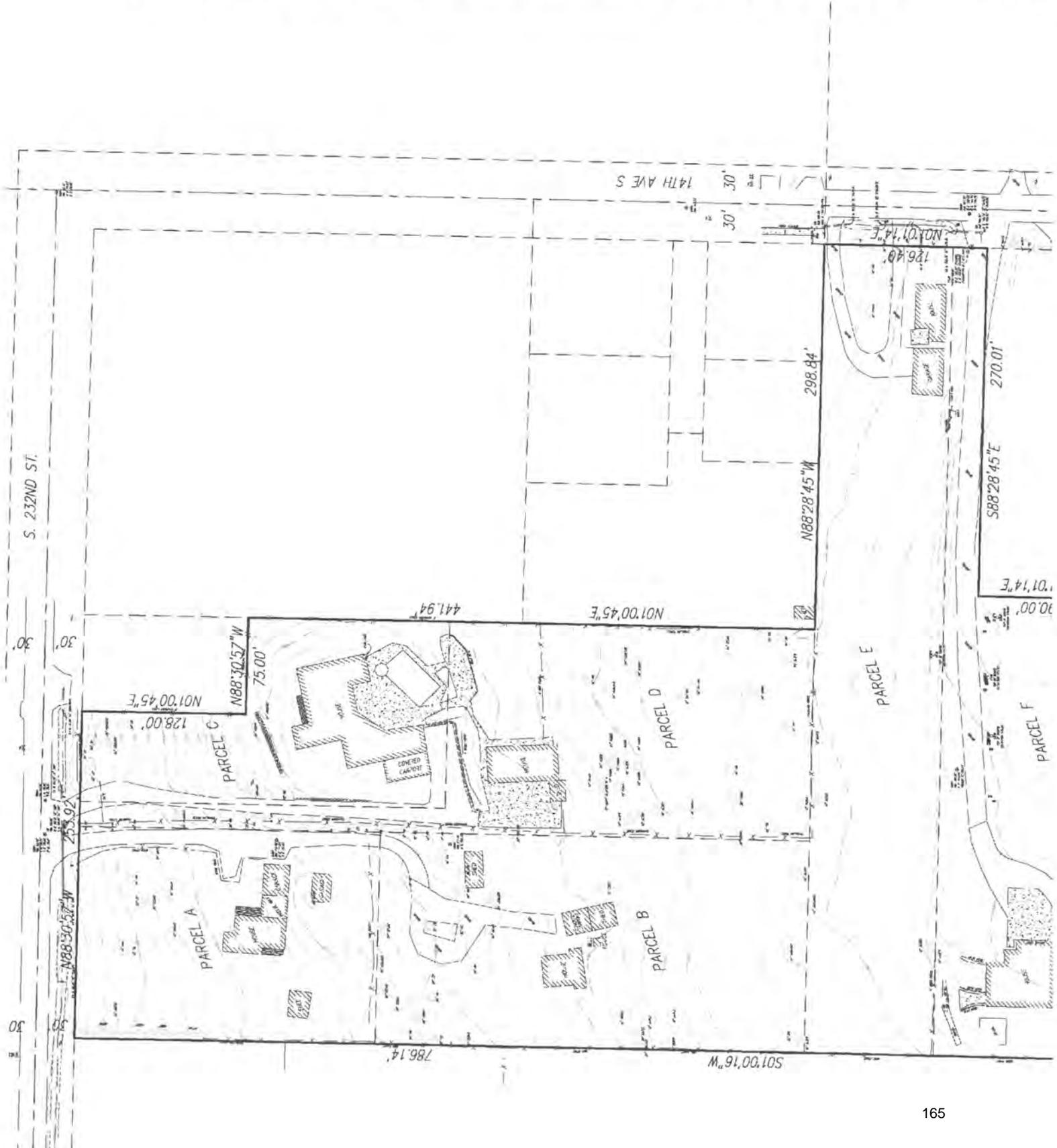
VERTICAL DATUM - NAVD 83 (2000 2003)  
 HORIZONTAL DATUM - WASHINGTON STATE PLANE  
 NORTH COORDINATES

**LEGAL DESCRIPTION:**

- PARCEL A:  
 THE WEST 150 FEET OF THE NORTH 200 FEET OF THAT PORTION OF THE SOUTH 1/4 OF SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, WILKAMITE WASHINGTON, KING COUNTY, WASHINGTON, KING SOUTH OF SOUTH 2300 STREET (FRED W. COUNTY BY DEED RECORDED UNDER RECORDING NUMBER 2668 AND THE EAST 30 FEET OF THE NORTH 200 FEET AND THE 30 FEET OF THE EAST 30 FEET OF THE WEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, WILKAMITE WASHINGTON, KING SOUTH OF SOUTH 2300 STREET (FRED W. COUNTY BY DEED RECORDED UNDER RECORDING NUMBER 2668) AS CONVEYED TO KING COUNTY BY DEED RECORDED UNDER RECORDING NUMBER 172204-8088)
- PARCEL B:  
 THAT PORTION OF THE WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, WILKAMITE WASHINGTON, KING SOUTH OF SOUTH 2300 STREET (FRED W. COUNTY BY DEED RECORDED UNDER RECORDING NUMBER 2668) EXCEPT THE NORTH 225 FEET THEREOF.
- PARCEL C:  
 LOT 1 OF KING COUNTY SHORT PLAT NO. 67704, RECORDED IN RECORDS OF KING COUNTY, WASHINGTON.
- PARCEL D:  
 STRAKE IN THE COUNTY OF KING, STATE OF WASHINGTON (PARCEL NO. 172204-8072)
- PARCEL E:  
 THAT PORTION OF THE EAST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, WILKAMITE WASHINGTON, KING SOUTH OF SOUTH 2300 STREET (FRED W. COUNTY BY DEED RECORDED UNDER RECORDING NUMBER 2668) EXCEPT THE NORTH 145 FEET THEREOF.
- PARCEL F:  
 THE NORTH 150 FEET OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, WILKAMITE WASHINGTON, KING SOUTH OF SOUTH 2300 STREET (FRED W. COUNTY BY DEED RECORDED UNDER RECORDING NUMBER 2668) EXCEPT THE EAST 30 FEET THEREOF.

**LEGEND**

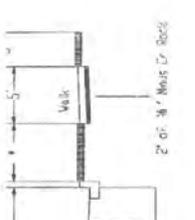
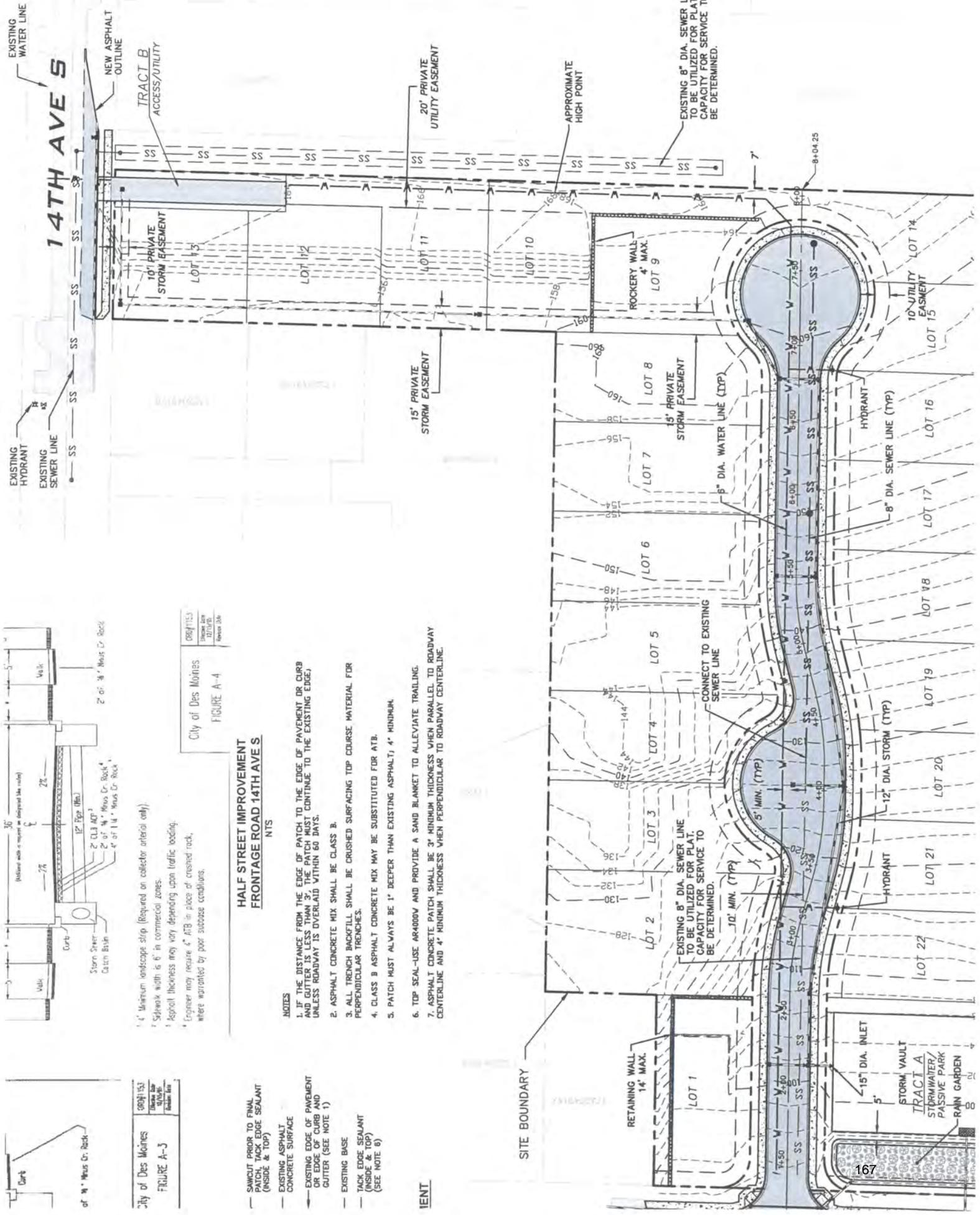
- POWER POLE
- ⊕ FIRE HYDRANT
- ⊗ WATER VALVE



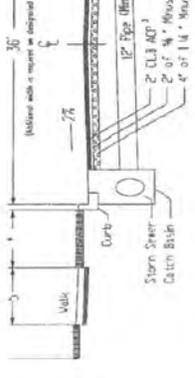
# 14TH AVENUE S

- PRELIMINARY**
1. SEE SHEET FOR INFORMATION
  2. TRACT OF DESCRIPTIONS SHALL BE REVIEWED
  3. EACH LOT MUST BE MAINTAINED ENTIRELY AS DEVELOPED AND THE LOTS SHALL BE REVIEWED





City of Des Moines  
 FIGURE A-3  
 ORIGINALS  
 Drawn by: W/17/18  
 Review by: [Signature]



City of Des Moines  
 FIGURE A-4  
 ORIGINALS  
 Drawn by: W/17/18  
 Review by: [Signature]

**NOTES**

1. IF THE DISTANCE FROM THE EDGE OF PATCH TO THE EDGE OF PAVEMENT OR CURB AND GUTTER IS LESS THAN 3', THE PATCH MUST CONTINUE TO THE EXISTING EDGE, UNLESS ROADWAY IS OVERLAID WITHIN 60 DAYS.
2. ASPHALT CONCRETE MIX SHALL BE CLASS B.
3. ALL TRENCH BACKFILL SHALL BE CRUSHED SURFACING TOP COURSE MATERIAL FOR PERPENDICULAR TRENCHES.
4. CLASS B ASPHALT CONCRETE MIX MAY BE SUBSTITUTED FOR ATB.
5. PATCH MUST ALWAYS BE 1" DEEPER THAN EXISTING ASPHALT, 4" MINIMUM.
6. TOP SEAL-USE AR4000V AND PROVIDE A SAND BLANKET TO ALLEVIATE TRAILING.
7. ASPHALT CONCRETE PATCH SHALL BE 3" MINIMUM THICKNESS WHEN PARALLEL TO ROADWAY CENTERLINE AND 4" MINIMUM THICKNESS WHEN PERPENDICULAR TO ROADWAY CENTERLINE.

**LEGEND**

- SAWCUT PRIOR TO FINAL PATCH, TACK EDGE SEALANT (INSIDE & TOP)
- EXISTING ASPHALT CONCRETE SURFACE
- EXISTING EDGE OF PAVEMENT OR EDGE OF CURB AND GUTTER (SEE NOTE 1)
- EXISTING BASE
- TACK EDGE SEALANT (INSIDE & TOP) (SEE NOTE 6)



TRACT B  
ACCESS/UTILITY  
2,875 SF

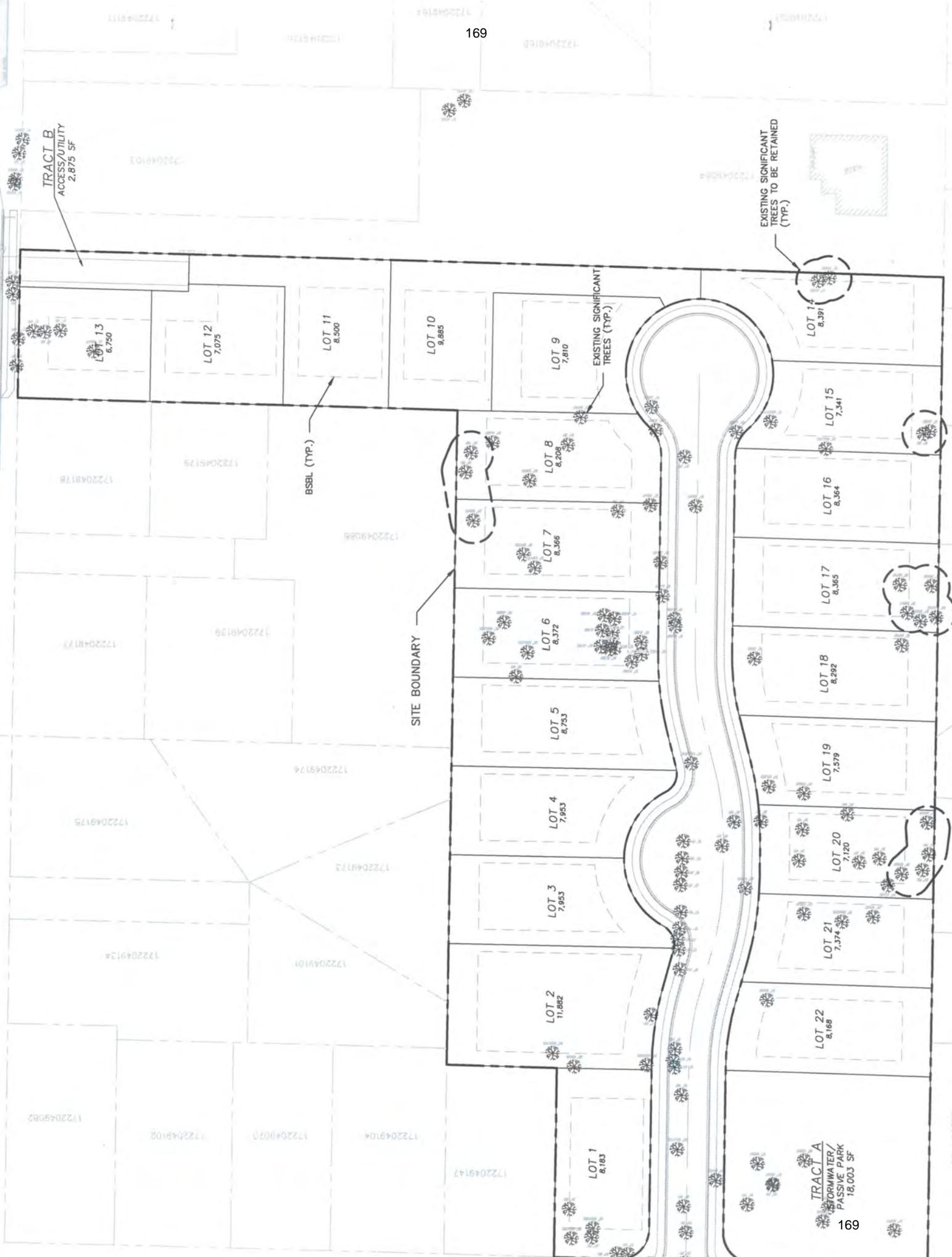
EXISTING SIGNIFICANT  
TREES TO BE RETAINED  
(TYP.)

EXISTING SIGNIFICANT  
TREES (TYP.)

BSBL (TYP.)

SITE BOUNDARY

TRACT A  
FORMERLY  
PASSIVE PARK  
18,003 SF





Engineering &amp; Planning

RECEIVED  
JUN 10 2015

14900 Interurban Ave. S  
Suite 279  
Seattle, WA 98168-4635  
Ph: 206.674.4659  
www.patrickharron.com

BY:-----

Seattle

The Pinnacles at Des Moines  
Modified Preliminary Plat

Lacey

### Project Narrative

Everett

The applicant, JK Monarch LLC has assembled 5 individual properties for the purpose of developing the combined sites into 22 single-family residential lots. The combined properties will total 5.52 acres.—see Vicinity Map below illustrating the properties and the surrounding parcels.

The combined parcels will form an irregular shaped "L" piece of property with the short leg facing in an east-west direction and fronting on 14<sup>th</sup> Avenue S, and the long leg will face in a north-south direction and front on S 232<sup>nd</sup> Street, all of which is in the City of Des Moines. Page 3 illustrates the existing site characteristics and the general land development surrounding the property.

The five existing single-family residences and associated out buildings will be demolished as part of the development. The properties are lightly forested with heavy underbrush. The general topography of the combined property slopes downward from the south to the north at approximately 10% grade with certain areas along the northerly one-third of the property reaching uniform slopes of 13%.

The abutting properties on the north, south, east and west are single-family residential homes. The properties to the north and east could be considered large-lots suitable for further subdivision.

The zoning on each of the existing individual 5 parcels is RS-7200 Residential which in part allows 7,200 square foot minimum lot size having minimum 60-foot frontages.

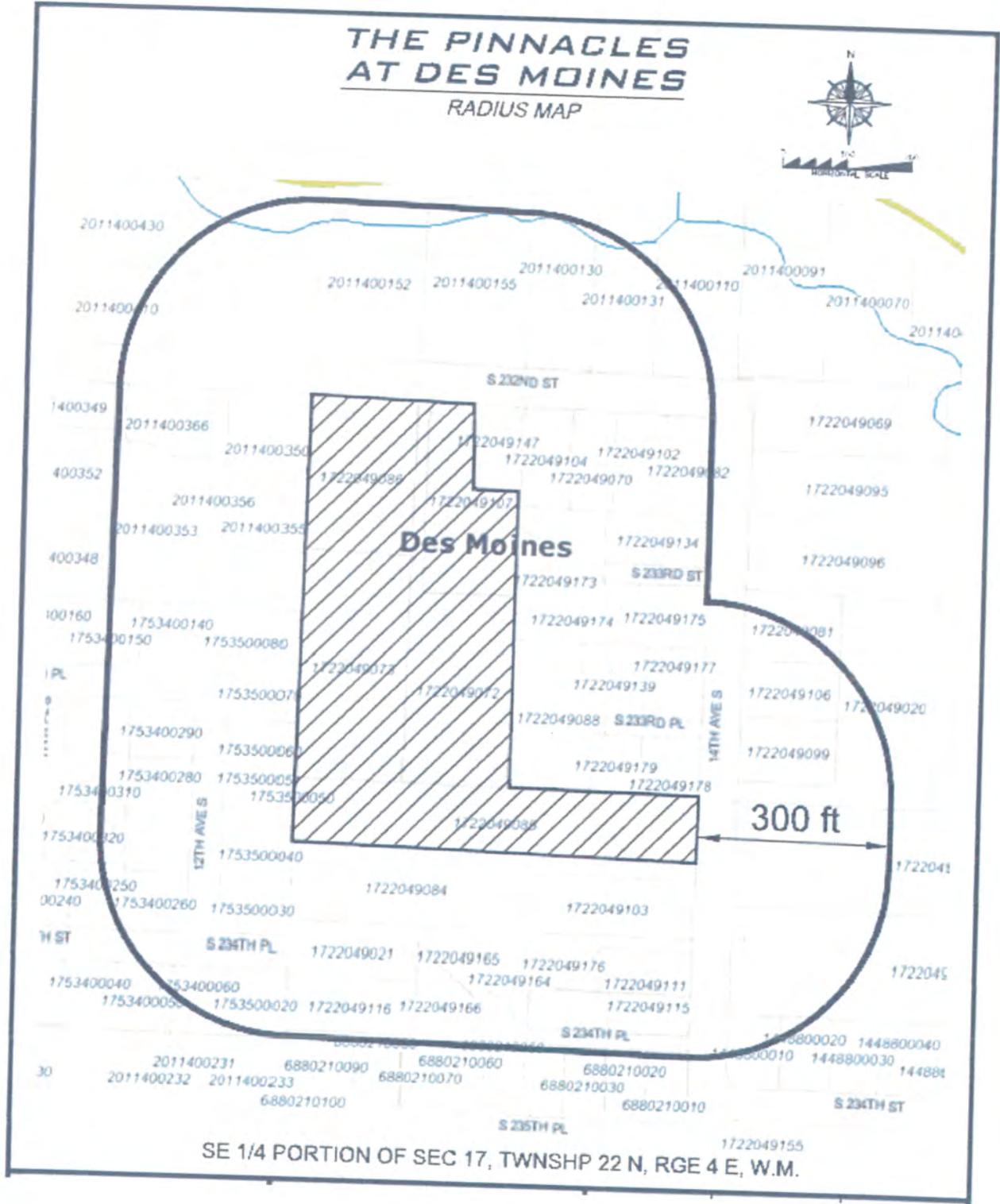
The project will require two deviations; namely,

1. To extend a cul-de-sac from the maximum length of 400 feet to 630-feet, and
2. To exceed the 2:1 ratio for 14 of the lots and to reduce the ratio on 2 of the lots to less than the 1:1 minimum lot ratio.

The applicant proposes to construct an internal access road with curb, gutters and sidewalks and bring in all other utilities normally associated with residential urban developments. The applicant will be completing frontage improvements on 14<sup>th</sup> Avenue S. and on S. 232<sup>nd</sup> Street. Stormwater management will be collected by an on-site storm sewer system and diverted to an on-site underground storm facility where both water quality and storm water detention will occur. The runoff will be detained and treated in accordance with City Standards and Policies and then released to the historic downstream drainage course. The controlled runoff will eventually discharge to Massey Creek.

A large passive park (18,000 square feet) will be constructed over the underground detention facility (Tract A). The applicant will also pay a park fee in recognition that the passive park will not meet the entire City required park needs.

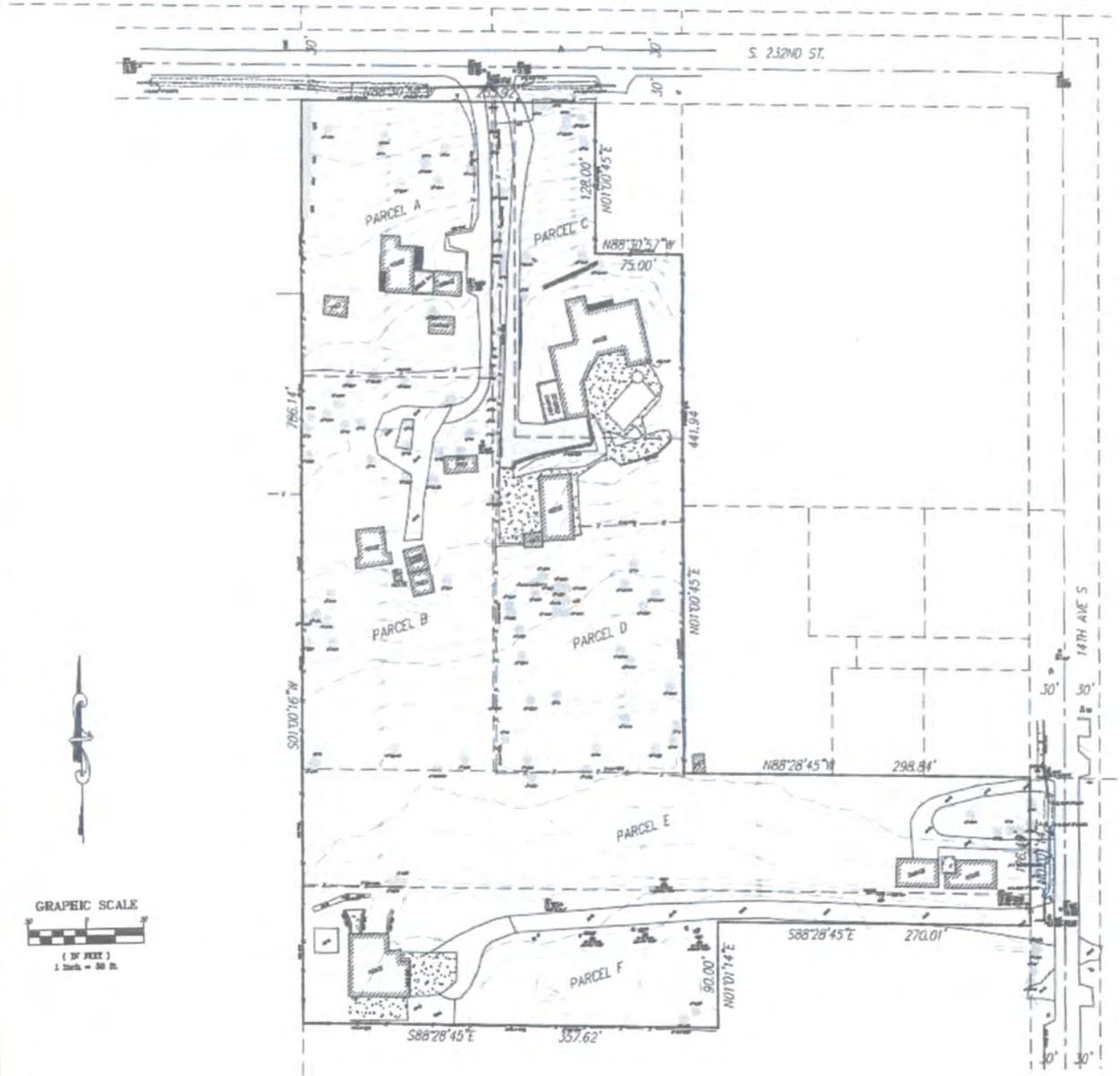
The Pinnacles at Des Moines  
May 21, 2015  
Page 2 of 3



**RECEIVED**  
JUN 10 2015

BY: \_\_\_\_\_

BOUNDARY AND TOPOGRAPHY MAP  
NE 1/4 OF THE SE 1/4 OF SECTION 17, TWP. 22N., RNG 4E., W.M.  
DES MOINES, KING COUNTY, WASHINGTON.



SITE CHARACTERISTICS AND SURROUNDING LAND USE  
(NTS)

**RECEIVED**  
JUN 10 2015  
BY: \_\_\_\_\_



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 www.patrickharron.com

Seattle

Pinnacles at Des Moines  
 Modified Subdivision Justification

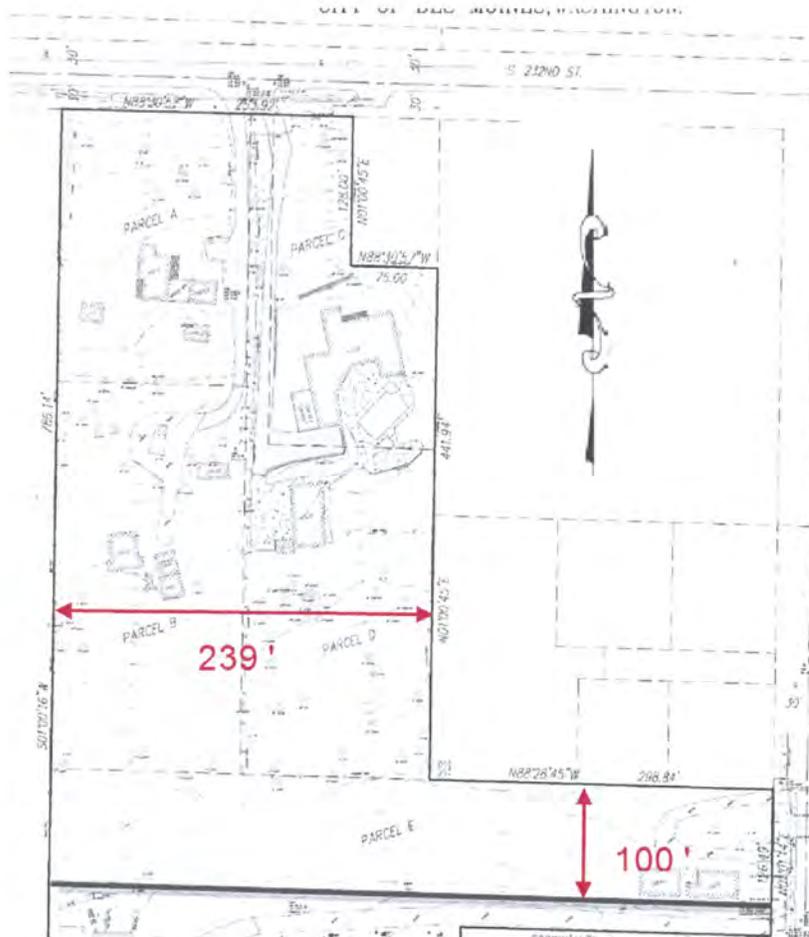
Lacey

**DMMC 17.15.060 (2)**

Everett

Deviation Request #1: To extend a cul-de-sac from the maximum length of 400 feet to 600 feet.

The combined parcels will form an irregular shaped "L" piece of property with the short leg facing in an east-west direction and fronting on 14<sup>th</sup> Avenue S, and the long leg will face in a north-south direction and front on S 232<sup>nd</sup> Street. The width of the east-west parcel is only 100-feet which will not support a 50-foot right-of-way and the required 20-foot front yard and 20-foot rear yard setback requirements of DMMC 18.55.080 and 18.55.100 respectfully.



The only alternative was to place a cul-de-sac within the wider north-south parcel to provide access to a majority of the combined parcels. Des Moines Street Development Standards "V.A. Street Ends cul-de-sacs" shall be no longer than 400 feet which unduly restricts the ability to serve the southern portion of the parcel with potential lots. The

The Pinnacles at Des Moines (Justification)  
August 10, 2015  
Page 2 of 4

applicant is requesting a Deviation to cul-de-sac standards to extend the cul-de-sac to 600 feet

The five existing single-family residences and associated out buildings will be demolished as part of the development. The properties are lightly forested with heavy underbrush. The general topography of the combined property slopes downward from the south to the north at approximately 10% grade with certain areas along the northerly one-third of the property reaching uniform slopes of 13%.

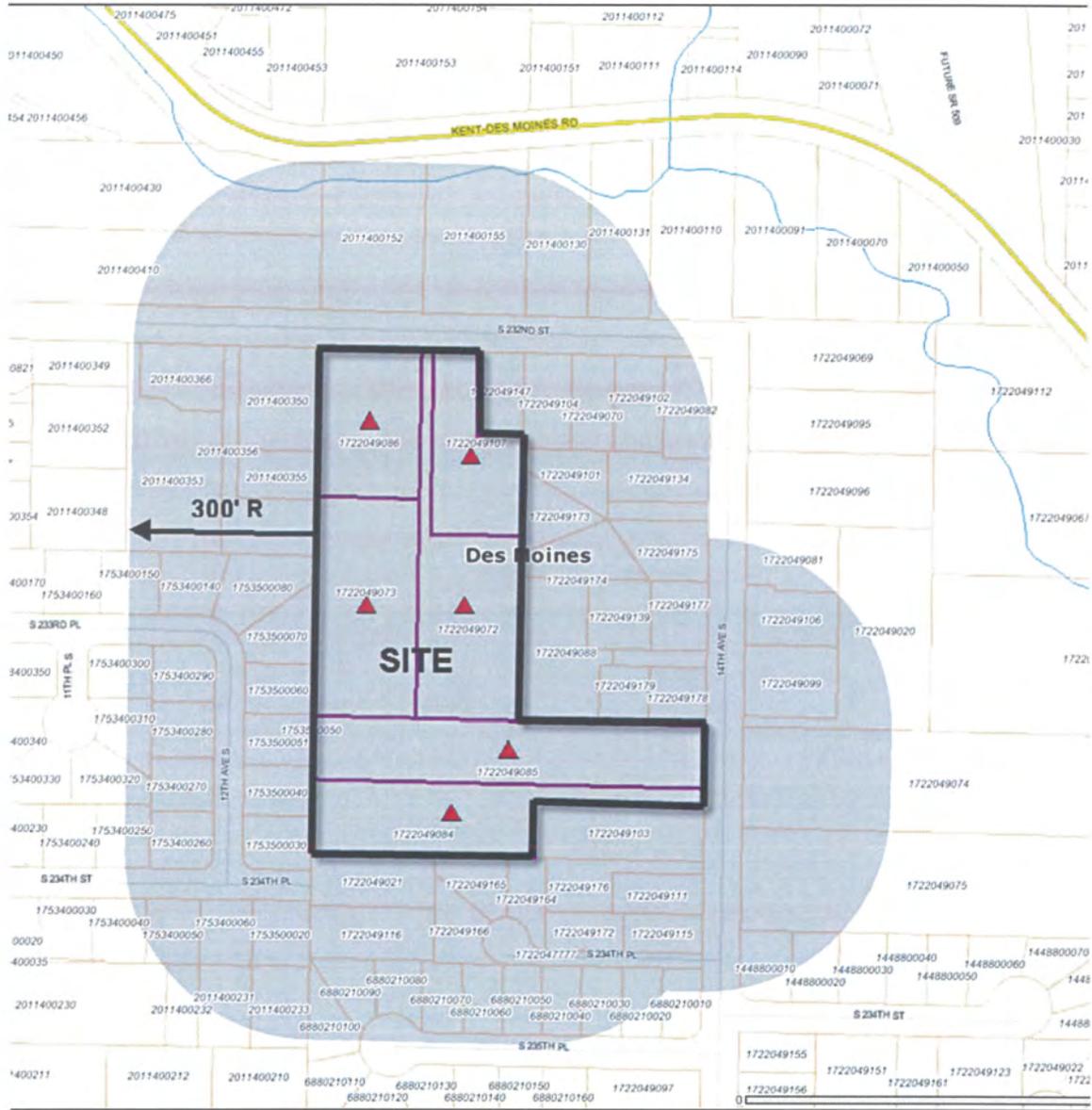
The abutting properties on the north, south, east and west are single-family residential homes. The properties to the north and east could be considered large-lots suitable for further subdivision.

The zoning on each of the existing individual 5 parcels is RS-7200 Residential which in part allows 7,200 square foot minimum lot size having minimum 60-foot frontages.

The project will require three deviations; namely,

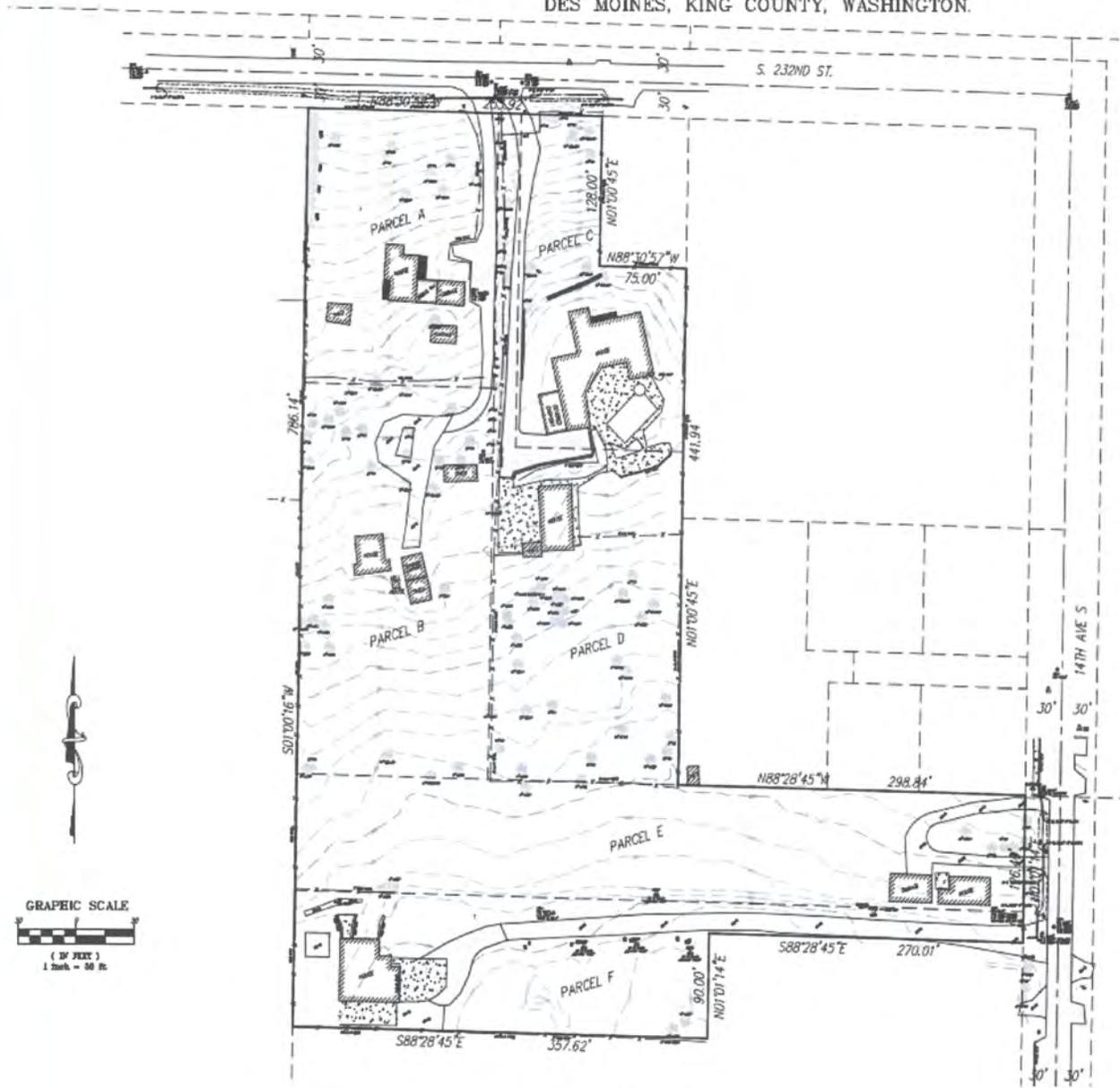
1. To extend a cul-de-sac from the maximum length of 400 feet to 730-feet, and
2. To exceed the 2:1 ratio for 16 of the lots and to reduce the ratio on 5 of the lots.
3. To reduce the width of a corner lot to be less than the minimum lot width plus five feet for a corner lot.

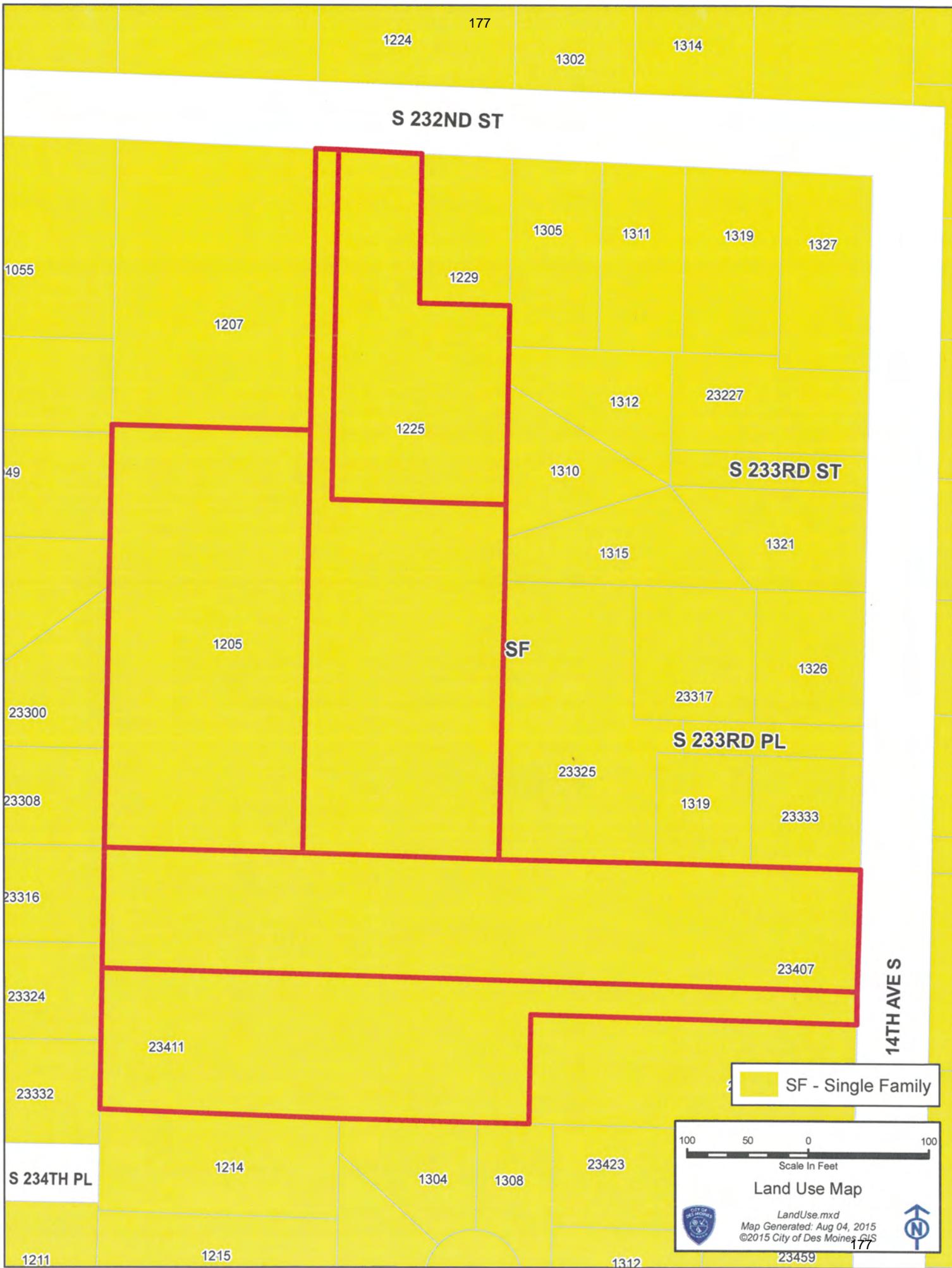
### Vicinity MAP

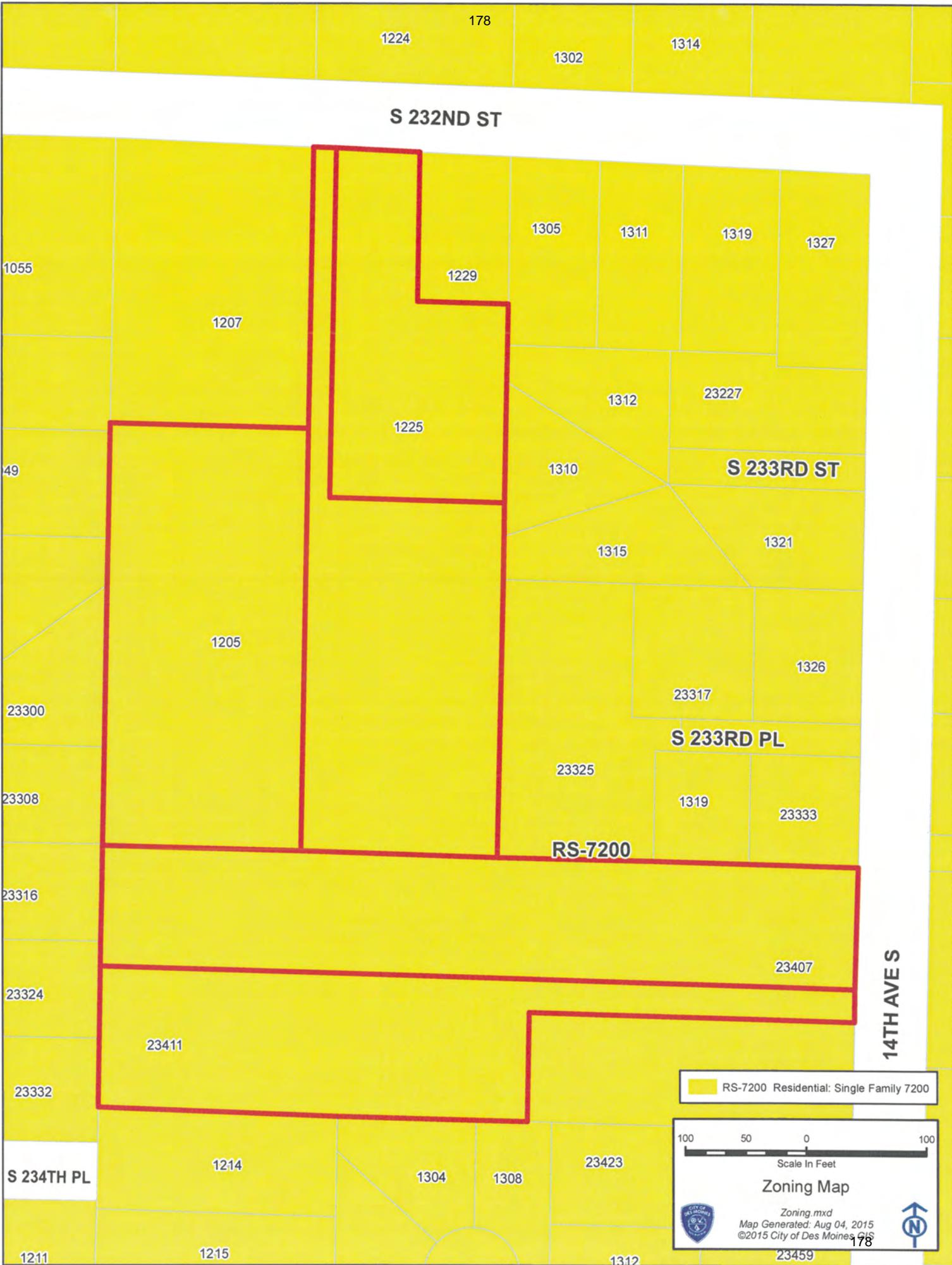


The Pinnacles at Des Moines (Justification)  
August 10, 2015  
Page 4 of 4

BOUNDARY AND TOPOGRAPHY MAP  
NE 1/4 OF THE SE 1/4 OF SECTION 17, TWP. 22N., RNG 4E., W.M.  
DES MOINES, KING COUNTY, WASHINGTON.







S 232ND ST

S 233RD ST

S 233RD PL

RS-7200

14TH AVE S

S 234TH PL

RS-7200 Residential: Single Family 7200

100 50 0 100  
Scale In Feet

Zoning Map



Zoning.mxd  
Map Generated: Aug 04, 2015  
©2015 City of Des Moines





## NOTICE OF APPLICATION AND DETERMINATION OF NONSIGNIFICANCE

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.

<b>APPLICATION SUBMITTAL:</b>	June 10, 2015		
<b>DATE OF DECISION:</b>	July 7, 2015	<b>COMMENT DUE DATE:</b>	July 21, 2015
<b>PROPOSAL:</b>	The subdivision of 5.52 acres into 22 single-family lots utilizing a modified subdivision. The applicant has specifically requested to extend the maximum length of a cul-de-sac and exceed the width to depth lot ratio.		
<b>PROPONENT:</b>	Patrick Harron and Associates/JK Monarch Homes		
<b>LOCATION:</b>	South 232 <sup>nd</sup> Street and 14 Ave. S. - Parcels: 1722049072, 1722049073, 17220499086, 1722049107, 1722049084, 1722049085		
<b>FILE NUMBER:</b>	LUA2015-0030		
<b>WRITTEN COMMENTS:</b>	Written comments concerning the proposed project may be submitted to City of Des Moines Planning, Building, and Public Works Department, located at 21630 11 <sup>th</sup> Avenue South, Suite D, Des Moines, WA 98198, by 4:30 p.m., <u>7/21/15</u> .		
<b>APPEAL:</b>	The decision to issue the DNS may be appealed by filing an appeal consistent with Sections 16.05.300 and 18.240.170, if applicable, of the DMMC. Appeals must be complete and filed with the City Clerk by 4:30 p.m., on <u>7/31/15</u> . 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.		
<b>EXISTING DOCUMENTATION:</b>	Traffic Assessment; Preliminary Technical Information Report		
<b>DOCUMENTS:</b>	The documents associated with this land use action are available at the following website: <a href="http://www.desmoineswa.gov/mypermits">www.desmoineswa.gov/mypermits</a> .		
<b>CONTACT:</b>	For further information contact Nikole Coleman, Land Use Planner, by phone (206) 870-6551 or by e-mail <a href="mailto:ncoleman@desmoineswa.gov">ncoleman@desmoineswa.gov</a> .		
<b>PUBLIC HEARING:</b>	Per DMMC 18.20.080, a modified subdivision is a Type IV land use decision made by the City Council. A notice of public hearing will be issued once a date has been scheduled.		

**From:** [Kennedy Akinlosotu](#)  
**To:** [Nikole Coleman](#)  
**Subject:** FW: The Pinnacles at Des Moines access  
**Date:** Monday, July 20, 2015 9:07:21 PM  
**Attachments:** [The Pinnacles.pdf](#)  
[Prior plat proposal.pdf](#)  
[Prior agreement.pdf](#)  
[2078 Akinlosotu access.pdf](#)

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Good Afternoon Nikole,

It was a pleasure meeting you last week. Thanks a million for your help.

With regards to the proposed development by my house, I believe the current proposal by the developer is too cumbersome and will not benefit the neighborhood and the city of Des Moines in the future. Additionally, the safety of our community is in jeopardy!  
Please see attached document from my surveyor.

Kennedy Akinlosotu  
Designated Broker---Nations Realty,LLC  
CDPE---Certified Distressed Property Expert.  
C-REPS---Certified Real Estate Pricing Specialist.  
Off: (253) 945-0808  
Fax: (253) 945-0809  
Cell: (206) 423-9999  
Email: [Kennedy@nationsrealtyllc.com](mailto:Kennedy@nationsrealtyllc.com)

***It's a good life!***

---

Subject: The Pinnacles at Des Moines access  
Date: Mon, 20 Jul 2015 14:11:48 -0700  
From: Norm@CPConsult.US  
To: Akinlosotu@MSN.com

Kennedy,

Attached is the letter that you requested. Please call me if you need anything changed

***Norman E. Larson, P.L.S.***



**CENTRE  
P-O-I-N-T-E**  
Consultants, Inc., P.S.

*14209 - 29th Street East, Suite 105  
Sumner, WA 98390  
(253) 987 - 5924  
(253) 987 - 7859 Fax  
(206) 793 - 2496 Mobile  
[www.CPConsult.us](http://www.CPConsult.us)*



Mr. Kennedy Akinlosotu  
23411 14th Avenue  
Des Moines, WA 98198

July 20, 2015

RE: Access for neighboring proposed subdivision of "The Pinnacles at Des Moines" vs. a combined access along the common line for parcels located along 14th Avenue and South 232nd Street in the City of Des Moines, Washington.

Dear Kennedy,

I have reviewed the proposed plat layout of The Pinnacles at Des Moines; prepared by Patrick Harron & Associates, LLC. As such, it is my professional opinion that this plat layout can be better served by providing a road connection to 14<sup>th</sup> Avenue South from the terminus cul-de-sac currently proposed.

Such a connection could be provided utilizing a combination of Tract B and the 20' utility easement proposed along the frontage of Lots 9 through 13, along with a 25 foot easement located on the Akinlosotu property to the south.

The benefits of a second connection are many-fold. Just a few include:

- Improved pedestrian and traffic circulation
- Secondary access for emergency vehicles
- Improved access for maintenance and repair of mainline utilities
- Improved access to Lots 9 through 13 without use of multiple flag driveways

Design revisions that would be required to provide such a connection would be minor in that the proposed plat is already designed with a 20-foot easement along the front of Lots 9 through 13 that would be used for placement of the northern half of a connection roadway.

The required 25 foot easement on Akinlosotu property for placement of the southern half of a connection roadway also entails no hardship to the plat in that my clients entered into such

14209 29th Street East, Suite 105, Sumner, WA 98390  
253-987-5924, fax 253-987-7859

an agreement to provide an easement on their property for a connection road to 14<sup>th</sup> on an earlier version of this plat and are still in favor of such.

Finally, please be aware that I prepared a detailed boundary and topographic survey in 2003 for the Akinlosotu parcel which can be made available to The Pinnacles at Des Moines design team so that there is no downtime waiting for survey data to be collected for road and grading design.

Attached are copies of the earlier plat map, previous easement agreements entered into by my clients and a copy of my 2003 survey.

Thank you for your consideration of our proposal.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Norman E. Larson', with a stylized flourish extending to the right.

Norman E. Larson, P.L.S.

## ADDENDUM TO MUTUAL AGREEMENT FOR DEDICATION OF PUBLIC STREET IN SOUTH DES MOINES, WASHINGTON

For good and valuable consideration the receipt of which is hereby acknowledged, the undersigned parties to that certain MUTUAL AGREEMENT FOR DEDICATION OF PUBLIC STREET IN SOUTH DES MOINES, WASHINGTON dated September 17, 2007, is hereby amended as follows:

1. Randy Breiwick and Melissa Breiwick, husband and wife, (Breiwick) owners of real property legally described as:

The North 100 feet of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter, Section 17, Township 22 North, Range 4 Est, W.M., in King County, Washington, except the east 30 feet deed to King County for road by deed recorded under Auditor's File No. 3055404,

agree to bear all expenses associated with permitting, construction and completing for use in its entirety, the road indicated upon attached Exhibit A, connection 14<sup>th</sup> Ave. S. and S. 232<sup>nd</sup> Street.

2. In consideration of not having to bear any of the financial burden of building said road, and conditioned upon said road being built, Kennedy Akinlosotu and Doris Akinlosotu, husband and wife, (Akinlosotu) agree to grant an easement 25 feet in width to Breiwick for ingress, egress and utilities over, under and upon a portion of the North 25 feet of the following described real property all as more fully set forth in Exhibit A attached hereto and incorporated herein by this reference:

The South 116.4 feet of the North 216.4 feet of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 17, Township 22 North, Range 4 East, W.M., in King County, Washington;  
EXCEPT, the East 300 feet of the South 90 feet thereof, and EXCEPT, the East 30 feet conveyed to King County for road under recording number 3055404.

3. In the event the road contemplated hereby, is not built by the date of June 26, 2015 then this agreement shall automatically terminate and any grant of easement made pursuant to this agreement shall revert to Akinlosotu, their heirs, assigns and successors in interest.
4. For purposes of any litigation arising out of or in connection with this Agreement, the parties hereby consent to the exclusive venue and jurisdiction of King County Superior Court sitting in Kent, Washington. In the event of any such litigation, the prevailing party shall be entitled to recover from the other party all of its attorney fees and other expenses incurred in connection with such litigation and any appeal therefrom or in connection with any bankruptcy action.

Kn  
Dg

5. This agreement shall be binding upon the heirs, assigns and successors in interest of the parties.

Kennedy Akinlosotu  
Doris Akinlosotu  
24311 14<sup>th</sup> Avenue South  
Des Moines, WA 98198  
(253) 945-0808 Office  
(253) 945-0809 Fax  
(206) 423-9999 Cell

  
Kennedy Akinlosotu      12/29/11  
Date

  
Doris Akinlosotu      12/29/11  
Date

Randy Breiwick  
Melissa Breiwick  
621 NW 41<sup>st</sup> Street  
Seattle, WA 98107  
(206) 782-8300 Office  
(206) 640-4248 Cell  
Breiwick@aol.com

\_\_\_\_\_  
Randy Breiwick      Date

(206) 650-4248

\_\_\_\_\_  
Melissa Breiwick      Date

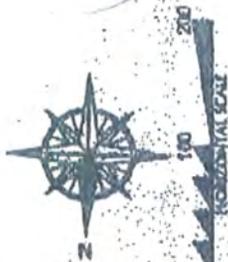


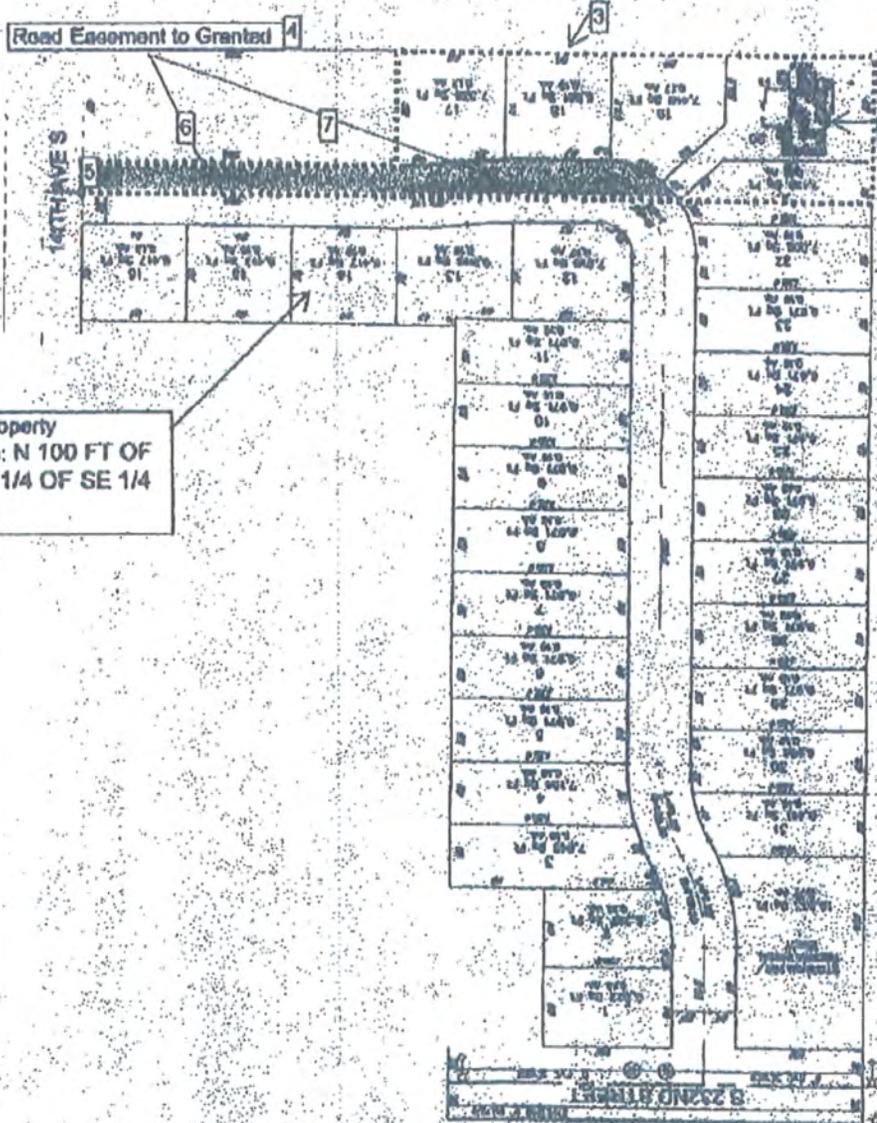
Exhibit "A" 1

Kennedy Akinlosotu's Property  
 Legal Description: S 116.4 FT OF N 216.4 FT OF  
 SW 1/4 OF NE 1/4 OF SW 1/4 LESS S 90 FT  
 OF E 300 FT LESS CO RD

Road Easement to Grant 4

Kennedy Akinlosotu'  
 Personal residence 8

Guy Bennett's Property  
 Legal Description: N 100 FT OF  
 SW 1/4 OF NE 1/4 OF SE 1/4  
 LESS CO RD



ADDENDUM TO MUTUAL AGREEMENT FOR DEDICATION OF  
PUBLIC STREET IN SOUTH DES MOINES, WASHINGTON

For good and valuable consideration the receipt of which is hereby acknowledged, the undersigned parties to that certain MUTUAL AGREEMENT FOR DEDICATION OF PUBLIC STREET IN SOUTH DES MOINES, WASHINGTON dated October 13, 2006, is hereby amended as follows:

1. Guy Bennett and Sabrina Bennett, husband and wife, (Bennett) owners of real property legally described as:

The North 100 feet of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter, Section 17, Township 22 North, Range 4 Est, W.M., in King County, Washington, except the east 30 feet deed to King County for road by deed recorded under Augitor's File No. 3055404,

agree to bear all expenses associated with permitting, construction and completing for use in its entirety, the road indicated upon the attached Exhibit A, connection 14<sup>th</sup> Ave. S. and S. 232<sup>nd</sup> Street.

2. In consideration of not having to bear any of the financial burden of building said road, and conditioned upon said road being built, Kennedy Akinlosotu and Doris Akinlosotu, husband and wife, (Akinlosotu) agree to grant an easement 25 feet in width to Bennett for ingress, egress and utilities over, under and upon a portion of the north 25 feet of the following described real property all as more fully set forth in Exhibit A attached hereto and incorporated herein by this reference:

The South 116.4 feet of the North 216.4 feet of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 17, Township 22 North, Range 4 East, W.M., in King County, Washington;  
EXCEPT, the East 300 feet of the South 90 feet thereof, and  
EXCEPT, the East 30 feet conveyed to King County for road under recording number 3055404.

3. In the event the road contemplated hereby, is not built within 5 years from the date of this agreement, then this agreement shall automatically terminate and any grant of easement made pursuant to this agreement shall revert to Akinlosotu, their heirs, assigns and successors in interest.

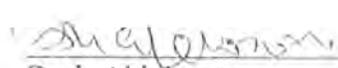
4. For purposes of any litigation arising out of or in connection with this Agreement, the parties hereby consent to the exclusive venue and jurisdiction of King County Superior Court sitting in Kent, Washington. In the event of any such litigation, the prevailing party shall be entitled to recover from the other party all of its attorney fees and other expenses incurred in connection with such litigation and any appeal therefrom or in connection with any bankruptcy

action.

5. This agreement shall be binding upon the heirs, assigns and successors in interest of the parties.

Kennedy Akinlosotu  
Doris Akinlosotu  
24311 14<sup>th</sup> Ave. S.  
Des Moines, WA 98198  
(253)945-0808 Office  
(253)945-0809 Fax  
(206)423-9999 Cell.

  
Kennedy Akinlosotu,      9/16/07  
Date

  
Doris Akinlosotu      9/16/07  
Date

Guy Bennett  
Sabrina bennett  
6017 NE 57<sup>th</sup> Street  
Seattle, WA 98105  
(206)525-7600  
(206)525-6423  
(206)669-6492

\_\_\_\_\_  
Guy Bennett      Date

\_\_\_\_\_  
Sabrina Bennett      Date

**From:** [Dale Dowsing](#)  
**To:** [Nikole Coleman](#)  
**Subject:** Comments regarding Proposed Project at S. 232nd St. and 14th Ave. S.  
**Date:** Monday, July 20, 2015 2:21:56 PM  
**Attachments:** [14thAveSTP.docx](#)

---

Hi Nikole-

Please see the attached MS Word file containing a Situation/Target/Proposal document.

I was going to propose this pedestrian safety project already, but when I saw there was a proposed project to add 22 homes in the area I thought it might be advantageous to tack this one on to that, in order mitigate some of the potential problems the new development may cause.

Please feel free to contact me if you have any questions about my proposal.

Thanx -

Dale Dowsing

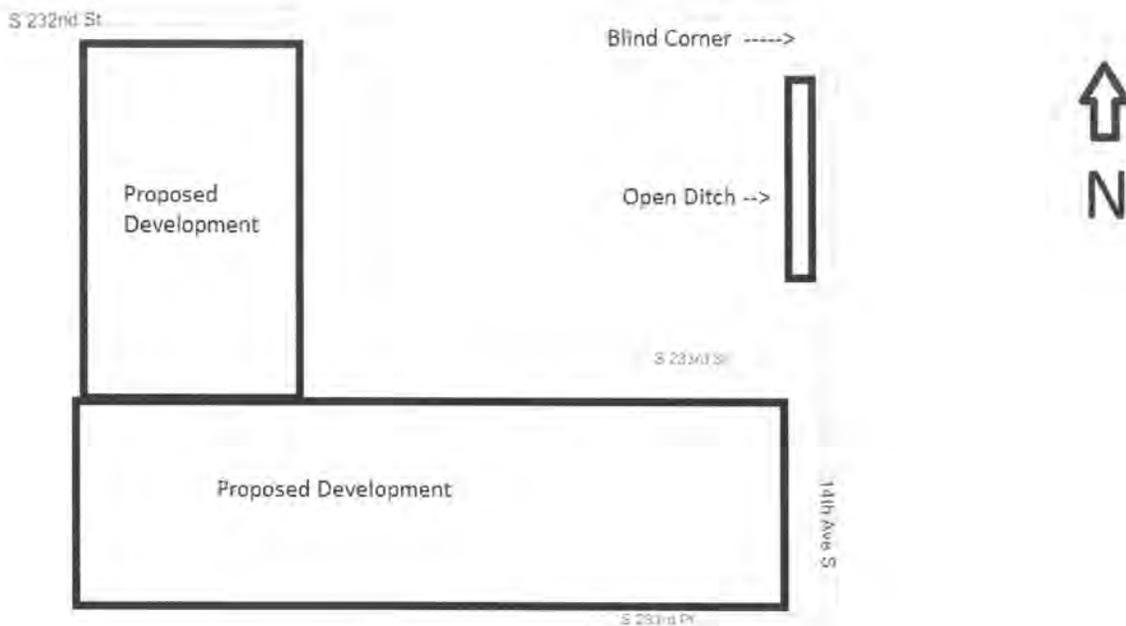
[dhdowsing@msn.com](mailto:dhdowsing@msn.com)

206-824-7031

Safety Issue for pedestrians at the North Entrance to the Highland Village Neighborhood.

Situation:

The Highland Village Neighborhood spans both sides of 14<sup>th</sup> Ave S. and is bordered on the South by S. 240<sup>th</sup> Street and on the North by S. 232<sup>nd</sup> St. At the North entrance, there is an open ditch on the West side of 14<sup>th</sup> Ave. between S. 232<sup>nd</sup> and S. 233<sup>rd</sup> St. (See diagram). A pedestrian walking North on 14<sup>th</sup> Ave is confronted with a potentially dangerous situation. Technically they should be on the West side of the Ave to be facing traffic, however, adjacent to the aforementioned ditch, there is virtually no shoulder for pedestrians to walk on. A vehicle traveling East bound on S. 232 has to negotiate a 90-degree blind corner to proceed South on to 14<sup>th</sup> Ave. This would give the operator of the vehicle very little time to react to a pedestrian traveling North on 14<sup>th</sup> Ave. who is trapped between the road and the open ditch.



Thankfully, at present, there is not excessive vehicular traffic on this section of road, however, there is a proposed project to build an additional 22 homes to the immediate vicinity. This project would substantially increase the density of homes in the area and would likely increase the vehicular traffic volume and exacerbate the pedestrian safety problem.

**Target:**

Adequate pedestrian access for the North entrance to Highland Village neighborhood.

**Proposal:**

Install an appropriately sized culvert in the open ditch on the West side of 14<sup>th</sup> Ave S. between S. 232<sup>nd</sup> St and S. 233<sup>rd</sup> St. Cover the culvert with gravel or appropriate fill until the resulting area is level with the avenue, so it can be safely used by pedestrians.

July 13, 2015

City of Des Moines Planning  
 Building and Public Works Department  
 21630 11th Avenue South  
 Suite D  
 Des Moines, WA 98198

Nikole Coleman, Land Use Planner:

This letter is in regard to The Pinnacles at Des Moines project.

My name is Ronald Petersen. I live at 1055 S 232<sup>nd</sup> Street, Des Moines, WA 98198. My property borders the proposed project on the west.

When a similar project was proposed a few years ago (2008) the survey of the project moved the property line 2-2.5 feet into my property. There are concrete property line markers on the north and south corners of my property. There is a chain-link fence on a portion of that property line. There is also a drainage tile on a portion of my property within the 2.5 feet. I have not seen any survey markers for the current project. What will be done to mitigate this survey discrepancy, if it still exists?

There are several additional concerns I have regarding this proposed project:

1. Is the clear-cut necessary? How many trees will be removed by the clear-cut? What will be done to replace trees and other vegetation?
2. South 232<sup>nd</sup> Street and 14<sup>th</sup> Avenue South have continued to have additional houses added over the years. We have lived in our home for forty-nine years. No improvements to streets or sidewalks have ever been made during that time. There are no sidewalks on either of these two streets. In some places there is no place to walk but on the dirt/mud beside the asphalt street. There is a real safety issue. What will be done to protect children and adults on these streets?
3. How will the water retention facility be covered? There is a proposal for a park over the water retention facility. Is this available to the general public? What about traffic and parking? Who will maintain this park?
4. Middle income housing is proposed for the project. Does this match the existing housing of the neighborhood?
5. Airplanes from all three runways at Sea-Tac airport pass directly overhead of the project.
6. The estimate of 60 people added by the project ( 2.7/lot) seems low to me.



Ronald G. Petersen



July 17, 2015

City of Des Moines  
Planning, Building and Public Works Department  
21630 11<sup>th</sup> Ave S, Suite D  
Des Moines, WA 98198

RE: File No. LUA2015-0030

This letter addresses concerns with the construction of 22 new homes to be located between South 232<sup>nd</sup> and 14<sup>th</sup> Ave South. The first concern is the lack of public safety on both 232<sup>nd</sup> and 14<sup>th</sup> Ave South – the city should know that the residents **MUST** walk in the street due to the lack of sidewalks. We also have areas with open water drainage making it impossible to walk on the side of the street. There are also children that ride their bikes in the street due to the lack of sidewalks. Building 22 new homes will increase car volume by 2.5 cars per home which will increase the chance of harm to someone riding their bike, walking their dog or just out for a walk. Keep in mind, the corner from 14<sup>th</sup> Ave S to 232<sup>nd</sup> Ave S has blind spots so you may not be able to see someone in the street until after you have driven around the corner. The builder agreeing to put in sidewalks the access roads to these home **will not** resolve this issue.

Second concern is the water drainage. As of today when it rains the water will drain on the east side of my property into our driveway then into a drainage hole or down to the street for hours or days depending on the amount of rain that is received. The builder is saying they will divert the water but by taking down all of the existing trees I can only imagine what that will do to the existing issue of water drainage. I would like to know more about how the builder will divert the water without causing environmental issues to the neighborhood or Puget Sound.

Third concern is property value. Is the builder building homes comparable to their homes at Simons Creek or something that looks like their Single Lots? The type of home will impact my property value in a negative manner if they build homes comparable to the Single Lot homes. Keep in mind, the homes in this area are on larger lots. In fact, the City of Des Moines would not approve the proposed building plan for 1015 – 1027 S 232<sup>nd</sup> because the plan was for 5-6 new homes. Instead the City of Des Moines approved 3 new homes. 22 new homes on 5.5 acres is not comparable to the existing homes in the neighborhood nor is what the city would approve a few years ago.

Your consideration of our concerns is appreciated.

Sincerely,  
  
Julie and Tommy Walker  
1027 S 232<sup>nd</sup> Street  
Des Moines, WA 98198

194  
*City of Des Moines*



PLANNING, BUILDING AND PUBLIC WORKS  
www.desmoineswa.gov  
21630 11TH AVENUE SOUTH, SUITE D  
DES MOINES, WASHINGTON 98198-6398  
(206) 870-7576 FAX (206) 870-6544



August 3, 2015

RE: LUA2015-0030; The Pinnacles at Des Moines Modified Subdivision  
SEPA Determination of Nonsignificance

Dear Concerned Citizen:

Thank you for your comment letter regarding the subject project. The State Environmental Policy Act (SEPA) environmental review process is designed to work with other regulations to provide a comprehensive review of a proposal. Most regulations focus on particular aspects of a proposal, while SEPA requires the identification and evaluation of probable impacts to all elements of the built and natural environment. If the proposal is not likely to have a significant adverse environmental impact or city regulations reduce the impacts sufficiently, a determination of nonsignificance (DNS) is issued.

The City of Des Moines issued a DNS for the proposed project on July 7, 2015 beginning a 15 day public comment period. Multiple comments were received by the comment due date. The City of Des Moines has reviewed the comments and determined that there is not a significant adverse environmental impact associated with the proposed project.

The applicant is requesting a modified subdivision and must state why the proposed deviations from City standards are necessary and what unique design features, not ordinarily provided in traditional subdivisions/short subdivisions, will be incorporated into the proposal to offset the need for such deviations. These unique features may include items such as additional landscaping, park features, pedestrian amenities, etc. The modification and unique features will be reviewed by the City Council at a public hearing on August 20, 2015 at 7 p.m., or as soon thereafter as the matter may be heard, in the Council Chambers, 21630 11th Avenue South, Des Moines, WA 98198.

The following lists the primary concerns raised during the public comment period and responses:

1. **Concern:** Safety/Street Improvements

**Response:** Per Des Moines Municipal Code (DMMC) 17.35.080, all rights-of-way within and abutting the subdivision shall be improved in accordance with the street development standards. This includes curb, gutter, and sidewalk on a portion of 14<sup>th</sup> Ave South and South 232<sup>nd</sup> Street. 14<sup>th</sup> Ave South and South 232<sup>nd</sup> Street are currently not included in the City's Priority Pedestrian Network, as most of these locations are adjacent to arterials with higher traffic volumes. Completing the sidewalks on 14<sup>th</sup> Ave South and South 232<sup>nd</sup> Street could be included as a potential Transportation Improvement Plan project in next year's update to compete with other City infrastructure needs in the Capital Improvement Plan.

2. **Concern: Drainage**

**Response:** As part of the permitting requirements, the project will need to meet the requirements of the King County Surface Water Design Manual. A Preliminary Technical Information Report (TIR), or Drainage Report, was submitted as part of the modified subdivision application.

During construction, the project will be required to obtain a clearing and grading permit which has requirements for erosion and sedimentation control measures to protect surface and groundwater.

3. **Concern: Scale/Density for Neighborhood**

**Response:** The proposed project is consistent with the RS-7200 zoning for the area. The minimum lot size for the zone is 7,200 square feet; therefore, when only considering size of the project area there is a potential for 33 lots. The applicant is proposing 22 lots. The applicant previously had approval for a 27 lot development.

4. **Concern: Vegetation**

**Response:** Per Des Moines Municipal Code (DMMC) 17.35.210, significant trees or other natural vegetation located along the boundary of a subdivision shall be retained if the City determines that retention will provide beneficial buffering for or from abutting properties or rights-of-way. Vegetation which is retained shall be protected by establishing open space easements or tracts. Site plan sheet 6 identifies significant trees to be retained.

5. **Concern: Traffic**

**Response:** As part of the SEPA Checklist, the applicant submitted a Traffic Assessment which analyzed the potential transportation related impacts of the project. The purpose of the assessment was to identify potential traffic related impacts of the project and to identify mitigation measures, if necessary, to mitigate those impacts given full buildout. Specifically, the analysis evaluates the impacts on intersections at PM Peak-Hour. As part of the City of Des Moines staff review of the proposed modified subdivision, we have requested that an update be made to the 2007 Traffic Assessment.

Thank you for your input into the review process for this project. If you have any questions regarding this letter or need further clarification about the application, please feel free to contact me. The documents associated with this land use action are available at the following website: [www.desmoineswa.gov/mypermits](http://www.desmoineswa.gov/mypermits).

Sincerely,

*Nikole Coleman*

NIKOLE COLEMAN, AICP | Land Use Planner  
City of Des Moines | Planning, Building and Public Works Department  
206.870.6551 | [ncoleman@desmoineswa.gov](mailto:ncoleman@desmoineswa.gov) | [www.desmoineswa.gov](http://www.desmoineswa.gov)

196  
*City of Des Moines*



PLANNING, BUILDING AND PUBLIC WORKS  
www.desmoineswa.gov  
21630 11TH AVENUE SOUTH, SUITE D  
DES MOINES, WASHINGTON 98198-6398  
(206) 870-7576 FAX (206) 870-6544



August 5, 2015

Kennedy Akinlosotu  
23411 14<sup>th</sup> Avenue South  
Des Moines, WA 98198

RE: LUA2015-0030; The Pinnacles at Des Moines Modified Subdivision  
SEPA Determination of Nonsignificance

Dear Mr. Akinlosotu:

Thank you for your comment letter regarding the subject project. The State Environmental Policy Act (SEPA) environmental review process is designed to work with other regulations to provide a comprehensive review of a proposal. Most regulations focus on particular aspects of a proposal, while SEPA requires the identification and evaluation of probable impacts to all elements of the built and natural environment. If the proposal is not likely to have a significant adverse environmental impact or city regulations reduce the impacts sufficiently, a determination of nonsignificance (DNS) is issued.

The City of Des Moines issued a DNS for the proposed project on July 7, 2015 beginning a 15 day public comment period. Multiple comments were received by the comment due date. The City of Des Moines has reviewed the comments and determined that there is not a significant adverse environmental impact associated with the proposed project.

The applicant is requesting a modified subdivision and must state why the proposed deviations from City standards are necessary and what unique design features, not ordinarily provided in traditional subdivisions/short subdivisions, will be incorporated into the proposal to offset the need for such deviations. These unique features may include items such as additional landscaping, park features, pedestrian amenities, etc. The modification and unique features will be reviewed by the City Council at a public hearing on August 20, 2015 at 7 p.m., or as soon thereafter as the matter may be heard, in the Council Chambers, 21630 11th Avenue South, Des Moines, WA 98198.

The following lists your primary concerns raised and responses:

1. **Concern:** Safety/Street Improvements

**Response:** Per Des Moines Municipal Code (DMMC) 17.35.080, all rights-of-way within and abutting the subdivision shall be improved in accordance with the street development standards. This includes curb, gutter, and sidewalk on a portion of 14<sup>th</sup> Ave South and South 232<sup>nd</sup> Street. 14<sup>th</sup> Ave South and South 232<sup>nd</sup> Street are currently not included in the City's Priority Pedestrian Network, as most of these locations are adjacent to arterials with higher traffic volumes. Completing the sidewalks on 14<sup>th</sup> Ave South and South 232<sup>nd</sup> Street could be included as a potential Transportation Improvement Plan project in next year's update to compete with other City infrastructure needs in the Capital Improvement Plan.

2. **Concern: Traffic**

**Response:** As part of the SEPA Checklist, the applicant submitted a Traffic Assessment which analyzed the potential transportation related impacts of the project. The purpose of the assessment was to identify potential traffic related impacts of the project and to identify mitigation measures, if necessary, to mitigate those impacts given full buildout. Specifically, the analysis evaluates the impacts on intersections at PM Peak-Hour. As part of the City of Des Moines staff review of the proposed modified subdivision, we have requested that an update be made to the 2007 Traffic Assessment.

3. **Concern: Layout/ Access**

**Response:** DMMC 17.35.080 states that *"the City may require the dedication of rights-of-way to serve adjacent properties in order to provide a safe and efficient circulation system within the City."* Although an agreement was made to provide joint access in 2007 and 2011 with the previous development proposal, *The Pinnacles at Des Moines* is a new application and, as such, joint access is not a requirement for approval.

Thank you for your input into the review process for this project. If you have any questions regarding this letter or need further clarification about the application, please feel free to contact me. The documents associated with this land use action are available at the following website: [www.desmoineswa.gov/mypermits](http://www.desmoineswa.gov/mypermits).

Sincerely,

*Nikole Coleman*

NIKOLE COLEMAN, AICP | Land Use Planner  
City of Des Moines | Planning, Building and Public Works Department  
206.870.6551 | [ncoleman@desmoineswa.gov](mailto:ncoleman@desmoineswa.gov) | [www.desmoineswa.gov](http://www.desmoineswa.gov)



## NOTICE OF PUBLIC HEARING FOR MODIFIED SUBDIVISION

Notice is hereby given on **8/4/15** that the Des Moines City Council will conduct a public hearing on **8/20/15** at 7 p.m., or as soon thereafter as the matter may be heard, in the Council Chambers, 21630 11th Avenue South, Des Moines, WA 98198 for the following proposal:

**PROPOSAL:** Application for a modified subdivision of 5.52 acres into 22 single family residential lots. The application for a modified subdivision must state why the proposed deviations from City standards are necessary and what unique design features, not ordinarily provided in traditional subdivisions, will be incorporated into the proposal to offset the need for such deviations (provided as part of the application). The project is requesting three deviations: extension of the maximum length of a cul-de-sac, exceeding the width to depth lot ratio, and not requiring a corner lot to be five feet wider than the minimum lot width required by the underlying zone.

**FILE NUMBER:** LUA2015-0030

**LOCATION:** 232<sup>nd</sup> Street S. and 14<sup>th</sup> Avenue S, Des Moines, WA 98198; Parcels: 1722049072, 1722049073, 17220499086, 1722049107, 1722049084, and 1722049085

Written comments concerning the proposed project may be submitted to City of Des Moines Planning, Building, and Public Works Department, located at 21630 11<sup>th</sup> Avenue South, Suite D, Des Moines, WA 98198, by 4:30 p.m., **8/19/15**.

The above proposal is a Type IV Land Use Action and as such, the final decision would be appealable to the Superior Court for King County under the Land Use Petition Act, Chapter 36.70C RCW, as set forth in DMMC 18.20.240.

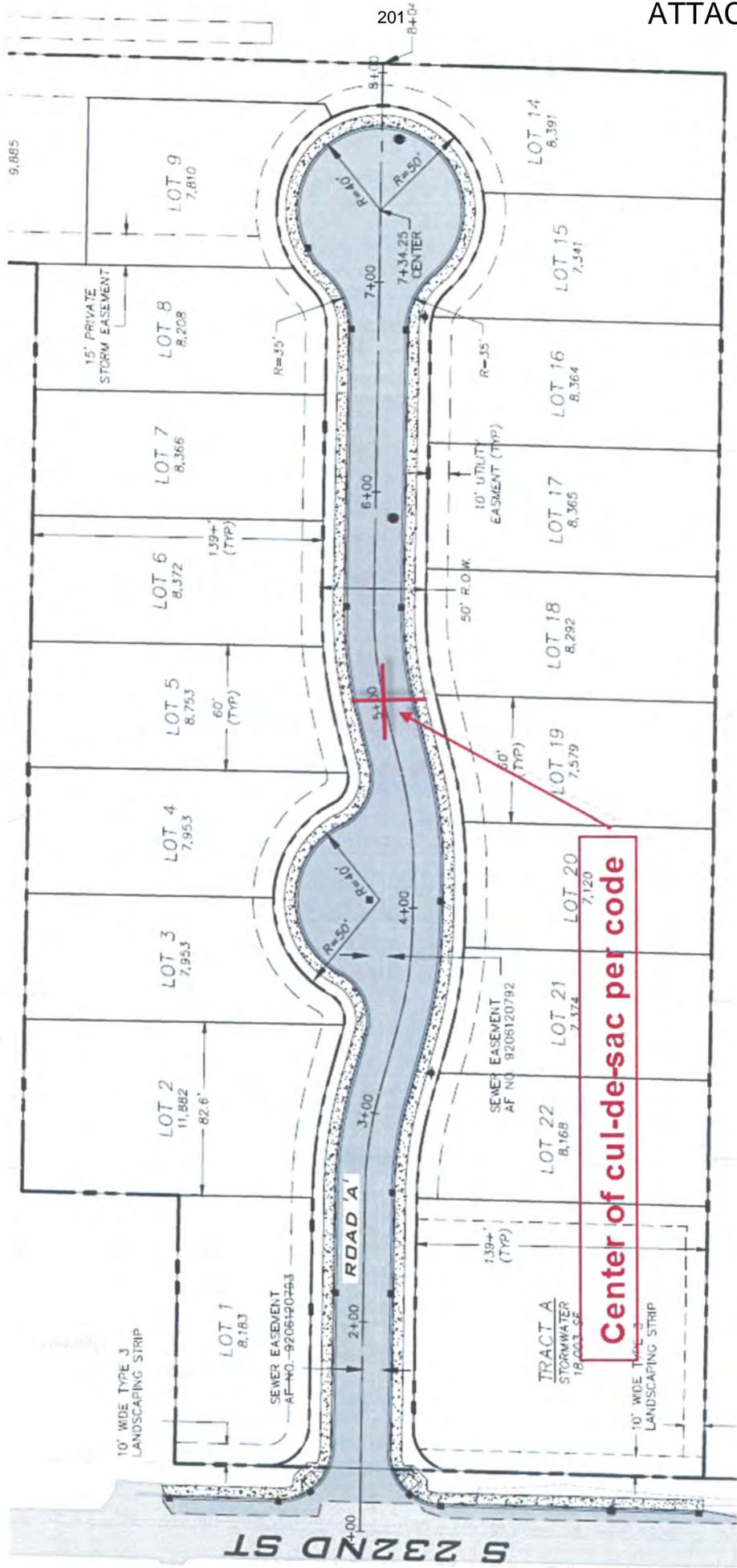
The documents associated with this land use action are available at the following website: [www.desmoineswa.gov/mypermits](http://www.desmoineswa.gov/mypermits). Once on the above website, please click on **Click to Search** under the Permit Search Section and then enter the File Number identified above in **The Search by ID Number** box and then click **Search** to access the information

For further information contact Nikole Coleman, Land Use Planner, by phone (206) 870-6551 or by e-mail [ncoleman@desmoineswa.gov](mailto:ncoleman@desmoineswa.gov), during regular office hours. All letters and telephone inquiries should refer to file number - LUA2015-0030.

The City of Des Moines provides special accommodations such as hearing devices, wheelchair space, and large print material for city meetings. Anyone needing special assistance should contact the city clerk at 206-870-6519.



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