

AGENDA

DES MOINES CITY COUNCIL
REGULAR MEETING
City Council Chambers
21630 11th Avenue S, Des Moines, Washington

May 12, 2016 – 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 April 7, 14 and 28, 2016 regular City Council meetings and the minutes from the April 14, 2016 City Council Executive Session.

Page 17 Item 2: APPROVAL OF VOUCHERS

Motion is to approve for payment vouchers and payroll transfer through April 20, 2016 included in the attached list and further described as follows:

Total A/P Checks/Vouchers	#146656-146767	\$ 407,396.45
Electronic Wire Transfers	#700-707	\$ 312,252.80
Payroll Checks	#18788-18793	\$ 4,840.63
Payroll Direct Deposit	#180001-180162	\$ 288,568.34
Total Certified Wire Transfers, Voids, A/P and Payroll Vouchers:		\$1,013,058.22

Page 19 Item 3: MUSIC4LIFE PROCLAMATION

Motion is to approve the Proclamation recognizing June as Music4Life.

Page 23 Item 4: DRAFT RESOLUTION NO. 16-056 SETTING PUBLIC HEARING TO CONSIDER DRAFT ORDINANCE 16-056 RENAMING A PORTION OF 19TH AVENUE SOUTH TO RAINIER DRIVE S

Motion is to adopt Draft Resolution No. 16-056 setting a public hearing on July 7, 2016, or as soon thereafter as the matter may be heard, to consider Draft Ordinance No. 16-056 renaming a portion of 19th Avenue South to Rainier Drive South.

Page 33 Item 5: DRAFT RESOLUTION NO. 16-023 SETTING PUBLIC HEARING TO CONSIDER DRAFT ORDINANCE 16-023 AMENDING CHAPTERS 18.01, 18.10, 18.15, 18.20, 18.52, 18.55, 18.105, 18.190, 18.195, 18.200 and 18.210 DMMC TO CORRECT OMISSIONS, ERRORS, INCONSISTENCIES AND TO CLARIFY CITY COUNCIL INTENT
Motion is to adopt Draft Resolution No. 16-023 setting a public hearing on July 7, 2016, or as soon thereafter as the matter may be heard, to consider Draft Ordinance No. 16-023 amending Chapters 18.01, 18.10, 18.15, 18.20, 18.52, 18.55, 18.105, 18.190, 18.195, 18.200 and 18.210 DMMC to correct omissions, errors, inconsistencies and to clarify City Council intent.

Page 81 Item 6: MARINA SHORT PLAT-LUA08-025
Motion is to approve LUA08-025 which creates a four-lot short plat in the Marina and the adjacent tidelands, and authorize the City Manager to sign the short plat documents on behalf of the City.

Page 99 Item 7: SUN HOME LODGE GRANT REQUESTS
Motion is to authorize the City Manager to submit grant applications to the Washington Heritage Capital Grant Fund in the amount of up to \$500,000 and to King County 4Culture in the amount of \$30,000 for the Des Moines Beach Park Sun Home Lodge Renovation Project.

Page 103 Item 8: AGREEMENTS WITH HIGHLINE WATER DISTRICT AND PUGET SOUND ENERGY FOR THE 268TH STREET SIDEWALK IMPROVEMENTS
Motion 1 is to approve the Agreement between the City of Des Moines and Highline Water District regarding asphalt restoration for the 268th Street Sidewalk Project, and further authorize the City Manager to sign the Agreement, substantially in the form as submitted.

Motion 2 is to approve the Agreement between the City of Des Moines and Puget Sound Energy (PSE) regarding asphalt restoration for the 268th Street Sidewalk Project, and further authorize the City Manager to sign the Agreement, substantially in the form as submitted.

PUBLIC HEARING

Page 113 Item 1: DRAFT ORDINANCE NO. 15-147 RELATING TO THE UPDATE TO CITY OF DES MOINES ENVIRONMENTALLY CRITICAL AREA REGULATIONS
Staff Presentation: Community Development Manager
Denise Lathrop

Page 151 Item 2: DRAFT ORDINANCE NO. 15-206 RELATING TO THE SITING OF ESSENTIAL PUBLIC FACILITIES (EPFs)
Staff Presentation: Community Development Manager
Denise Lathrop

NEXT MEETING DATE

May 26, 2016 Regular City Council Meeting

ADJOURNMENT

MINUTES

**DES MOINES CITY COUNCIL
STUDY SESSION
City Council Chambers
21630 11th Avenue South, Des Moines**

April 7, 2016 – 7:00 p.m.

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

The flag salute was led by Councilmember Nutting.

ROLL CALL

Council present: Mayor Matt Pina; Mayor Pro Tem Vic Pennington; Councilmembers Melissa Musser, Jeremy Nutting, Robert K. Back and Dave Kaplan.

Councilmember Luisa Bangs was absent.

Direction/Action

Motion made by Councilmember Nutting to excuse Councilmember Bangs; seconded by Mayor Pro Tem Pennington.
The motion passed 6-0.

Staff present:

City Manager Tony Piasecki; City Attorney Pat Bosmans; Assistant City Manager/Economic Development Director Michael Matthias; Information Systems Manager Dale Southwick; Harbormaster Joe Dusenbury; Commander Bob Bohl; Police Chief George Delgado; Transportation & Engineering Services Manager Brandon Carver; Court Administrator Jennefer Johnson; Parks, Recreation & Senior Services Director Patrice Thorell; Assistant City Attorney Tim George; Finance Director Donyele Mason; Acting City Clerk Ellie Hooman.

CORRESPONDENCE

- There were no correspondences.

COMMENTS FROM THE PUBLIC

- Sheila Brush, 24614 8th Avenue S; Police staffing.
- Linda Fideler, 28853 Redondo Shores Drive S; Traffic quieting at the far south end of Redondo.
- Todd Powell, 22211 Marine View Drive S; Marina paid parking.
- Scott Evans, 1127 S 243rd Court; Invitation to future Destination Des Moines meetings.
- Bill Linscott, 22335 6th Avenue S; Marina paid parking.
- Rick Johnson, 28624 Redondo Beach Drive; Communication and insuring the Redondo Boardwalk.
- Mac McLead, North Hill; Marina paid parking.

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Mayor Pro Tem Pennington

- Public Safety & Transportation Committee meeting:
 - Updates on Sound Transit.
 - Comment period open until June, 2016.
 - 509 Right-of-Way.
 - Transportation Improvement Plan.
 - Police Chief reported on public disclosure and administrative work.
 - Off-site storage facility of old records.
 - All back on site and appropriate records being destroyed and/or archived when appropriate.
 - Detectives:
 - 156 open cases.
 - SCORE:
 - Received accreditation.

Councilmember Kaplan

- People's workshop on Sound Transit 3:
 - At Highline College.
 - Opportunity to provide input before final decision.
- Presented Mayor Pro Tem Pennington a small cake for his birthday.

Councilmember Back

- No report.

Councilmember Nutting

- No report.

Councilmember Musser

- Web-site, Desmoinesfoodtruckpod.com, is now live.
 - Program starts May 2nd.
- Thanked Arts Commission for selection of new art sculptures.

PRESIDING OFFICER'S REPORT

- Gave highlights of Council's 2016/2017 Plan for Operational Changes.

ADMINISTRATION REPORT

City Manager Piasecki addressed Rick Johnson's comment on insuring the Redondo Boardwalk.

Item 1: UPDATE ON FRANCHISE AGREEMENT DISCUSSION

- First meeting was very productive
- Next meeting April 20th

City Manager gave a brief update on the City Manager Project list.

CONSENT AGENDA

Item 1: DRAFT ORDINANCE 16-044; 2016 BUDGET AMENDMENT AND TASK ORDER ASSIGNMENT FOR THE 251ST STORM OUTFALL PROJECT
Motion 1 is to suspend Rule 26(a) in order to enact Draft Ordinance No. 16-044 on first reading.

Motion 1b is to enact Draft Ordinance 16-044, amending the 2016 Capital Budget to include the S 251st Street Storm Outfall Project in the amount of \$370,000.

Motion 2 is to approve the Task Order Assignment with KPG, that will provide for design and permitting services associated with the S. 251st Street Storm Outfall Project in the amount of \$95,700.84, plus a 10% contingency and further authorize the City Manager to sign Said Task Order Assignment, substantially in the form as submitted.

Direction/Action

Motion made by Councilmember Musser to approve the Consent Agenda as read; seconded by Councilmember Kaplan.
The motion passed 6-0.

Mayor Pina took Old Business Item #2 before Old Business Item #1.

OLD BUSINESS

Item 2: RECONSIDERATION OF DRAFT ORDINANCE NO. 16-018; AUTOMATED RED-LIGHT RUNNING ENFORCEMENT CAMERAS
Staff Presentation: Planning, Building and Public Works Director
Dan Brewer

No presentation given by staff.

Direction/Action

Motion made by Councilmember Kaplan to suspend Rule 26(a) in order to enact Draft Ordinance 16-018 on first reading; seconded by Councilmember Musser.
The motion passed 6-0.

Direction/Action

Motion made by Councilmember Kaplan to enact Draft Ordinance 16-018, establishing the authority for automated red light running enforcement in Des Moines; seconded by Councilmember Musser.

Amendment made by Councilmember Kaplan to reinstate sub vi; seconded by Councilmember Nutting.

The motion passed 4-2.

For: Mayor Pina; Councilmembers Nutting, Back and Kaplan

Against: Mayor Pro Tem Pennington; Councilmember Musser

The original motion, as amended passed 6-0.

Direction/Action

Motion made by Councilmember Kaplan to authorize the City Manager to prepare a contract supplement for automated red light running enforcement with American Traffic Solutions (ATS) at the following intersection approaches: southbound and eastbound at SR-99 (Pac. Hwy)/South 216th Street, southbound and westbound at SR-99 (Pac. Hwy)/SR-516 (JDM), and northbound and southbound at SR-509 (MVD)/7th PI South/South 216th Street, and to bring the contract back to the Council for approval on the consent calendar; seconded by Councilmember Musser.
The motion passed 6-0.

Mayor Pina read Draft Ordinance No. 16-018 into the record.

Item 1: OPTIONS FOR PAY PARKING IN THE MARINA AND BEACH PARK
Staff Presentation: Harbormaster Joe Dusenbury

Harbormaster Dusenbury gave a power point presentation to Council.

Direction/Action

Motion made by Councilmember Musser to adopt Option 2.1 as the preferred alternative for a pay parking system in the Marina and Beach Park and direct the City Manager and staff to implement a plan as soon as practical, which would include a resident pass system; seconded by Councilmember Kaplan.
The motion passed 6-0.

NEXT MEETING DATE

April 14, 2016 Regular City Council Meeting

ADJOURNMENT

Motion made by Councilmember Musser to adjourn; seconded by Mayor Pro Tem Pennington.
The motion passed 6-0.

The meeting was adjourned at 9:17 p.m.

Respectfully Submitted,
Ellie Hooman
Acting City Clerk

MINUTES

DES MOINES CITY COUNCIL STUDY SESSION City Council Chambers 21630 11th Avenue South, Des Moines

April 14, 2016 – 7:00 p.m.

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

The flag salute was led by Councilmember Bangs.

ROLL CALL

Council present: Mayor Matt Pina; Mayor Pro Tem Vic Pennington; Councilmembers Jeremy Nutting, Luisa Bangs, Robert K. Back and Dave Kaplan.

Councilmember Melissa Musser was absent.

Direction/Action

Motion made by Councilmember Nutting to excuse Councilmember Musser; seconded by Councilmember Bangs.
The motion passed 6-0.

Staff present: City Manager Tony Piasecki; Assistant City Attorney Tim George; Assistant City Manager/Economic Development Director Michael Matthias; Police Chief George Delgado; Commander Bob Bohl; Commander Barry Sellers; Planning, Building and Public Works Director Dan Brewer; Finance Director Donyele Mason; Police Department Office Manager Terryann Dell; Police Department Senior Secretary Ellie Hooman; Marina Maintenance Manager Scott Wilkins; City Clerk Bonnie Wilkins.

CORRESPONDENCE

- E-Mail from WSDOT; Reduction in lane capacity on I-5 this summer.

COMMENTS FROM THE PUBLIC

- Shirley Jones, 815 S 219th Street #4; Garbage cans at bus stops and store fronts.
- Dr. Wendy Ghiora, 26449 Marine View Drive S; Crime statistics.
- Candace Urquhart, 25665 Marine View Drive S; Government 101 and outside Council to train new City Manager.
- Sheila Brush, 24614 8th Avenue S; Podium speaking and dialogue.

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Mayor Pro Tem Pennington

- No report.

Councilmember Kaplan

- Sound Side Alliance Policy Committee meeting:
 - First meeting of the year.
 - Review of last fall's breakfast.

- Attendance up 50% from prior year.
- Planning mid-year social.
- New hotels being built in SeaTac.
 - A lot of interest for smaller hotels in Des Moines.
- Statistics from Small Business Development Center.
- Apologized to Sheila Brush for response regarding Levy Lid Lift.

Councilmember Bangs

- Asked clarification regarding garbage around the Metro Bus stops.
 - Serviced by Metro.
- Spoke to citizen regarding Government 101:
 - Very helpful.

Councilmember Bangs

- Arts Commission meeting:
 - Opening of Art on Poverty Bay:
 - Sculptures chosen.
 - Unveiling on June 4th.
 - Concerts in Park:
 - Starts Wednesday, July 6th
 - Shakespeare in the Park, August 7th
 - Updating event calendar and social media.
 - Updating Facebook, web-site, maps available and flyers.
 - Advertising for Sophomore/Junior High school volunteer:
 - Junior Arts Commissioner.
 - Non-voting position.
 - www.tothebeachwa.com
- Highline College Earned the Prestigious Award of Excellence from American Association of Community Colleges:
 - Job Fair for transportation and logistics.
- Earth Day:
 - Volunteers needed to clean along Des Moines Creek.

Mayor Pina asked if Council would like to move forward with a Proclamation to recognize the award Highline College received; Council agreed.

Councilmember Nutting

- Finance & Economic Development Committee meeting:
 - Siting of essential public facilities.
 - Code maintenance.
 - Discussion on disposition of Wasson house.
 - Blocking of mailboxes.

PRESIDING OFFICER'S REPORT

- Siting of essential public facilities Public Hearing is May 12th.
- Main Street group discussion:
- Des Moines Marina Association meeting:
 - Long term viability of the Marina.
- Government 101 program:
 - Benefit for Council.

- E-Mail received asking how we function.
 - Made specific effort to communicate to public how City operates.
- Appreciates comments.

ADMINISTRATION REPORT

Item 1: LOCAL GOVERNMENT 101, PART 6: AUDIT ENTRANCE CONFERENCE

Joanne Klein, with the Washington State Auditor's Office, gave a power point presentation to Council.

City Manager Piasecki presented to Council a Draft Ordinance for a Citizens Advisory Council. Asked Council if they would like this item to comeback before Council at the April 28, 2016 meeting; there was consensus.

Transportation Gateway project has started between Pacific Highway and 24th Avenue S.

Puget Sound Energy will be out repainting light poles on Pacific Highway.

Rough clearing has started for the FAA Project in the Des Moines Creek Business Park.

Formal Groundbreaking ceremony scheduled for June 7th @ 1:30 p.m.

Planning, Building and Public Works Director Brewer presented to Council the American Public Works Association Award the City won for Structures.

The Des Moines Creek Trail has been repaired and it now open.

CONSENT AGENDA

Item 1: APPROVAL OF VOUCHERS

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

Total A/P Checks/Vouchers	#146355-146509	\$ 683,264.42
Electronic Wire Transfers	#676-676	\$ 1,735.18
Electronic Wire Transfers	#682-682	\$ 6,195.30
Electronic Wire Transfers	#687-691	\$ 185,096.34
Payroll Checks	#18779-18781	\$ 3,530.60
Payroll Direct Deposit	#130001-130158	\$ 288,407.40
Total Certified Wire Transfers, Voids, A/P and Payroll Vouchers:		\$1,168,229.25

Direction/Action

Motion made by Councilmember Kaplan to approve the Consent Agenda as read; seconded by Councilmember Nutting.

The motion passed 6-0.

NEW BUSINESS

Item 1: LOCAL GOVERNMENT 101, PART 7(a) PUBLIC SAFETY: POLICE
Staff Presentation: Police Chief George Delgado

Police Chief Delgado gave a power point presentation to Council.

Item 2: LOCAL GOVERNMENT 101, PART 8: COUNCIL RULES AND PROTOCOL
Staff Presentation: City Manager Tony Piasecki

City Manager Piasecki read through Council Rules and Protocol.

NEXT MEETING DATE

April 28, 2016 Regular City Council Meeting

ADJOURNMENT

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

The meeting was adjourned at 9:25 p.m.

Respectfully Submitted,
Bonnie Wilkins, CMC
City Clerk

MINUTES

**DES MOINES CITY COUNCIL
STUDY SESSION
City Council Chambers
21630 11th Avenue South, Des Moines**

April 28, 2016 – 7:00 p.m.

CALL TO ORDER

Mayor Pina 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 Matt Pina; Mayor Pro Tem Vic Pennington; Councilmembers Melissa Musser, Jeremy Nutting, Luisa Bangs, Robert K. Back and Dave Kaplan.

Staff present: City Manager Tony Piasecki; Assistant City Attorney Tim George; Planning, Building and Public Works Director Dan Brewer; Special Transportation Project Manager Len Madsen; Police Chief George Delgado; Municipal Court Judge Lisa Leone; Senior Planner Laura Techico; Finance Director Dunyele Mason; Management Consultant Grant Fredricks; Lead Court Clerk Pamela McConville; Court Clerk Deborah Phillipson; Marina Maintenance Manager Scott Wilkins; City Clerk Bonnie Wilkins.

CORRESPONDENCE

- Letters from Washington State Liquor and Cannabis Board regarding Strawberry Fields.

COMMENTS FROM THE PUBLIC

- Neil Kelly; 22737 Marine View Drive; Invited Council and the Public to the South Sound Opening Day Boating season May 14, 2016.

PRESIDING OFFICER'S REPORT

Mayor Pina asked for Council's indulgence to take Presiding Officer's Report and Consent Agenda prior to Board and Committee Reports/Councilmember Comments

Team Atervinna, from Pacific Middle School, gave a wonderful presentation to Council on their Future City.

CONSENT AGENDA

- Item 1: APPROVAL OF MINUTES
Motion is to approve the minutes from the March 10th and March 31, 2016 regular City Council meetings and the minutes from the March 31, 2016 City Council Executive Session.

- Item 2: **APPROVAL OF VOUCHERS**
Motion is to approve for payment vouchers and payroll transfer through April 20, 2016 included in the attached list and further described as follows:
- | | | |
|--|----------------|----------------|
| Total A/P Checks/Vouchers | #146510-146655 | \$ 941,537.24 |
| Electronic Wire Transfers | #692-699 | \$ 152,342.57 |
| Payroll Checks | #18782-18787 | \$ 5,170.73 |
| Payroll Direct Deposit | #160001-160153 | \$ 276,746.90 |
| Total Certified Wire Transfers, Voids, A/P and Payroll Vouchers: | | \$1,375,797.44 |
- Item 3: **WASHINGTON STATE FUTURE CITY REGIONAL COMPETITION**
Motion is to approve the Proclamation recognizing the achievements of the Pacific Middle School students in the Washington State Future City Regional Competition.
- Item 4: **SOUTH SOUND BOATING SEASON OPENING DAY**
Motion is to approve the Proclamation recognizing the official opening of the South Sound Yachting and Boating season May 14, 2016.
- Item 5: **AMERICAN ASSOCIATION OF COMMUNITY COLLEGES AWARD OF EXCELLENT PROCLAMATION FOR HIGHLINE COLLEGE**
Motion is to approve the Proclamation congratulating Highline College on receiving the 2016 American Association of Community Colleges Award.
- Item 6: **COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF DES MOINES AND THE INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS DISTRICT LODGE 160 REPRESENTING THE COURT CLERKS**
Motion is to approve the negotiated Collective Bargaining Agreement between the City and the International Association of Machinists and Aerospace Workers Representing the Court Clerks, substantially in the form as submitted, and to authorize its execution by the City Manager.
- Item 7: **LABOR AGREEMENT BETWEEN THE CITY OF DES MOINES AND THE DES MOINES POLICE MANAGEMENT ASSOCIATION**
Motion is to approve the negotiated Labor Agreement between the City and the Des Moines Police Management Association, substantially in the form as submitted, and to authorize its execution by the City Manager.
- Item 8: **LETTER OF AGREEMENT BETWEEN THE CITY OF DES MOINES AND KING COUNTY FIRE PROTECTION DISTRICT 39 (dba SOUTH KING FIRE AND RESCUE) TO SHARE A FIRE RESCUE BOAT**
Motion is to approve the Letter of Agreement with King County Fire Protection District 39 (dba South King Fire and Rescue) and to ratify and confirm the City Manager signing the letter to meet the Port Security Grant application deadline of April 25, 2016.

Direction/Action

Motion made by Councilmember Musser to approve the Consent Agenda; seconded by Councilmember Bangs.

Mayor Pro Tem Pina recued himself from Consent Agenda Item #8.

The motion to approve Consent Agenda items #1-7 passed 7-0.
Consent Agenda Item #8 passed 6-0.

Mayor Pina read the Washington State Future City Regional Competition Proclamation into the record.

Mayor Pina read the South Sound Boating Season Opening Day Proclamation into the record.

Mayor Pina read the American Association of Community Colleges Award of Excellence for Highline College Proclamation into the record.

At 7:29 p.m. Council took a 5 minute break. The regular meeting resumed at 7:34 p.m.

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Mayor Pro Tem Pennington

- Ad Hoc City Manager search meeting.
- Thanked Yacht Club, Pacific Middle School and Highline College for being present at tonight's meeting.

Councilmember Kaplan

- Acknowledged the students from Pacific Middle School on their presentation.
- Yacht Club, second year opening the door to the public.
- South County Area Transportation Board meeting:
 - Interactive web-site to see changes and concerns.
 - Connectivity East/West with Sound Transit to get to Seattle/Tacoma.
- Ad Hoc Franchise Committee meetings.
- Ad Hoc City Manager search:
 - July 19 and 20 for interviews and community meet and greet.
 - Potential interview committees.
 - Next meeting May 11, 2016.
- Acknowledged the Labor and Industry Worker Memorial Day Ceremony for those that have lost their lives or have been injured in the workplace.

Councilmember Back

- Attended Emergency Disaster and Crisis Management seminar in Wenatchee.

Councilmember Bangs

- No report.

Councilmember Nutting

- Teddy Bear Patrol.
- Legacy Nights Event:
 - May 13th-Kids night:
 - Carnival theme.
 - May 14th-Adult night:
 - Musical Guests: The Coats.
 - Proceeds go to youth scholarships.

Councilmember Musser

- Acknowledged the excellence of the Future City Program at Pacific Middle School, and instructor Sandy Gady.
 - Ms. Gady received a grant to further women in construction, urban planning, design and engineering.
- Mt. Rainier High School Musical, *Happy Days*
- Municipal Facilities Committee meeting:
 - Tothebeachwa.com is now live.
 - Lists all events going on this summer.
 - Park impact fees.
 - Currently on subdivision and multi-family.
 - More information requested from staff.
 - Fund 506 Program:
 - Help maintain buildings in City.
 - Disposition of the Wasson home:
 - Next steps.
 - Keys to facility.
 - Council tours of facility.
 - No decisions made yet.
 - No update yet on Marina/Beach Park Pay parking.

PRESIDING OFFICER'S REPORT

- Ad Hoc Franchise Agreement meeting:
 - Conversations going well.
 - Progress being made.
- South King County Fire & Rescue Board of Fire Commissioners meeting:
 - Meetings being held every other month.
 - Location: Fire House at 24th & 223rd.
- Port of Seattle SAMP Round Table:
 - SAMP=Sustainable Airport Master Plan.
 - Port Commissioners were there to listen.
- Des Moines Activity Center Volunteer Appreciation Lunch:
 - 2,107 one way trips provided.
 - 9,283 meals on wheels served
 - 10,314 Des Moines nutrition program meals served.
 - 7,358 hours donated by volunteers:
 - \$202,639 donated in salaries and benefits.
- Ad Hoc City Manager Recruitment meeting:
 - Position closes May 23rd.
 - About 16 applications received at this time.

ADMINISTRATION REPORT

- Item 1: MONTHLY FINANCIAL REPORT
Finance Director Mason gave a presentation to Council.
- Item 2: SOUND TRANSIT – ST3 BRIEFING
Chelsea Levy, with Sound Transit, gave a power point presentation to Council.
- Direction/Action**
Motion made by Mayor Pro Tem Pennington authorizing the Mayor sign the ST3 input letter; seconded by Councilmember Kaplan.
The motion passed 7-0.
- Item 3: KING COUNTY METRO TRANSIT BRIEFING
Lisa Shafer, with King County Metro, gave a power point presentation to Council.
- Item 4: RECOLOGY ANNUAL REPORT
Kevin Kelly and Megan McCain, with Recology Cleanscapes, gave a power point presentation to Council.
- Item 5: CITY MANAGER TRANSITION PLAN
City Manager Piasecki briefed Council on his Transition Plan.

NEW BUSINESS

- Item 1: DRAFT ORDINANCE NO. 16-048; CITIZENS ADVISORY COUNCIL
Staff Presentation: City Manager Tony Piasecki
- Direction/Action**
Motion made by Councilmember Musser to suspend Rule 26(a) in order to enact Draft Ordinance No. 16-048 on first reading; seconded by Councilmember Kaplan.
The motion passed 7-0.
- Motion** made by Councilmember Musser to enact Draft Ordinance No. 16-048 relating to the creation of a Citizens Advisory Council and adding a new chapter to Title 4 of the Des Moines Municipal Code; seconded by Councilmember Bangs.
The motion passed 7-0.
- Draft Ordinance No. 16-048 was read into the record.

NEXT MEETING DATE

May 12, 2016 Regular City Council Meeting

ADJOURNMENT

Motion made by Councilmember Kaplan to adjourn; seconded by Mayor Pro Tem Pennington.
The motion passed 7-0.

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

Respectfully Submitted,
Bonnie Wilkins, CMC
City Clerk

MINUTES

SPECIAL MEETING TO HOLD AN EXECUTIVE SESSION

April 14, 2016

CALL MEETING TO ORDER

The Special Meeting was called to order by Mayor Pina at 6:30 p.m. in Council Chambers.

ROLL CALL

Council present: Mayor Matt Pina; Mayor Pro Tem Vic Pennington; Councilmembers Jeremy Nutting, Luisa Bangs, Robert K. Back and Dave Kaplan.

Staff present: City Manager Tony Piasecki; Assistant City Manager/Economic Development Director Michael Matthias; Assistant City Attorney Tim George; Human Resources Manager Maureen Murphy; Finance Director Dunyele Mason.

PURPOSE

The purpose of the Special Meeting was to hold an Executive Session to discuss Labor Negotiations under RCW 42.30.140(4)(a).

No formal action was taken.

The meeting was adjourned at 7:00 p.m.

Respectfully submitted,
Tony Piasecki
City Manager

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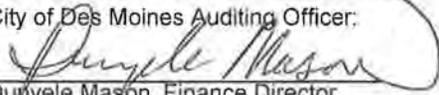
CITY OF DES MOINES
Voucher Certification Approval
12-May-16

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 **May 12, 2016** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers through May 04, 2016 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:


 Duryele Mason, Finance Director

	# From	# To	Amounts
Claims Vouchers:			
Total A/P Checks/Vouchers	146656	146767	407,396.45
Electronic Wire Transfers	700	707	312,252.80
Total claims paid			719,649.25
Payroll Vouchers			
Payroll Checks	18788	18793	4,840.63
Direct Deposit	180001	180162	288,568.34
Payroll Checks	-	-	-
Direct Deposit	-	-	-
Total Paychecks/Direct Deposits paid			293,408.97
Total checks and wires for A/P & Payroll			1,013,058.22

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Music4Life Proclamation

AGENDA OF: May 12, 2016

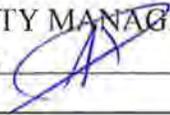
ATTACHMENTS:

1. Proclamation

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: May 3, 2016

CLEARANCES:

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation:

The purpose of this agenda item is to recognize June as Music4Life month.

Suggested Motion

MOTION: "I move to approve the Proclamation recognizing June as Music4Life month."

Background:

Music4Life was created in the fall of 2007 with a goal to put musical instruments, in good playing condition, into the hands of children and youth. Music4Life works with instrument manufacturers, rental agencies, wholesalers, retailers and others around the world who have access to serviceable musical instruments. Music4Life works with many school districts to create programs that enhance music education and is comprised of over 90,000 students in Washington State.

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City of Des Moines



CITY COUNCIL
21630 11th 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 benefits of participation in instrumental music at any age can last a lifetime, and

WHEREAS research now shows that students who participate in instrumental music programs tend to do better in math, science, history, literature, reading, writing, international languages, even in computer science and other academic disciplines, and

WHEREAS music education is an integral part of a well-rounded education that prepares students for success in life by teaching teamwork and discipline, and

WHEREAS the cost of owning or renting an instrument is a barrier preventing students from low income families from participating in instrumental music, and

WHEREAS many adults have lovingly-used musical instruments stored in their garages or attics and that they no longer use, and

WHEREAS *Music4Life*[™] (www.Music4Life.org) is a non-profit organization that has been repairing and providing ready-to-play musical instruments to participating public schools for use by students in need since 2007, and

WHEREAS *Music4Life* guarantees that all instruments will be used exclusively for the benefit of students in the school district for which they are donated, and

WHEREAS *Music4Life* has provided approximately 1,800 musical instruments to children in the greater Seattle area, including those attending Edmonds, Highline, Mukilteo, Seattle and Shoreline Public Schools, now therefore

THE DES MOINES CITY COUNCIL HEREBY PROCLAIMS and encourages Citizens to donate any lovingly used musical instruments they may have to www.Music4Life.org, show what financial support they can to this fine home-grown organization and acknowledge June as

MUSIC4LIFE MONTH

SIGNED this 12th day of May, 2016

Matt Pina, Mayor

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Per the Des Moines Municipal Code chapter 12.50.070 (Attachment 4) Council redesignation. The City Council has the authority to change street names or change numbered streets to named streets. Applications to the City Council for street renaming shall contain the signatures of the majority of persons having ownership in properties addressed on the street.

City staff provided a map (Attachment 3) of potentially effected properties to the Sophie Rock, Mount Rainier School ASB president in August of 2015. The initiator was notified that at least 9 of the listed 17 properties would be needed in order to meet the City Code requirement of a majority in agreement of the proposal.

Discussion

On April 20, 2016, City staff received a letter/petition (Attachment 2) officially requesting the City Council consider changing the name of 19th Avenue South between 223rd Street and South 229th Street to Rainier Drive South. The letter included 9 signatures of property owner representatives as well as a signature from the Pool District which sits on the same property as Mount Rainier High School.

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 and remand the Draft Ordinance 16-056 back to the Public Safety and Transportation Committee for further work.

Financial Impact

N/A

Recommendation or Conclusion

None.

CITY ATTORNEY'S FIRST DRAFT 4/28/2016**DRAFT RESOLUTION NO. 16-056**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, setting a public hearing to consider Draft Ordinance No. 16-056 that would rename a portion of 19th Avenue South to Rainier Drive South between South 223rd Street and South 229th Street.

WHEREAS, the City has received a letter and petition from the Mount Rainier High School Associated Student Body with a majority of property owner representatives effected agreeable to the street name change, and

WHEREAS, DMMC 12.50.070 gives the City Council the authority to re-designate street names or change numbered streets to named streets provided the requirements of DMMC 12.50.070 are met, and

WHEREAS, a street name change is accomplished by the adoption of an ordinance directing the change; now therefore,

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

The matter of street name change consideration is set for a public hearing before the City Council on Thursday July 7, 2016, 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 ____ day of _____, 2016 and signed in authentication thereof this ____ day of _____, 2016.

 M A Y O R

APPROVED AS TO FORM:

Resolution No. ____
Page 2 of ____

City Attorney

ATTEST:

City Clerk

5/4/16 11:18 AM



Mount Rainier High School

Highline District No. 401

22450 - 19th So.
Des Moines, WA 98198
Ph (206) 631-7000
Fax (206) 631-7099

We, the Mount Rainier High School Associated Student Body, hereby petition Des Moines City Council to change the name of a 6-block section of 19th Ave S – between South 223rd Street and South 229th Street.

Current street name: 19th Ave S

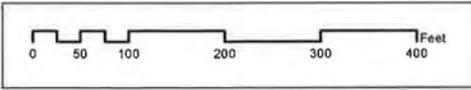
Proposed street name: Rainier Drive South

Students and property owners will have input on which name will be final.

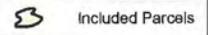
The purpose of this project is to promote Mount Rainier's Student Constitution, which states in article II, section 1c. and 1d., "To promote, encourage and display loyalty, pride, and school spirit," and "To maintain a positive attitude and image of Mount Rainier High School to the surrounding community and other afflictions with which Mount Rainier High School interacts with.

Property Owner's Name	Property Owner's Address	Signature
Susan Enheld	22450 19 th AVE S.	[Signature]
Toni Overmyer	22722 19 th Ave S	[Signature]
Usha Alchar	22609 19 th Ave S	[Signature]
Scott Wheeler	22405 19 th Ave S	[Signature]
ZANE LAWRENCE	22325 19 th AVE S	[Signature]
SOPHIA Morkila	22621 19 th Ave S	[Signature]
Elizabeth Ruffes	22629 19 th Ave S	[Signature]
Carmen Deal	22715 19 th Ave S.	[Signature]
PAUL CRAIGHEF	228415 19 th Ave S.	[Signature]
Steph Askegard	22332-19 th Ave S.	[Signature]

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S-223RD ST



Map Generated: Aug 13, 2015

EMMETT LALS

19TH AVE S

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2

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6

3

4

11

10

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7

17

16

15

14

12

13



18TH AVE S

S-229TH ST

21ST AVE S

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12.50.070 Council redesignation.

(1) Notwithstanding DMMC 12.50.030 through 12.50.060, the City Council reserves the option of changing street names or changing numbered streets to named streets. Applications to the City Council for street renaming shall contain the signatures of the majority of persons having ownership in properties addressed on the street. The filing fee for a street name change application is established by administrative order of the City Manager or the City Manager's designee. The Building Official shall provide written notification to affected property owners at least 20 days before final City Council action.

(2) In its deliberations, the City Council shall consider technical information from the Building Official, location and development characteristics relative to the street, and the impact of the change on existing businesses and residences, as well as on emergency vehicle responsiveness. Only entire street lengths or distinct major portions of streets are eligible for renaming by the City Council. For the purposes of this chapter, "distinct major portion" means a separate portion of a street identifiable by either a directional shift of at least 45 degrees or an interrupted interval of at least one-quarter mile.

(3) A street name change is accomplished by the adoption of an ordinance directing the change. [Ord. 1578 § 149, 2013.]

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Background

The Planning, Building & Public Works Department has been dealing with and discussing a number of small DMMC code maintenance issues and potential changes to Title 18 with the Finance and Development Committee (F&ED) over the past several months. The majority of these issues were items that were unintentionally omitted when the development regulations were re-codified by Ordinance 1591 in 2014 or where inconsistencies between code sections were inadvertently created by Ordinance 1591 or when other Title 18 ordinances were passed. In some cases it became clear to staff that the City Council's intent was not clearly codified. In other cases State law has changed necessitating a change in the DMMC.

These items were discussed with the City Council Finance & Economic Development Committee on March 10th and again on April 14th. On April 14th, staff was directed to prepare an ordinance for full Council considerations which corrects omissions, errors, inconsistencies and clarifies City Council intent.

On April 27, 2016, a request for expedited review was sent to the Washington State Department of Commerce pursuant to RCW 36.70A.106(3)(b).

The Planning, Building and Public Works Director, acting as the SEPA responsible official, reviewed this proposed non-project action and determined that the proposed textual code amendments result in no substantive changes respecting use or modification of the environment and are therefore categorically exempt from threshold determination and EIS requirements in accordance with WA 197-11-800 (19) (b) and chapter 16.05 DMMC.

Discussion

The proposed ordinance amends the Des Moines Municipal Code Chapters 18.01, 18.10, 18.15, 18.20, 18.52, 18.55, 18.105, 18.190, 18.195, 18.200, and 18.210 DMMC to correct omissions, errors, and inconsistencies, and to clarify City Council intent.

Section 1 amends one existing definition to make the language consistent with state law and adds 22 definitions originally contained in the DMMC before Title 18 was re-codified. It was thought at the time that these definitions had a common and generally understood meaning, but their omission from the DMMC created problems for citizens and staff, and staff is asking that they be added back to the DMMC.

Section 2 corrects an inadvertent error that eliminated the complete City zoning map from the DMMC.

Sections 3-5 resolves a problem with the reconstruction of damaged or destroyed buildings that are currently non-conforming because of lot line setback. The proposed change would allow such buildings to be rebuilt within the existing building footprint as long as the extent of the non-conformity is not increased.

Sections 6 and 7 add Institutional Campus master plans to Business Park master plans as Type IV Quasi-judicial and other non-legislative decisions by the City Council made after legally required opportunity for public comment. Section 7 also adds inadvertently deleted Shoreline substantial development permits as a Type II action by the Planning, Building & Public Works Director.

Section 8 corrects an error in the Residential Use Chart by reconciling limitations on townhouse development and clarifying eligibility for duplex development.

Section 9 clarifies that breweries/wineries are permitted in the D-C zone with limitations, clarifies the type of contracts that are permitted in commercial zones, corrects the error of allowed mixed use development in B-P and clarifies that mini-storage is permitted along Pacific Highway South but only if another non-storage commercial use fronts on the Highway.

Section 10 eliminates ambiguity in wording between the section heading and the section text.

Section 11 and Section 13 clarify Council intent that outdoor storage in B-P is permitted if screened by another building.

Section 12 reconciles DMMC requirements for electric fences.

Section 14 authorizes the additional modification of required landscape when supported by a crime prevention through environmental design (CPTED) assessment.

Section 15 eliminates an automatic exemption for a business identification sign thereby subjecting those signs to permit application and design review.

Section 16 moves a section of code dealing with requirements for Mixed Use residential parking to the Mixed Use subsection from the Multi-Family subsection.

Section 17 corrects an incorrect DMMC citation.

Section 18 clarifies that stacked parking is only available for commercial properties and then only under certain conditions.

Section 19 provides for an increase to the allowable lighting heights to a more contemporary height and provides further exception to the height based on an energy efficient lighting design.

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 and remand the Draft Ordinance 16-023 back to the Finance and Economic Development Committee for further work.

Financial Impact

N/A

Recommendation or Conclusion

None.

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CITY ATTORNEY'S FIRST DRAFT 4/28/2016**DRAFT RESOLUTION NO. 16-023**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, setting a public hearing to consider Draft Ordinance No. 16-023 relating to the Zoning Code and City land use and development regulations, and amending chapters 18.01, 18.10, 18.15, 18.20, 18.52, 18.55, 18.105, 18.190, 18.195, 18.200, and 18.210 DMMC to correct omissions, errors, inconsistencies and to clarify City Council intent.

WHEREAS, the City Council directed City staff to prepare an ordinance for its consideration which corrects omissions, errors, inconsistencies and clarifies City Council intent, and

WHEREAS, every seven years, RCW 36.70A.130(1) requires the City of Des Moines to take legislative action to review and, if needed, revise its development regulations, and

WHEREAS, at the March 10, 2016 City Council Finance and Economic Development Committee meeting, staff presented an analysis of the City's development regulations currently in effect and proposed revisions needed to comply with chapter 36.70A RCW and to correct omissions, errors, inconsistencies and to clarify City Council intent, and

WHEREAS, the Planning, Building and Public Works Director, acting as the SEPA responsible official, reviewed this proposed non-project action and determined that the proposed textual code amendments result in no substantive changes respecting use or modification of the environment and are therefore categorically exempt from threshold determination and EIS requirements in accordance with WAC 197-11-800 (19) (b) and chapter 16.05 DMMC, and

WHEREAS, a public hearing is necessary to receive public comment regarding amendments to Title 18 DMMC, 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,

Resolution No. _____
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THE CITY COUNCIL OF THE CITY OF DES MOINES RESOLVES AS FOLLOWS:

The matter of amendments to chapters 18.01, 18.15, 18.20, 18.30, 18.52, 18.55, 18.105, 18.190, 18.195, 18.200, 18.210 and 18.235 DMMC to correct omissions, errors, inconsistencies and to clarify City Council intent is set for a public hearing before the City Council on Thursday, July 7, 2016, 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 _____th day of _____ and signed in authentication thereof this _____ day of _____.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

CITY ATTORNEY'S FIRST DRAFT 04/26/2016

DRAFT ORDINANCE NO. 16-023

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to the Zoning Code and City land use and development regulations, and amending chapters 18.01, 18.10, 18.15, 18.20, 18.52, 18.55, 18.105, 18.190, 18.195, 18.200, and 18.210 DMMC to correct omissions, errors, inconsistencies and to clarify City Council intent.

WHEREAS, the City Council directed City staff to prepare an ordinance for its consideration which corrects omissions, errors, inconsistencies and clarifies City Council intent, and

WHEREAS, every seven years, RCW 36.70A.130(1) requires the City of Des Moines to take legislative action to review and, if needed, revise its development regulations, and

WHEREAS, at the March 10, 2016 City Council Finance and Economic Development Committee meeting, staff presented an analysis of the City's development regulations currently in effect and proposed revisions needed to comply with chapter 36.70A RCW and to correct omissions, errors, inconsistencies and to clarify City Council intent, and

WHEREAS, the Planning, Building and Public Works Director, acting as the SEPA responsible official, reviewed this proposed non-project action and determined that the proposed textual code amendments result in no substantive changes respecting use or modification of the environment and are therefore categorically exempt from threshold determination and EIS requirements in accordance with WAC 197-11-800 (19) (b) and chapter 16.05 DMMC, and

WHEREAS, the City Council set the date for the public hearing by Resolution No. _____, fixing the public hearing for _____, 2016 as required by DMMC 18.30.070, and

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

WHEREAS, notice of the public hearing was issued on _____ in accordance with the DMMC, and

WHEREAS, a public hearing was held on _____, 2016 where all persons wishing to be heard were heard, and

WHEREAS, the City Council finds that the Title 18 DMMC amendments contained in this Ordinance comply with the requirements of chapter 36.70A RCW and are appropriate and necessary; now therefore,

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

Sec. 1. DMMC 18.01.050, *Definitions*, and section 5 of Ordinance No. 1591, shall be amended to amend or add the following definitions:

"Accessory dwelling unit (ADU) ~~living quarters (ALQ)~~" means a detached structure or an attached part of a structure that is subordinate and incidental to the main or primary dwelling unit. ADU's provide complete independent living facilities exclusive for one single housekeeping unit, including provisions for living, sleeping, cooking, and sanitation. ~~within a detached structure or within part of the primary dwelling unit.~~

"Basement" means that portion of a building between floor and ceiling which is partly below and partly above grade as defined below, but so located that the vertical distance from grade to floor below is less than the vertical distance from grade to ceiling. A basement, when designed for or occupied for business or industrial purposes, or for dwelling

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purposed (recreational room or family room excepted) shall be considered a story.

"Building" means any structure having a roof, but excluding all forms of vehicles even though immobilized. When a use is required to be within a building, or where special authority granted pursuant to this Title requires that a use shall be within an entirely enclosed building, then the term "building" means one so designed and constructed that all exterior walls of the structure shall be solid from the ground to the roof line, and shall contain no openings except for windows and doors which are designed so that they may be closed.

"Building site" means a parcel of land assigned to a use, to a main building, or to the main building and its accessory buildings, together with all yards and open spaces required by this title, whether the area so devoted is comprised of one lot, a combination of lots, or combination of lots and fractions of lots.

"Developable area" means the "site area" less the following areas:

- (1) Areas within a project site that are required to be dedicated for public rights-of-way;
- (2) Environmentally critical areas and their buffers to the extent they are required by the City to remain undeveloped;
- (3) Areas required for storm water control facilities, including but not limited to retention/detention ponds/vaults, bio filtration swales and setbacks from such ponds and swales;
- (4) Areas required by the City to be dedicated or reserved as on-site recreation areas;

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(5) Other areas, excluding setbacks, required by the City to remain undeveloped.

"Grade" means the average of the finished ground level at the center of all exterior walls of a building. In case walls are parallel to or within five feet of a sidewalk, the sidewalk shall be considered the finished ground level.

"Grade, mean average street frontage" means the mathematical average of the highest and lowest elevations of the public right-of-way parallel to the building frontage. Mean average street frontage grade is a horizontal plane at a specific elevation.

"Home occupation" means an occupation customarily incident to the use of the premises as a dwelling place and not one in which the use of the premises as a dwelling place is largely incidental to the occupation carried on; provided, such occupation is carried on by a member of the family residing within the dwelling place.

"Housekeeping unit" means no more than three unrelated, or an unlimited number of individuals who are related. This definition does not limit the number of residents if the limit prevents the City from making reasonable accommodations to disabled persons to afford them equal opportunity to use and enjoy a dwelling as required by federal or state law.

"Kennel" means a place where four or more adult dogs or cats or any combination thereof are kept, whether by owners of the dogs and cats or by persons providing facilities and care, whether or not for compensation, but not including a small animal hospital or clinic. An adult dog or cat is one of either sex, altered or unaltered, that has reached the age of four months.

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"Loading space" means an on-site space or berth on the same lot or site with the buildings or use served, such space to serve for the temporary parking of a vehicle while loading or unloading merchandise, materials, or passengers.

"Lot" means a building site that is described by reference to a recorded plat, by metes and bounds, or by section, township, and range which has direct legal access to a street or has access to a street over an easement approved by the City.

"Lot line":

(1) "Lot front line or front lot line" means in the case of an interior lot, a line separating the lot from the street; and in the case of a corner lot and reverse corner lot, the lot front line shall be the line separating the narrowest street frontage of the lot from the street. In case of corner lots or reverse corner lots having equal street frontages, that property line the prolongation of which creates the front property line for the greatest number of interior lots in the same block shall be considered as the lot front line of such corner or reverse corner lot.

(2) "Lot perimeter line or perimeter lot line" means a lot line constituting the boundary of a planned unit development or townhouse development.

(3) "Lot rear line or rear lot line" means a lot line which is opposite and most distant from the lot front line. For the purpose of establishing the lot rear line or a triangular or trapezoidal lot, or of a lot the rear line of which is formed by two or more lines, the following shall apply:

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(a) For a triangular or gore-shaped lot, a line 10 feet in length with the lot and farthest removed from the lot front line and at right angles to the line comprising the depth of such lot shall be used as the lot rear line;

(b) In the case of a trapezoidal lot, the rear line of which is not parallel to the front line, the lot rear line shall be deemed to be a line at right angles to the line comprising the depth of such lot and drawn through a point bisecting the recorded lot rear line;

(c) In the case of a pentagonal lot the rear boundary of which includes an angle formed by two lines, such angles shall be employed for determining the lot rear line in the same manner as prescribed for a triangular lot.

(d) In no case shall the application of the above be interpreted as permitting a main building to locate closer than five feet to any property line.

(4) "Lot side line or side lot line" means any lot boundary line not a lot front line or a lot rear line.

"North American Industrial Classification System" (NAICS) means the current edition of the book North American Industrial Classification System as published on line by the U.S. Office of Management and Budget.

"Residence" means a building or structure, or portion thereof, which is designed for and used to provide a place of abode for human beings, but not including hotels or motel units having no kitchens. The term "residence" include the term "residential"

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as referring to the type of or intended use of a building or structure.

"Roof" means a structural covering over any portion of a building or structure, including the projections beyond the walls or supports of the building or structure. An open work covering shall not be considered a roof if the upper horizontal surface area of the component solid portions thereof measured on the horizontal plane do not exceed 20 percent of the area of the covering.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above it, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused under floor space is more than six feet above grade, as defined above, for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point, such basement, cellar, or unused under floor space shall be considered a story.

"Street" means a public or recorded private thoroughfare which affords primary means of access to abutting property.

"Street line" means the boundary line between a street and the abutting property.

"Side street" means a street which is adjacent to a corner lot or reverse corner lot and which extends in the general direction of the line determining the depth of the corner or reverse corner lot.

"Structure" means anything constructed in the ground, or anything erected which requires location on the ground or water, or is attached to something

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having location on or in the ground, but not including fences less than six feet in height, or paved areas.

"Yard" means an open space other than a court on a lot, unoccupied and unobstructed from the ground upward unless specifically otherwise permitted in this Title.

"Yard - types and measurements".

(1) "Front yard" means an area extending across the full width of the lot and lying between the lot front line and a line drawn parallel thereto, and at a distance therefrom equal to the required front yard depth as prescribed in each zone. Front yards shall be measured by a line at right angles to the lot front line, or by the radial line or radial line extended in the case of a curved lot front line.

(2) "Side yard" means an open area measured from the lot side line toward the center of the lot and extending from the rear line of the required front yard, or from the lot front line if there is no required front yard, toward the lot rear line to a point measuring two-thirds of the depth of the lot, except that on the side street side of corner lots and reverse corner lots the required side yard shall extend to the rear line of the lot. The width of the side yard shall be measured horizontally from, and be parallel to the lot side line from which it is measured.

Sec. 2. DMMC 18.10.050, *Adoption of official zoning map*, and section 1 of Ordinance No. 179 as amended by section 1 of Ordinance No. 1235 as amended by section 8 of Ordinance No. 1237 as amended by section 1 of Ordinance No. 1261 as amended by section 1 of Ordinance No. 1267 as amended by section 1 of Ordinance No. 1289 as amended by section 1 of Ordinance No. 1372 as amended by section 5 of Ordinance No. 1397 as amended by section 1 of

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Ordinance No. 1420 as amended by section 2 of Ordinance No. 1431 as amended by section 2 of Ordinance No. 1520 as amended by section 3 of Ordinance No. 1546 as amended by section 13 of Ordinance No. 1576 as amended by section 35 of Ordinance No. 1591 as amended by section 13 of Ordinance No. 1601 as amended by section 9 of Ordinance No. 1618-A are each amended to read as follows:

18.10.050 Adoption of official zoning map. The map filed in the City Clerk's office and marked Exhibit "A" to ~~Ordinance No. 1618-A~~ Draft Ordinance 16-023 and adopted ~~March 12, 2015~~, 2016, constitutes the zoning map for the City. The map referenced herein supersedes all previously adopted maps. If the designations of the map are found to be in conflict with other land use designations, the map is deemed to control.

Sec. 3. DMMC 18.15.020, *Application*, and section 38 of Ordinance No. 1591, are amended to read as follows:

18.15.020 Application.

(1) The foregoing regulations set forth in this Title shall be subject to the general provisions, conditions, and exceptions contained in this chapter.

(2) The provisions of this chapter shall apply to buildings, structures, land, and uses which become nonconforming as a result of the application of this Title to them, from classification or reclassification of the property under this Title or any subsequent amendments thereto, or from governmental acquisition of property for right-of-way expansion or essential public facility construction. If a use originally authorized by a variance, conditional use permit, or other valid use permit prior to August 3, 1964, is located within a zone in which such use is not permitted by the terms of this Title, such use shall be a nonconforming use.

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Uses validly established prior to August 3, 1964, shall not be deemed nonconforming only because of failure to secure a conditional use permit required under this Title.

Sec. 4. DMMC 18.15.050, *Effect of removal or destruction of nonconforming buildings*, and section 41 of Ordinance No. 1591, are amended to read as follows:

18.15.050 Effect of removal or destruction of nonconforming buildings.

(1) Except as provided in subsection (2) of this section, if any nonconforming building is, ~~in the judgment of the Planning, Building and Public Works Director, removed, destroyed and removed by means to an extent of more than 50 percent of its replacement cost at time of destruction,~~ every future building constructed, reconstructed or otherwise permitted to remain on the land on which the building was located may be restored within the pre-existing building footprint within the nonconforming portion of the site and the occupancy or use of such building or part thereof which existed at the time of such partial destruction or damage may be continued so long as the existing nonconformities are not being increased or expanded in any way, and subject to all other provisions of this chapter. ~~shall conform to the provisions of this Title. The Planning, Building and Public Works Director may issue written notice to owners of property deemed to be subject to the provisions of this section. The Planning, Building and Public Works Director's determination to the extent of removal or destruction shall be considered a Type I land use action, which is subject to appeal to the Hearing Examiner as provided in DMMC 18.20.150.~~

(2) Reconstruction conditions for nonconforming single-family and condominium-

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residential buildings. In any Residential Zone, nonconforming single-family residential buildings and condominiums destroyed by catastrophe or disaster such as fire, explosion, earthquake, flooding, etc., may be reconstructed as existed prior to the catastrophic event within the pre-existing building footprint within the nonconforming portion of the site, subject to the following limitations:

(a) This subsection (2) shall not apply to reconstruction necessitated by a criminal act involving the property owner, including but not limited to arson.

(b) The work must be vested by permit application within one (1) year of such happening and any restoration or reconstruction not vested by permit application within twelve (12) months from the date of the fire or other casualty shall be deemed abandoned and not allowed to be restored.

(bc) Reconstructed building height and lot coverage shall not exceed preexisting height and lot coverage or the provisions of this Title, whichever is greater.

(ed) Reconstructed yard areas shall not be less than preexisting yards or the provisions of this Title, whichever is less.

(e) The City Manager or his designee may require minor upgrades to the rebuilt improvements that are intended to achieve a greater level of compliance with the site and design guidelines in this Title.

(df) When new building area is proposed in addition to reconstruction of a nonconforming

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building, the new building area shall conform to the provisions of this Title.

(eg) Reconstructed building area shall conform to the requirements of Title 14 DMMC, Buildings and Construction.

Sec. 5. DMMC 18.15.060, *Reconstruction of buildings partially destroyed or ~~damaged~~damaged*, and section 42 of Ordinance No. 1591, are each amended to read as follows:

18.15.060 Reconstruction of buildings partially destroyed or damaged.

(1) Except as provided in subsection (2) of this section, a nonconforming building damaged or partially destroyed ~~to the extent of not more than 50 percent of its market value at the time of its destruction by fire, explosion, or other casualty or act of God or the public enemy,~~ may be restored within the pre-existing building footprint within the nonconforming portion of the site and the occupancy or use of and the occupancy or use of such building or part thereof which existed at the time of such partial destruction or damage may be continued so long as the existing nonconformities are not being increased or expanded in any way and subject to all other provisions of this chapter.

(2) In a Single-Family Residential Zone, nonconforming single-family residential buildings partially destroyed by catastrophe or disaster such as fire, explosion, earthquake, flooding, etc., may be reconstructed as existed prior to the catastrophic event, subject to the following limitations:

(a) This subsection shall not apply to reconstruction voluntarily initiated by the property owner.

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(b) The work must be vested by permit application within one (1) year of such happening and any restoration or reconstruction not vested by permit application within twelve (12) months from the date of the fire or other casualty shall be deemed abandoned and not allowed to be restored.

(bc) Reconstructed building height and lot coverage shall not exceed preexisting height and lot coverage or the provisions of this Title, whichever is greater.

(cd) Reconstructed yard areas shall not be less than preexisting yards or the provisions of this Title, whichever is less.

(e) The City Manager or his designee may require minor upgrades to the rebuilt improvements that are intended to achieve a greater level of compliance with the site and design guidelines in this Title.

(df) When new building area is proposed in addition to partial reconstruction of a nonconforming building, the new building area shall conform to the provisions of this Title.

(eg) Reconstructed building area shall conform to the requirements of Title 14 DMMC, Buildings and Construction.

Sec. 6. DMMC 18.20.060, *Exempt actions*, and section 56 of Ordinance No. 1591, shall be amended to read as follows:

18.20.060 Exempt actions.

(1) As authorized by RCW 36.70B.140(1), the following land use actions are not subject to the provisions of RCW 36.70B.070, 36.70B.080,

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36.70B.090, 36.70B.110, 36.70B.120, and 36.70B.130 because the City Council has determined that these projects present special circumstances that warrant a review process different from the process specified by this chapter:

(a) Business Park and Institutional Campus (I-C) master plans (DMMC 18.105.050);

(b) Street vacations and other actions relating to use of public areas or facilities (Title 12 DMMC);

(c) Type VI land use actions (DMMC 18.20.210); and

(d) Abatement of nonconforming uses (DMMC 18.15.110).

(3) As authorized by RCW 36.70B.140(2), the following Type I land use actions shall not be subject to the provisions of RCW 36.70B.060, 36.70B.110, 36.70B.120, and 36.70B.130:

(a) Lot line adjustments (chapter 17.25 DMMC).

(b) Construction permits required under Title 14 DMMC that are categorically exempt from environmental review under chapter 16.05 DMMC, SEPA, or for which environmental review has been completed in conjunction with other project permits.

Sec. 7. DMMC 18.20.080, and those parts of section 58 of Ordinance No. 1591 and section 2 of Ordinance No. 1628 shown below, are each amended to read as follows:

18.20.080 Project review.

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(1) Specific types of project approval are categorized as is set forth in 18.20.080A Project Review Chart below.

18.20.080A Project Review Chart

	Decision Maker	Applicable Code Section
Type II - Administrative land use decisions made after legally required opportunity for public comment	Planning, Building and Public Works Director	DMMC 18.20.170
Shoreline substantial development <u>permit</u>	Planning, Building and Public Works Director	DMMC 16.20.010
Shoreline substantial development permit revisions	Planning, Building and Public Works Director	DMMC 16.20.010
Type IV - Quasi-judicial and other nonlegislative decisions by the City Council made after legally required opportunity for public comment	City Council	DMMC 18.20.190
Approval of business park and institutional campus master plans (exempt DMMC 18.20.060(1))	City Council	DMMC 18.105.050

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Sec. 8. DMMC 18.52.010A, and those parts of the Residential Use Chart, and Limitation 15, and section 132 of Ordinance No. 1591 noted below, shall be amended to read as follows:

Use is: P: Permitted P/L: Permitted but with special limit- ations CUP: Condition al use review required UUP: Unclassif ied use review required	SFR	RA- 3600	RM- 2400	RM- 1800	RM- 900	RM- 900A	RM- 900B	R-SE	R- SR> 3500 0	R-SR< 35000	PR-R
Multiple family dwelling		P/L [14]	P	P	P	P					P
Townhouse develop- ment		P/L [15]	P/L [15]	P/L [15]	P/L [15]						

14. Duplex. This regulation applies to all parts of Table 18.52.010A that have a [14].

A duplex shall be permitted in the RA-3,600 Zone if only a single-family dwelling existed on a lot on August 3, 1964, any additional dwelling unit shall be attached to and made a part of the building containing the existing dwelling unit.

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15. Townhouse Development. This regulation applies to all parts of Table 18.52.010A that have a [15]. Townhouse developments shall be permitted in the RA-3,600 Zone and multi-family zones as noted in the table above with no more than one townhouse dwelling per lot.

Sec. 9. DMMC 18.52.010B, and those parts of the Commercial Use Chart and Limitations 14, 21, and 44, and section 133 of Ordinance No. 1591 as amended by section 12 of Ordinance No. 1601 as amended by section 8 of Ordinance 1618-A as amended by section 1 of Ordinance No. 1645, shall be amended to read as follows:

Use is: P: Permitted	NC	I-C	B-P	C-C	D-C	H-C	PR-C	T-C	W-C
P/L: Permitted, but with special limitations									
CUP: Conditional use review required									
UUP: Unclassified use review required									

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Brewery / Winery / Distillery					P/L [21]				
Contractors - general	P/L [3]		P/L [14]			P	P/L [14]	P	P
Mixed Use	UUP	UUP	UUP	UUP	P/L [26]	UUP	P/L [50]	P/L [58]	
Self- storage/ mini- warehouse leasing			P				P/L [44]	P/L [62]	

14. Contractors. This regulation applies to all parts of Table 18.52.010B that have a [14].

Contractors in the B-P and PR-C Zones shall be limited to building and special trade (23).

21. Retail Trade (With Ancillary Wholesale Trade). This regulation applies to all parts of Table 18.52.010B that have a [21].

Retail trade with ancillary wholesale trade in the D-C Zone is limited to the following:

(a) Breweries/Wineries/Distilleries (3121) if in conjunction with eating or drinking places.

(b) Building materials, hardware, and garden supply, except mobile home dealers (52);

(bc) General merchandise stores (53);

(ed) Food stores (54);

(de) Gasoline service stations, and other alternative motor vehicle fuels (5541);

(ef) Apparel and accessory stores (56);

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(fg) Home furniture, furnishings, and equipment stores (57);

(gh) Eating and drinking places (58); and

(hi) Miscellaneous retail (59), except fuel dealers (598).

44. Real Estate Rental and Leasing. This regulation applies to all parts of Table 18.52.010B that have a [44].

Mini-warehouses and self-storage units (53113) may be on joint use parcels abutting Pacific Highway provided another non-storage commercial use ~~net~~ fronts on Pacific Highway South.

Sec. 10. DMMC 18.55.130, *Placement of buildings and structures*, Residential Use Chart and Limitation 15, and section 146 of Ordinance No. 1591, shall be amended to read as follows:

18.55.130 Placement of buildings and structures.
 Placement of buildings and structures on any lot in a Single-Family Residential Zone shall conform to the following:

(1) Interior lots.

(a) Any building or structure any portion of which contains a dwelling unit or accessory living quarters shall not be located closer to any property line than allowed by the yard requirements of this chapter;

(b) The distance between a building or structure containing a dwelling unit or accessory living quarters and any other buildings on the same lot shall be not less than 10 feet;

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(c) On the rear third of a lot accessory buildings or structures not containing accessory living quarters may be built on the lot side lines and the lot rear line; provided, not less than 10 feet of the lot rear line shall be free and clear of buildings and structures; and provided further, if the lot rears upon an alley, a garage with a vehicular entrance from the alley shall maintain a distance of not less than 15 feet from the centerline of the alley.

(2) Corner lots and reverse corner lots.

(a) Except as specified below, any building or structure containing a dwelling unit or accessory living quarters and any other building on the same lot shall observe a distance from any lot side line of five feet from one side and 10 feet from the side street side and the rear property line specified by this chapter;

(b) The distance between a building or structure containing a dwelling unit or accessory living quarters and any other buildings on the same lot shall be not less than 10 feet;

(c) On the rear third of a corner lot accessory buildings or structures not containing accessory living quarters may be built on the lot interior side line and the lot rear line; provided, if the lot rears upon an alley, a garage with a vehicular entrance from the alley shall maintain a distance not less than 15 feet from the centerline of such alley;

(d) On the rear third of a reverse corner lot accessory buildings or structures not containing accessory living quarters may be built to the lot interior side line, but no building or structure shall be erected closer to the lot rear

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line than five feet unless an alley intervenes, in which case accessory buildings or structures may be built to the lot rear line unless the accessory building is a garage with a vehicular entrance directly from the alley, in which case such building or structure shall maintain a distance of not less than 15 feet from the centerline of the alley;

(e) In all cases the width of the required side yard on the side street side shall be observed.

Sec. 11. DMMC 18.105.070(2), B-P Zone *Performance Standards*, Outdoor Storage, and section 263 of Ordinance No. 1591, shall be amended to read as follows:

18.105.070 Performance standards. Every use permitted within the B-P Zone pursuant to this chapter shall conform to the following performance standards:

(2) Outdoor storage.

(a) Outdoor storage shall only be allowed as an accessory use to another principal use.

(b) The material(s) being stored shall not exceed 12 feet in height as measured from the high point of the outdoor storage area.

(c) The material(s) being stored shall be wrapped or enclosed to prevent wind-blown debris.

(d) The outdoor storage area shall not exceed 40 percent of the building footprint or 15 percent of the lot area, whichever is less.

(e) Outdoor storage shall be screened from adjacent ~~properties~~ public view by a 12-foot

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landscaped buffer or another building. The A buffer shall contain at least 75 percent coniferous trees of a minimum size of six feet at planting. Deciduous trees shall be a minimum of two-and-one-half-inch caliper as measured per ANSIZ 60.1-2004. All trees shall be planted no less than 20 feet apart on-center. For every 16 square feet of buffer area, at least one evergreen shrub of a minimum size of two feet shall be provided. Ground cover of a minimum one-gallon size shall be planted in the buffer area sufficient to cover the area within three years of planting. Landscaping shall not serve as a substitute for the required setbacks of the underlying zoning.

(f) Outdoor storage areas adjacent to public streets and to future or existing bicycle or pedestrian paths shall be screened by a minimum of a six-foot masonry wall in addition to the landscaping requirements established by subsection (2)(e) of this section. The screening wall shall be set back a maximum distance of 15 feet from the property line. The height of the wall shall be measured from the high point of the outdoor storage area.

(g) Outdoor storage shall only be allowed between the rear lot line and the extension of the front facade of the principal structure, provided no outdoor storage is allowed between a building and a side street lot line.

(h) The City Manager or the City Manager's designee may modify the requirements for spacing, number and size of plantings upon a satisfactory showing by a licensed landscape architect that an alternate proposal will accomplish the same buffering goals.

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Sec. 12. DMMC 18.190.200, *Location and height of wall, fence, or hedge*, and section 400 of Ordinance No. 1591 shall be amended to read as follows:

18.190.200 Location and height of wall, fence, or hedge. In any Residential Zone a wall, fence, or hedge is permitted under the following conditions:

(1) Where a fence is installed directly on the ground, the height of the fence shall be the vertical distance from the top board, rail, or wire to the ground directly below the fence; where a masonry or stone wall is used as a fence, the height shall be the vertical distance from the top surface of the wall to the ground on the high side of the wall;

(2) A wall, fence, or hedge not more than 42 inches in height may be permitted on any part of a lot that is not otherwise restricted;

(3) On all residential lots, either partially or fully view-obscuring walls, fences, or hedges not exceeding six feet in height shall be permitted on any lot line; except that any wall, fence, or hedge greater than 42 inches in height and located within the required front yard and side yard adjacent to a street shall be constructed of wrought iron, chain link, or similar materials that, as a whole, shall not be greater than 20 percent view obscuring or, if other materials are used that are greater than 20 percent view obscuring, the property owner shall first obtain approval from the City Traffic Engineer to ensure that safe sight distance is maintained and a traffic hazard shall not be created;

(4) Where a retaining wall protecting a cut below the natural grade is located on the line separating lots or parcels, such retaining wall may

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be topped by a fence, wall, or hedge of the same height that would otherwise be permitted at the location if no retaining wall existed, and the top of the retaining wall shall be considered the bottom of the fence;

(5) Where a retaining wall contains a fill, the height of the retaining wall built to retain the fill shall be considered as contributing to the permissible height of a wall, fence, or hedge, and shall be measured from the ground on the low side; provided, that in any event a protective fence not more than 42 inches in height may be erected at the top of the retaining wall and any portion of such fence above the six-foot maximum height shall be no greater than 50 percent view obscuring;

(6) Electric fences shall not be permitted in any Residential Zone except as allowed in DMMC 18.190.310(2);

(7) No fence shall be located in any public right-of-way, unless a right-of-way permit is obtained from the City;

(8) Any fence exceeding a height of six feet, and any retaining wall exceeding a height of 48 inches, shall require the property owner to obtain a building permit; the provisions and conditions of this section shall not apply to fences required by state law to surround and enclose public utility installations, or to chain link fences enclosing school grounds and public playgrounds.

Sec. 13. DMMC 18.195.060, General Landscaping Requirement(s) *Storage Areas* and section 417 of Ordinance No. 1591, shall be amended to read as follows:

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18.195.060 Storage areas. All outside storage areas and loading docks shall be screened from public view by another building or by fencing and a Type III landscaping strip with a minimum depth of five feet unless determined by design review that such screening is not necessary because stored materials are not visually obtrusive. The five-foot deep landscaped area may occur within the street right-of-way abutting the property line upon approval of the Planning, Building and Public Works Department.

Sec. 14. DMMC 18.195.420, *Modification of Landscaping Requirement(s)*, and section 453 of Ordinance No. 1591, shall be amended to read as follows:

18.195.240 Modification of landscaping requirement(s).

(1) The Planning, Building and Public Works Department may authorize reduced width of plantings or waive some or all landscaping requirements in the following instances:

(a) Whenever a building utilized for business or office purposes is proposed to be placed within 10 feet of the street right-of-way and there are no loading docks on such street, and at least 50 percent of the wall length is utilized for window and door construction, and the setback is utilized in effect as a sidewalk; provided, approved street trees are planted within the 10-foot setback no more than 30 feet on center;

(b) When architectural barriers or berms are incorporated into the design of the landscaping and contribute to the intent of the type of landscaping required and the minimum width of planting is not reduced by more than 50 percent;

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(c) When application of requirements of this section for commercial properties would result in more than 15 percent of the site area being landscaped, in which instance the Planning, Building and Public Works Department may modify those requirements such that not more than 15 percent of the site must be landscaped; provided, however, that the landscaping and corresponding setbacks required are those most beneficial to the public;

(d) When the inclusion of significant existing vegetation located on the site would result in as good as or better satisfaction of the purposes of this chapter;

(e) When, in the case of required perimeter landscaping adjacent to street rights-of-way, the ultimate street improvements for that right-of-way have been installed or will be installed as a requirement of approval of the development, and the Planning, Building and Public Works Department determines that the proposed landscaping of that portion of the right-of-way between the property line and sidewalk is acceptable, the Planning, Building and Public Works Department may allow such landscaping in lieu of required landscaping within the development; provided, the type and area of planting is comparable to that normally required and adequate provisions are made for permanent maintenance;

(f) When conditions on or adjacent to the site, including differences in elevation, existing vegetation, location of existing structures or utilities, continuity of design concepts within a zone, emergency vehicle access would render application of requirements of this chapter ineffective or result in scenic view obstruction.

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(g) When supported by a crime prevention assessment of their property using principles from the crime prevention through environmental design (CPTED) program to reduce opportunities for criminal activity to occur.

(2) An application for adjustment of landscaping requirements shall be filed on forms prescribed by the City, executed and sworn to by the owner or tenant of the property concerned or by duly authorized agents. Such application shall clearly and in detail state what adjustments of requirements are being requested and the reasons such adjustments are warranted, and shall be accompanied with such supplementary data, such as sketches, surveys, and statistical information, as deemed necessary to substantiate the adjustment.

(a) The applicant shall give all owners of property located within 100 feet of any boundary of the subject property written notice of the proposed alternative landscaping within 20 days of filing an application. The Planning, Building and Public Works Department shall allow 15 days for comment before making a decision.

(b) The decision of the Planning, Building and Public Works Department regarding alternative landscaping shall be made within 45 days of filing of an application, shall be transmitted in writing to the applicant and all interested parties and shall identify reasons for denial or requirements for modifications, if any.

(c) The decision of the Planning, Building and Public Works Department shall be final unless an aggrieved person appeals that decision to the Hearing Examiner by filing a written notice of appeal within 10 days of such decision in accordance with the Hearing Examiner Code.

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Sec. 15. DMMC 18.200.070, *Exemptions*, and section 467 of Ordinance No. 1591, shall be amended to read as follows:

18.200.070 Exemptions. The following shall not require a sign permit; these exemptions shall not be construed as relieving the owner of a sign from the responsibility of its erection and maintenance and its compliance with the provisions of this chapter or any other law or ordinance regulating the same:

(1) The changing of the advertising copy or message on a lawfully erected, painted, or printed sign, theater marquee, or similar signs specifically designed for the use of replaceable copy.

(2) Painting, repainting or cleaning of a lawfully erected sign structure or the changing of the advertising copy or message thereon and other normal maintenance unless a structural or electrical change is made.

(3) Temporary decorations customary for special holidays, such as Christmas and Independence Day, erected entirely on private property.

(4) Real estate signs subject to the following requirements:

(a) Signs shall not exceed eight square feet in Residential Zones and 24 square feet in Commercial Zones.

(b) Signs shall be limited to one sign per street frontage on the premises for sale, lease, or rent, and five portable directional signs to such property.

(c) Portable off-premises directional real estate signs providing directions to an open

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house at a specified residence or commercial building that is offered for sale or rent are permitted only when:

(i) Signs are not placed on trees, foliage, utility poles, or placed on or interfere with official traffic control devices and their support structures installed by the City Traffic Engineer or the state.

(ii) Each sign does not exceed four square feet in area and 36 inches in height.

(iii) The agent or seller is physically present at the property for sale or rent.

(iv) The total number of directional signs is limited to five.

(v) Each sign if located in the public right-of-way is subject to the requirements and regulations of subsections (12)(e) through (k) of this section.

(vi) The signs may only be in place on the day of the open house.

(5) On-premises information signs guiding or directing traffic onto or off of a lot or within a lot, incidental signs, and internal information signs not over eight square feet in area and do not exceed six feet in height. The information or copy displayed by or on any internal informational sign shall be limited to only those letters and/or symbols necessary to convey the required message in as brief a manner as reasonably possible and shall not advertise in any manner the facility occupying the premises nor goods or services available nor hours of operation.

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(6) Political signs subject to the following requirements:

(a) Political signs promoting or publicizing candidates for public office or issues that are to be voted upon in a general or special election may be displayed on private property. Such signs shall be removed within 10 days following the election; provided, that signs promoting successful candidates in a primary election may remain displayed until 10 days following the immediately subsequent general election.

(b) It is prohibited for any person to paste, paint, affix, or fasten a political sign on any tree, foliage, utility pole, on any public building or structure, or on or to interfere with any official traffic control device and their support structures installed by the City Traffic Engineer or the state.

(c) Political signs posted within public right-of-way are subject to the requirements and regulations of subsections (12)(e) through (k) of this section. Additionally, political signs in the right-of-way are limited to a maximum surface area of four square feet and a maximum height of five feet.

(d) It shall be the responsibility of the candidate to have the signs removed.

~~(7) One non-electrical and nonilluminated business identification sign not over 36 square feet in area if allowed in that zone.~~

(87) One on-premises nonilluminated bulletin board not over 24 square feet in area for a charitable or religious organization.

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(98) For each street frontage of the premises, one nonilluminated temporary construction sign denoting the architect, engineer, and/or contractor when placed on work under construction, and not exceeding 32 square feet in area.

(109) Memorial signs or tablets, including names of buildings, and date of erection when cut into a masonry surface or when constructed of bronze or other noncombustible materials.

(1110) Nonelectrical identification signs which contain no more than the name and address of the dweller or tenant of a residence shall be allowed. Only one such sign not over two square feet in area shall be allowed for each street frontage of a residential dwelling within the City.

(1211) Portable signs located in the public right-of-way subject to the following requirements:

(a) Signs shall not be affixed to the ground, including through the use of stakes or other means that may damage property.

(b) No more than two signs are allowed per business and no person may have more than two signs at any one time.

(c) Sign area shall neither exceed six square feet per sign face nor 36 inches in height.

(d) Signs are allowed only during the hours of operation of the business or for the duration of special events and must be taken indoors each day.

(e) Signs may not be placed on or attached to other objects, including but not limited

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to buildings, structures, trees, plants, utility poles, utility boxes, utility equipment, other signs, or on or to interfere with any official traffic control device and their support structures installed by the City Traffic Engineer or the state.

(f) Signs shall not be placed in a manner that interferes with vehicle, bicycle, wheelchair, or pedestrian sight line views, or travel.

(g) Signs shall not be placed in street medians or traffic islands.

(h) Signs shall not be placed in a manner that will damage City landscaping, irrigation or other City infrastructure or obstruct a drainage system. Any damage as the result of the placement of the portable sign will be the responsibility of the owner of the sign.

(i) Signs shall have a professional appearance and be maintained in good condition so as to preserve the aesthetic value of the total environment.

(j) Signs shall have a name and contact phone number or other contact information on them.

(k) Signs placed in violation of this subsection (12) are subject to immediate removal and may be subject to destruction by the City, without prior notice. If the owner of the sign is present at the time of removal, the owner is given an opportunity to remove the sign immediately.

(~~13~~12) Signs used exclusively for:

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(a) Display of official notices used by any court, public body, or official, or for the posting of notices by any public officer in the performance of a public duty, or by any person in giving legal notice; provided, however, that such notices are subject to the requirements and regulations of subsections (12)(e) through (k) of this section.

(b) Official directional, warning, or information signs of a public or nonprofit entity erected by or with the approval of the City; provided, however, the design and placement of such signs shall be subject to the approval of the City Manager or the City Manager's designee and, if located in the public right-of-way, shall require a right-of-way use permit and shall be subject to the requirements and regulations of subsections (12)(e) through (k) of this section. All such signs shall be installed by or under the direction of the City Manager or the City Manager's designee and may be removed by the City if they become damaged, unsightly, or otherwise fall into a state of disrepair. Upon such removal, replacement signs may be installed. The City Manager or the City Manager's designee is authorized to establish a fee schedule for labor, equipment, and materials expended from public funds for installation of signs and/or posts.

(~~14~~13) Official traffic control devices and their support structures installed by the City Traffic Engineer or state.

(~~15~~14) Signs not intended to be viewed from and not readable from off premises.

(~~16~~15) Window merchandise displays.

(~~17~~16) Point-of-purchase advertising displays, such as product dispensers.

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(1817) National flags, flags of political subdivisions and symbolic flags of an institution.

(1918) Barber poles.

(2019) Historic site markers and plaques.

(2120) Gravestones.

(2221) Structures intended for separate use, such as phone booths.

(2322) Identification signs upon recycling collection containers or other collection containers for public, charitable or nonprofit organizations.

(2423) Lettering or symbols painted directly onto or flush-mounted magnetically onto an operable motor vehicle operating in the normal course of business.

(2524) Sculptures, fountains, mosaics, or other public art features that do not incorporate advertising or identification of a business or product.

(2625) Temporary construction signs subject to the following standards:

(a) Sign shall not exceed 32 square feet.

(b) No more than one sign is allowed per street frontage.

(c) Sign shall be removed upon completion of the project, except as provided in DMMC 18.200.140.

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Sec. 16. DMMC 18.210.090(15), *Required Number of Off Street Parking Spaces, Residences*, and section 513 of Ordinance No. 1591 as amended by section 16 of Ordinance No. 1601 as amended by section 12 of Ordinance No. 1618-A, shall be amended to read as follows:

(15) Residences.

(a) Single-family: two parking spaces per dwelling unit.

(b) Duplex and townhouse: two parking spaces per dwelling unit and one parking space for every five dwellings for use as visitor parking. A minimum of one visitor parking space shall be provided.

(c) Multifamily.

(i) Two parking spaces per dwelling.

(ii) One guest parking space shall be provided per each 10 dwellings.

(iii) For one-bedroom dwellings within the PR Zone: one and one-half parking spaces per dwelling.

~~(d) Multifamily (as Part of a Mixed Use Development) in the T C Zone. (This section moved to Mixed Use below as a more appropriate location)~~
~~(i) For a studio dwelling: one parking space.~~
~~(ii) For one bedroom dwellings: one parking space.~~
~~(iii) For two bedroom or more dwellings: 1.75 parking spaces.~~

(iv) One guest parking space shall be provided per each 10 dwellings.¹

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(e) Retirement apartments: one parking space per dwelling unit, except that the plan shall show two parking spaces, spaces not initially installed. The additional parking spaces plus required landscaping shall be installed at such time that the structure is not used for retirement apartment purposes.

(f) Rooming and lodging houses: one space per occupant.

(g) Children's institutions, homes for the retired (group homes): one space for each five employees plus one for each four beds.

(h) Mixed use.

(i) Except as provided below, two parking spaces per dwelling.

(ii) For one-bedroom dwellings within the PR Zone: one and one-half parking spaces per dwelling.

(iii) On-site parking for nonresidential areas shall be provided based upon the ratio specified by this section.

~~(d)~~ (iv) Multifamily (as Part of a Mixed Use Development) in the T-C Zone.

(A) For a studio dwelling: one parking space.

(B) For one-bedroom dwellings: one parking space.

(C) For two-bedroom or more dwellings: 1.75 parking spaces.

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(i) Accessory living quarters: one parking space.

Sec. 17. DMMC 18.210.130, *Parking Area Dimensions*, and section 517 of Ordinance No. 1591 shall be amended to read as follows:

18.210.130 Parking area dimensions. Minimum parking area dimensions for surface and structured parking facilities shall be as provided in Table 1 following DMMC ~~18.210.180~~18.210.100.

Sec. 18. DMMC 18.210.160, *Driveways and maneuverability*, and section 520 of Ordinance No. 1591 shall be amended to read as follows:

18.210.160 Driveways and maneuverability.

(1) Adequate ingress to and from each parking space shall be provided without moving another vehicle and without backing more than 50 feet, except that vehicles may be parked in a stacked or tandem way on commercial properties upon City approval of a stacked or valet parking plan developed in accordance with subsection (7) of this section. All parking spaces shall be so arranged that ingress and egress is possible without backing over a sidewalk or walkway/bicycle area unless specifically approved by the City Manager or City Manager's designee.

(2) Turning and maneuvering space shall be located entirely on private property except that the usable portion of an alley may be credited as aisle space subject to approval as to safety by the City Manager or City Manager's designee.

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(3) Backing onto public streets to exit a parking stall shall be prohibited, except in Single-Family Residential and RA Zones.

(4) When off-street parking is provided in the rear of a building and a driveway lane alongside the building provides access to the rear parking area, such driveway shall require a minimum width of 12 feet and a sidewalk of at least a three-foot section, adjoining the building, curbed or raised six inches above the driveway surface.

(5) Ingress and egress to any off-street parking lot shall not be located closer than 20 feet from point of tangent to an intersection or crosswalk. They may not be permitted where, in the opinion of the City Manager or City Manager's designee, dangerous or confusing traffic patterns would result.

(6) Driveway intersections with north-south bearing streets shall be minimized to the extent possible in order to diminish traffic hazards, to conserve space and to promote orderly development generally. Driveways shall be limited to one per building site per street frontage, except the lesser of one driveway for each 150 feet of street frontage or three driveways for two lots having common parking may be permitted upon a finding of the City Manager or City Manager's designee that smoother or safer flow of traffic can result without significant disruption of the streetscape.

(7) Stacked or valet parking plan requirements.

(a) Stacking spaces for vehicle parking or for auto rental/sales uses may be allowed on commercial properties; provided, that the area utilized for stacking spaces conforms with the

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parking lot landscaping requirements of DMMC 18.210.220. Stacking of required off-street parking spaces shall not be allowed for employee or customer parking. Stacking aisle widths shall be a minimum of eight feet, six inches.

(b) Stacking spaces for commercial uses other than vehicle parking or auto rental/sales may be allowed through the use of valet parking, upon approval of a valet parking plan, by the City Manager or City Manager's designee. The area of the lot utilized for stacking spaces shall conform with the parking lot landscaping requirements of DMMC 18.210.220. Stacking aisle widths shall be a minimum of eight feet, six inches. At a minimum, the valet parking plan shall include, but not be limited to:

(i) A site plan showing the location of the valet parking on the property;

(ii) The hours of operations;

(iii) A detailed description of the valet parking system's operation including methods to control noise, glare from impacting adjacent properties, and methods to eliminate any impacts on adjacent or nearby residential neighborhoods;

(iv) The name, address and phone number of the operator of the valet parking.

Valet parking is allowed on or off-site. No valet parking shall be allowed on public rights-of-way.

Sec. 19. DMMC 18.210,180, *Lighting*, Loading Areas and Off-Street Parking Lighting, and section 522 of Ordinance No. 1591 shall be amended to read as follows:

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18.210.180 Lighting. Any lighting on a parking lot shall illuminate only the parking lot, and be designed to avoid undue glare or reflection on adjoining premises, including public streets. Where a common boundary is shared with any residential property, illuminating devices shall be so shaped and directed to focus their light away from residential property. Parking lot lighting shall not exceed 14-20 feet in height, except that the City Manager or his designee may approve a taller light post standard based on an energy efficient lighting design.

Sec. 20. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

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

Sec. 21. Effective date. This Ordinance shall take effect and be in full force five (5) days after its final approval by the Des Moines City Council in accordance with law.

PASSED BY the City Council of the City of Des Moines this _____ day of _____ and signed in authentication thereof this _____ day of _____, 2016.

M A Y O R

APPROVED AS TO FORM:

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City Attorney

ATTEST:

City Clerk

Published: _____

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Marina Short Plat – LUA08-025

FOR AGENDA OF: May 12, 2016

ATTACHMENTS:

1. Short Plat Map

DEPT. OF ORIGIN: Marina

DATE SUBMITTED: May 2, 2016

CLEARANCES:

Legal _____

Finance _____

Marina _____

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 presentation is to request the Council's approval of Land Use Application 08-025, a Short Plat of the Marina.

Suggested Motion: "I move that the Council approve LUA08-025 which creates a four-lot short plat in the Marina and the adjacent tidelands, and authorize the City Manager to sign the short plat documents on behalf of the City."

Background

In the late 1960's the City began assembling the land that would eventually become the Marina. The Marina opened in the spring of 1970 and has been operating the same basic configuration since then. Usually, when several parcels of land are assembled for a large development, the small parcels are consolidated into fewer, or maybe even one larger parcel, but for some reason that was never done with the Marina properties.

During the discussions that resulted in the update of the "Marina Comprehensive Master Plan" that was adopted in 2007, the possibility of redeveloping some of the Marina uplands was discussed and at that time it was recognized that all of the existing small parcels, street ends and utility easements would be

an impediment to any future development because it would be cumbersome, if not impossible to create and describe an area to lease to a potential developer with all of the underlying property lines and rights-of-way.

In 2008 the City contracted with a local surveyor to survey the Marina and to prepare the maps for a short plat. At that time it was decided that the short plat would consolidate all the small parcels and existing rights-of-way into two large lots, and extinguish and abandoned easements. Later two lot were added in order to include the tidelands purchased in the late 1980's with Marina Funds and one small lot located near the north Marina entrance. (Eventually that small lot will become part of the Cliff Ave. right-of-way.)

The project took much longer than anticipated mainly because some of the old records were not readily available and three parcels in particular required extensive research to make certain that they were owned by the City. At this point the process is complete and the last steps are to get the Council approval of the short plat and have it recorded.

Discussion

As proposed the short plat consists of 4 lots, as described below:

New Lot A

Lot A is the largest lot and it contains all of the Marina uplands from the east property line along the bank to the bulkhead and all the submerged tidelands from the bulkhead to the line of mean lower low water, with the exception of New Lot B. Almost all of the Marina buildings and floating docks, including the boat yard which is leased to a private operator, are located on New Lot A. This lot also includes a tidelands parcel that is located just south of the Marina, outside of the rock breakwater. This parcel was purchased from a private party after the Marina was built to ensure access to the rock breakwater in that area for maintenance and repairs.

New Lot B

The western two-thirds of the north parking lot and a strip of land about 60 feet wide along the east side of the guest moorage area make up New Lot B. It was necessary to create Lot B because when the City built the Public Fishing Pier it used funds from the National Parks Service Lands and Trails account. In exchange for the funding, the City agreed to restrict the use of that area of the Marina to recreational uses only in perpetuity, which means that options for that area are extremely limited.

New lot B serves an additional purpose. The City leases a large parcel of submerged tidelands from the State's Department of Natural Resources, (DNR). Most of the leased land lies beyond the mean lower low water line and most of the rock breakwater was built on this leased parcel. Another leased parcel near the entrance to the Marina basin is partially submerged but the eastern end of the parcel lies under the northwest corner of the north parking lot in the restricted area. The DNR calculates the rental rate for the entire lease using a formula set out in state law. One of the factors in the formula is the "assessed value of the adjacent upland parcel". When the lease with the DNR was re-negotiated in 2012, both parties agreed to use the restricted area in the north lot as the "adjacent upland parcel". This is

beneficial to the City because the recreational restriction on the parcel tend to depress the assessed value and, in turn, reduce the value of the calculated rent.

New Lot C

New Lot C is located at the southwest corner of Cliff Ave. and the north entrance to the Marina and appears to be a leftover from previous development and will probably be absorbed into the Cliff Ave. right-of-way at some time in the future.

New Lot D

New lot D is the submerged tidelands located between the revetment along the shoreline in front of the Beach Park to the east and the line of mean lower low water to the west and between the Marina's bulkhead on the south and the boundary between the City and Normandy Park on the north. The tidelands were part of the church camp that was located at the Beach Park until the late 1980's when the City purchased it. At that time, the City decided to "sell" the tidelands to the Marina fund for \$375,000 and the parcel has been part of the Marina since that time.

Financial Impact

The total cost of the short plat project was about \$65,000, about \$15,000 more than originally estimate, mainly because of the large number of the underlying lots, the added complexity of all the utility easements and the decision to add the tideland parcels to the original scope of work. The primary benefit of the short plat will be that any future development will be much easier to accommodate and now the staff can go back and create additional lots that correspond to existing leases, like the boatyard. A more obscure, but still important benefit is that the Marina is now in compliance with all of the regulations that would be required of a private developer in a similar circumstance.

Conclusion & Recommendation

This short plat concludes a project has been underway for some time and the staff recommends that the Council approve the Land Use Application.

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SHORT PLAT
CITY OF DES MOINES
SHORT PLAT NO. LUA08-025
KING COUNTY, WASHINGTON

DEDICATION

KNOW ALL PEOPLE BY THESE PRESENTS THAT WE, THE UNDERSIGNED OWNERS OF INTEREST IN THE LAND HEREBY SHORT SUBDIVIDED, HEREBY DECLARE THIS SHORT PLAT TO BE THE GRAPHIC REPRESENTATION OF THE SHORT SUBDIVISION MADE HEREBY, AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL THE EASEMENTS AND TRACTS AS SHOWN ON THIS PLAT FOR ALL PUBLIC PURPOSES AS INDICATED THEREON, INCLUDING BUT NOT LIMITED TO PARKS, OPEN SPACE, UTILITIES AND DRAINAGE UNLESS SUCH EASEMENTS OR TRACTS ARE SPECIFICALLY IDENTIFIED ON THIS PLAT AS BEING DEDICATED OR CONVEYED TO A PERSON OR ENTITY OTHER THAN THE PUBLIC, IN WHICH CASE WE DO HEREBY DEDICATE SUCH STREETS, EASEMENTS, OR TRACTS TO THE PERSON OR ENTITY IDENTIFIED AND FOR THE PURPOSE STATED.

FURTHER, THE UNDERSIGNED OWNERS OF THE LAND HEREBY SHORT SUBDIVIDED, WAIVE FOR THEMSELVES, THEIR HEIRS AND ASSIGNS AND ANY PERSON OR ENTITY DERIVING TITLE FROM THE UNDERSIGNED, ANY AND ALL CLAIMS FOR DAMAGES AGAINST THE CITY OF DES MOINES, ITS SUCCESSORS AND ASSIGNS WHICH MAY BE OCCASIONED BY THE ESTABLISHMENT, CONSTRUCTION, OR MAINTENANCE OF ROADS AND/OR DRAINAGE SYSTEMS WITHIN THIS SHORT SUBDIVISION OTHER THAN CLAIMS RESULTING FROM NEGLIGENCE BY THE CITY OF DES MOINES. FURTHER, THE UNDERSIGNED OWNERS OF THE LAND HEREBY SHORT SUBDIVIDED, AGREE FOR THEMSELVES, THEIR HEIRS AND ASSIGNS TO INDEMNIFY AND HOLD THE CITY OF DES MOINES, ITS SUCCESSORS AND ASSIGNS, HARMLESS FROM ANY DAMAGE, INCLUDING ANY COSTS OF DEFENSE, CLAIMED BY PERSONS WITHIN OR WITHOUT THIS SHORT SUBDIVISION TO HAVE BEEN CAUSED BY ALTERATIONS OF THE GROUND SURFACE, VEGETATION, DRAINAGE, OR SURFACE OR SUB-SURFACE WATER FLOWS WITHIN THIS SHORT SUBDIVISION OR BY ESTABLISHMENT, CONSTRUCTION OR MAINTENANCE OF THE ROADS WITHIN THIS SUBDIVISION. PROVIDED, THIS WAIVER AND INDEMNIFICATION SHALL NOT BE CONSTRUED AS RELEASING THE CITY OF DES MOINES, ITS SUCCESSORS OR ASSIGNS, FROM LIABILITY FOR DAMAGES, INCLUDING THE COST OF DEFENSE, RESULTING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY OF DES MOINES, ITS SUCCESSORS OR ASSIGNS.

THIS SHORT SUBDIVISION, DEDICATION, WAIVER OF CLAIMS AND AGREEMENT TO HOLD HARMLESS IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF SAID OWNERS.

IN WITNESS WHEREOF WE SET OUR HANDS AND SEALS.

STATE OF WASHINGTON)
)SS
COUNTY OF KING)

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT _____ APPEARED BEFORE ME AND SAID PERSON ACKNOWLEDGED THAT HE/SHE SIGNED THIS INSTRUMENT, ON OATH STATED THAT HE/SHE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE _____ OF THE CITY OF DES MOINES, A WASHINGTON MUNICIPAL CORPORATION, TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

SIGNATURE OF _____
NOTARY PUBLIC _____
DATED _____
MY APPOINTMENT EXPIRES _____

RECORDER'S CERTIFICATE

FILED FOR RECORD THIS _____ DAY OF _____, 20____ AT _____ M IN BOOK _____ OF _____ AT PAGE(S) _____ AT THE REQUEST OF RODNEY G. HANSEN.

MANAGER _____ SUPT. OF RECORDS _____

APPROVALS:
CITY OF DES MOINES
Examined and approved this _____ day of _____, 20____
PLANNING, BUILDING & PUBLIC WORKS DIRECTOR _____

EXISTING LEGAL DESCRIPTION

PER PACIFIC NORTHWEST TITLE COMPANY SHORT PLAT CERTIFICATE ORDER ORDER No. 6731114, DATED MARCH 27, 2008.

PARCEL A:
LOTS 1 THROUGH 18, INCLUSIVE, BLOCK 57, THE TOWN OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 165, IN KING COUNTY, WASHINGTON; TOGETHER WITH SECOND CLASS TIDELANDS ADJOINING;
TOGETHER WITH:
ALL SECOND CLASS TIDELANDS FRONTING CHERRY STREET (SOUTH 223RD STREET), ALL IN THE TOWN OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 165, IN KING COUNTY, WASHINGTON;
TOGETHER WITH:
THE WEST 10 FEET OF CLIFF AVENUE ADJOINING LOTS 11 THROUGH 18, AS VACATED BY CITY OF DES MOINES ORDINANCE NO 506 AND RECORDED UNDER RECORDING NUMBER 8009300994;
EXCEPT:
THAT PORTION IN CLIFF HOUSE, A CONDOMINIUM, RECORDED IN VOLUME 48 OF CONDOMINIUMS, PAGES 70 THROUGH 74, INCLUSIVE, IN KING COUNTY, WASHINGTON;
EXCEPT:
THE PORTION IN DES MOINES MARINER, A CONDOMINIUM, RECORDED IN VOLUME 39 OF CONDOMINIUMS, PAGES 54 AND 55, IN KING COUNTY, WASHINGTON;
AND ALSO EXCEPT:
THAT PORTION CONVEYED TO THE CITY OF DES MOINES BY RECORDING NUMBER 7911130714.

PARCEL B:
ALL THAT PORTION OF LOTS 1 AND 2, BLOCK 57, TOWN OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 165, IN KING COUNTY, WASHINGTON, AND OF THE VACATED WESTERLY 10 FEET OF CLIFF AVENUE ADJOINING LOTS 1, 2 AND 3, SAID BLOCK 57, LYING NORTHEASTERLY OF A LINE WHICH BEGINS AT THE INTERSECTION OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 3 WITH THE EAST LINE OF SAID VACATED WESTERLY 10 FEET OF CLIFF AVENUE;
THENCE NORTHWESTERLY IN A STRAIGHT LINE TO AN ANGLE POINT IN SAID LINE AT THE SOUTHWEST CORNER OF THE EASTERLY 3.5 FEET OF AFORESAID LOT 1, AND CONTINUES;
THENCE NORTHWESTERLY IN A STRAIGHT LINE TO ITS NORTHERLY TERMINUS AT THE NORTHWEST CORNER OF THE EASTERLY 13 FEET OF AFORESAID LOT 1.

PARCEL C:
THAT PORTION OF LOTS 1, 2, 3, 4, 5 AND 6, BLOCK 58, THE TOWN OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 165, IN KING COUNTY, WASHINGTON AND THAT PORTION OF THE NORTH 75 FEET OF GOVERNMENT LOT 1, SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, MORE FULLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1, BLOCK 58;
THENCE SOUTH 15°39'16" EAST A DISTANCE OF 169.687 FEET TO THE NORTHERLY LINE OF GOVERNMENT LOT 1 IN SAID SECTION 17;
THENCE SOUTH 26°11'51" EAST A DISTANCE OF 35.629 FEET;
THENCE SOUTH 04°04'24" EAST A DISTANCE OF 43.556 FEET TO THE SOUTHERLY LINE OF SAID NORTH 75 FEET OF GOVERNMENT LOT 1 IN SAID SECTION 17;
THENCE NORTH 88°38'27" WEST ALONG SAID SOUTH LINE TO THE GOVERNMENT MEANDER LINE;
THENCE NORTHWESTERLY ALONG THE GOVERNMENT MEANDER LINE TO THE NORTH LINE OF LOT 1, BLOCK 58, OF SAID PLAT;
THENCE NORTH 61°34'33" EAST ALONG SAID NORTH LOT LINE TO THE POINT OF BEGINNING;

TOGETHER WITH:
SECOND CLASS TIDELANDS ADJOINING THE NORTH 87.5 FEET OF GOVERNMENT LOT 1, IN SAID SECTION 17 AND ADJOINING THE SOUTH 12.5 FEET OF GOVERNMENT LOTS 2 AND 3, SECTION 8, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;
TOGETHER WITH:
SECOND CLASS TIDELANDS ADJOINING LOTS 1 THROUGH 6, INCLUSIVE, IN BLOCK 58, OF SAID PLAT.

PARCEL D:
BEGINNING AT A POINT 229 FEET EAST AND 75 FEET SOUTH OF THE NORTHWEST CORNER OF GOVERNMENT LOT 1, SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;
THENCE WEST ALONG A LINE PARALLEL WITH THE NORTH BOUNDARY LINE OF SAID GOVERNMENT LOT 1, 229 FEET, MORE OR LESS, TO WHERE SAID LINE INTERSECTS THE MEANDER LINE OF PUGET SOUND, WHICH IS THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION;
THENCE EAST ALONG A LINE PARALLEL WITH THE NORTH BOUNDARY LINE OF SAID GOVERNMENT LOT 1, 229 FEET, MORE OR LESS, TO WHERE SAID LINE INTERSECTS THE WEST BOUNDARY LINE OF GRAND AVENUE IN THE CITY OF DES MOINES, KING COUNTY, WASHINGTON, PRODUCED;
THENCE SOUTH ALONG THE WEST BOUNDARY LINE OF GRAND AVENUE PRODUCED 50 FEET;

KING COUNTY DEPARTMENT OF ASSESSMENTS
RECORDING NO. _____
VOL./PAGE _____
Examined and approved this _____ day of _____, 20____
Assessor _____
Deputy Assessor _____
Account Number _____

SCALE: N/A
PORTION OF
S. 1/2, S.W. 1/4, SEC. 8, TWP. 22 N., RGE. 4 E., W.M.
AND
N.W. 1/4, SEC. 17, TWP. 22 N., RGE. 4 E., W.M.

EXISTING LEGAL DESCRIPTION

PER PACIFIC NORTHWEST TITLE COMPANY SHORT PLAT CERTIFICATE ORDER ORDER No. 6731114, DATED MARCH 27, 2008.

PARCEL D (CONTINUED):
THENCE WEST ALONG A LINE PARALLEL WITH THE NORTH BOUNDARY LINE OF SAID GOVERNMENT LOT 1 TO WHERE THE SAME INTERSECTS THE MEANDER LINE OF PUGET SOUND;
THENCE NORTHWESTERLY ALONG SAID MEANDER LINE TO THE POINT OF BEGINNING;
EXCEPT:
THAT PORTION THEREOF LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE SOUTH LINE OF LOT 5, BLOCK 70, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON, DISTANT WESTERLY 75 FEET FROM THE SOUTHEAST CORNER THEREOF;
THENCE NORTHWESTERLY TO THE MOST NORTHERLY CORNER OF LOT 1, BLOCK 58, THE TOWN OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 165, IN KING COUNTY, WASHINGTON;
TOGETHER WITH:
SECOND CLASS TIDELANDS ADJOINING;
EXCEPT:
THAT PORTION OF SECOND CLASS TIDELANDS ADJOINING THE NORTH 87.5 FEET OF GOVERNMENT LOT 1, SAID SECTION 17.

PARCEL E:
THAT PARCEL OF LAND DESCRIBED AS BEGINNING 229 FEET EAST AND 125 FEET SOUTH OF THE NORTHWEST CORNER OF GOVERNMENT LOT 1, SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;
THENCE WEST ALONG A LINE PARALLEL WITH THE NORTH BOUNDARY LINE OF SAID GOVERNMENT LOT 1, 229 FEET, MORE OR LESS, TO WHERE SAID LINE INTERSECTS THE MEANDER LINE OF PUGET SOUND, FOR THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION;
THENCE EAST ALONG A LINE PARALLEL WITH THE NORTH LINE OF SAID GOVERNMENT LOT 1 229.00 FEET, MORE OR LESS, TO WHERE SAID LINE INTERSECTS THE WEST BOUNDARY LINE OF GRAND AVENUE IN THE TOWN OF DES MOINES, PRODUCED;
THENCE SOUTH ALONG SAID WEST BOUNDARY LINE OF SAID GRAND AVENUE PRODUCED 55 FEET;
THENCE WEST ALONG A LINE PARALLEL WITH THE NORTH BOUNDARY LINE OF SAID GOVERNMENT LOT 1, TO WHERE THE SAME INTERSECTS THE MEANDER LINES OF PUGET SOUND;
THENCE NORTHWESTERLY ALONG SAID MEANDER LINE TO THE POINT OF BEGINNING;
EXCEPT:
THAT PORTION THEREOF LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE SOUTH LINE OF LOT 5, BLOCK 70, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON, 75.00 FEET WESTERLY OF THE SOUTHEAST CORNER THEREOF;
THENCE NORTHWESTERLY TO THE MOST NORTHERLY CORNER OF LOT 1, BLOCK 58, TOWN OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 165, IN KING COUNTY, WASHINGTON; TOGETHER WITH SECOND CLASS TIDELANDS ADJOINING.

PARCEL F:
THAT PARCEL OF LAND DESCRIBED AS BEGINNING 229 FEET WEST AND 180 FEET SOUTH OF THE NORTHWEST CORNER OF GOVERNMENT LOT 1, SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;
THENCE WEST ALONG A LINE PARALLEL WITH THE NORTH BOUNDARY LINE OF SAID LOT 1, 229 FEET, MORE OR LESS, TO WHERE SAID LINE INTERSECTS THE MEANDER LINE OF PUGET SOUND FOR THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION;
THENCE EAST ALONG A LINE PARALLEL WITH THE NORTH LINE OF SAID LOT 1, 229 FEET, MORE OR LESS, TO WHERE SAID LINE INTERSECTS THE WEST BOUNDARY OF GRAND AVENUE IN DES MOINES, WASHINGTON, PRODUCED;
THENCE SOUTH ALONG SAID WEST BOUNDARY LINE OF SAID GRAND AVENUE PRODUCED, 50 FEET;
THENCE WEST ALONG A LINE PARALLEL WITH THE NORTH BOUNDARY LINE OF SAID LOT 1 TO WHERE THE SAME INTERSECTS THE MEANDER LINE OF PUGET SOUND;
THENCE NORTHWESTERLY ALONG SAID MEANDER LINE TO THE POINT OF BEGINNING;
EXCEPT:
THAT PORTION THEREOF LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE SOUTH LINE OF LOT 5, BLOCK 70, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON, 75.00 FEET WESTERLY OF THE SOUTHEAST CORNER THEREOF;
THENCE NORTHWESTERLY TO THE MOST NORTHERLY CORNER OF LOT 1, BLOCK 58, THE TOWN OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 165, IN KING COUNTY, WASHINGTON; TOGETHER WITH SECOND CLASS TIDELANDS ADJOINING;

EXISTING LEGAL DESCRIPTION
PER PACIFIC NORTHWEST TITLE COMPANY SHORT PLAT CERTIFICATE ORDER ORDER No. 6731114, DATED MARCH 27, 2008.

PARCEL F (CONTINUED):
AND TOGETHER WITH:
SECOND CLASS TIDELANDS ADJOINING THE SOUTH 49.59 FEET OF THE NORTH 279.59 FEET OF GOVERNMENT LOT 1, SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY WASHINGTON.
PARCEL G:
THAT PORTION OF GOVERNMENT LOT 1, SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, AND OF VACATED SANFORD AND DOCK STREETS AS SHOWN ON THE CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE NORTHERLY PRODUCTION OF THE EAST LINE OF BLOCK 70, OF SAID PLAT, WHICH IS NORTH 2°30'40" WEST 15.51 FEET FROM THE NORTHEAST CORNER OF SAID BLOCK;
THENCE CONTINUING NORTH 2°30'40" WEST 66.77 FEET, MORE OR LESS, TO A POINT 230 FEET SOUTH OF THE NORTH LINE OF SAID GOVERNMENT LOT;
THENCE WEST 160.22 FEET, MORE OR LESS, PARALLEL TO THE NORTH LINE OF SAID GOVERNMENT LOT TO THE MEANDER LINE OF PUGET SOUND;
THENCE SOUTH 18°23'59" EAST ALONG SAID MEANDER LINE TO A POINT WHICH BEARS SOUTH 88°10'40" WEST FROM THE POINT OF BEGINNING;
THENCE NORTH 88°10'40" EAST 140.61 FEET, MORE OR LESS, TO THE POINT OF BEGINNING;
EXCEPT:
THAT PORTION THEREOF LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE SOUTH LINE OF LOT 5, BLOCK 70, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON, 75.00 FEET WESTERLY OF THE SOUTHEAST CORNER THEREOF;
THENCE NORTHWESTERLY TO THE MOST NORTHERLY CORNER OF LOT 1, BLOCK 58, THE TOWN OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 165, IN KING COUNTY, WASHINGTON

PARCEL H:
THAT PORTION OF LOTS 1 THROUGH 5, INCLUSIVE, BLOCK 70, AND OF VACATED SANFORD STREET (SOUTH 225TH STREET) AND OF VACATED DOCK STREET (5TH AVENUE SOUTH), ALL IN CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:
BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF VACATED DOCK STREET AND THE SOUTH LINE OF SAID LOT 5, PRODUCED;
THENCE EASTERLY ALONG SAID PRODUCED LINE AND THE SOUTH LINE OF SAID LOT 5 TO THE SOUTHEAST CORNER THEREOF;
THENCE NORTH 2°30'40" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 70 TO THE NORTHEAST CORNER OF SAID BLOCK 70;
THENCE NORTH 2°30'40" WEST 15.5 FEET;
THENCE SOUTH 88°10'40" WEST TO AN INTERSECTION WITH THE NORTHERLY PRODUCTION OF THE CENTER LINE OF DOCK STREET;
THENCE SOUTH ALONG SAID NORTHERLY PRODUCED CENTER LINE AND SAID CENTER LINE TO THE POINT OF BEGINNING;
EXCEPT:
THAT PORTION THEREOF LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE SOUTH LINE OF SAID LOT 5 DISTANT WESTERLY 75.00 FEET FROM THE SOUTHEAST CORNER THEREOF;
THENCE NORTHWESTERLY TO THE MOST NORTHERLY CORNER OF LOT 1, BLOCK 58, THE TOWN OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 165, IN KING COUNTY, WASHINGTON.

PARCEL I:
LOTS 6 AND 7, BLOCK 70, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON;
EXCEPT:
THAT PORTION THEREOF LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 6;
THENCE SOUTH 89°03'20" WEST 95.00 FEET ALONG THE NORTH LINE THEREOF TO THE TRUE POINT OF BEGINNING;
THENCE SOUTH 13°37'38" WEST TO THE SOUTH LINE OF SAID LOT 7 AND THE END OF SAID DESCRIBED LINE.

(LEGAL DESCRIPTION CONTINUED ON SHEET 2 OF 13)

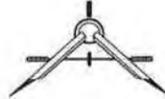
VOL./PAGE

LAND SURVEYOR'S CERTIFICATE

THIS SHORT PLAT CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE OF THE APPROPRIATE STATE AND COUNTY STATUTE AND ORDINANCE IN AUGUST, 2009.

RODNEY G. HANSEN
CERTIFICATE No. 21464

PREPARED BY:



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LATEST REVISION: 08/10/15

DES MOINES MARINA SHORT PLAT
SHORT PLAT NO. LUA08-025
CITY OF DES MOINES, WASHINGTON

DWN. BY	RF	DATE	09/08/10	JOB NO.	20817
CHKD. BY	RGH	SCALE	N/A	SHEET	1 OF 13

**SHORT PLAT
CITY OF DES MOINES
SHORT PLAT NO. LUA08-025
KING COUNTY, WASHINGTON**

RECORDING NO.	VOL./PAGE
SCALE: N/A	
PORTION OF S. 1/2, S.W. 1/4, SEC. 8, TWP. 22 N., RGE. 4 E., W.M. AND N.W. 1/4, SEC. 17, TWP. 22 N., RGE. 4 E., W.M.	

EXISTING LEGAL DESCRIPTION
PER PACIFIC NORTHWEST TITLE COMPANY SHORT PLAT CERTIFICATE ORDER
ORDER No. 6731114, DATED MARCH 27, 2008

PARCEL J:
LOTS 8, 9 AND 10, BLOCK 70, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON;
EXCEPT:
THAT PORTION THEREOF LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER OF LOT 8 OF SAID BLOCK 70; THENCE SOUTH 89°03'20" WEST 108.00 FEET ALONG THE NORTH LINE OF SAID LOT 8 TO THE TRUE POINT OF BEGINNING;
THENCE SOUTH 9°51'27" EAST TO THE SOUTH LINE OF SAID LOT 10 AND THE END OF SAID DESCRIBED LINE

PARCEL K:
LOTS 11 AND 12 AND THE NORTH 5 FEET OF LOT 13, BLOCK 70, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON;
EXCEPT:
THAT PORTION THEREOF LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER OF LOT 11 OF SAID BLOCK 70; THENCE SOUTH 89°03'20" WEST 96.24 FEET ALONG THE NORTH LINE OF SAID LOT 11 TO THE TRUE POINT OF BEGINNING;
THENCE SOUTH 9°51'27" EAST TO THE SOUTH LINE OF THE NORTH 5 FEET OF SAID LOT 13 AND THE END OF SAID DESCRIBED LINE

PARCEL L:
LOTS 13, 14, 15 AND 16, BLOCK 70, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON;
EXCEPT:
THE NORTH 5 FEET OF SAID LOT 13;
TOGETHER WITH:
THE NORTH HALF OF VACATED HUNTINGTON STREET ADJOINING;
EXCEPT:
THAT PORTION THEREOF LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER OF THE SOUTH 20.00 FEET OF LOT 13, SAID BLOCK 70;
THENCE SOUTH 89°03'20" WEST 87.61 FEET ALONG THE NORTH LINE OF SAID SOUTH 20.00 FEET OF LOT 13 TO THE TRUE POINT OF BEGINNING;
THENCE SOUTH 9°51'27" EAST TO THE CENTER LINE OF SAID HUNTINGTON STREET AND THE END OF SAID DESCRIBED LINE

PARCEL M:
LOTS 1 AND 2, BLOCK 71, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON;
TOGETHER WITH:
THAT PORTION OF THE SOUTH HALF OF VACATED HUNTINGTON STREET ADJOINING;
EXCEPT:
THAT PORTION THEREOF LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHEAST CORNER OF LOT 5 OF SAID BLOCK 71; THENCE SOUTH 89°03'20" WEST 50.00 FEET ALONG THE SOUTH LINE OF SAID LOT 5;
THENCE NORTH 4°38'18" WEST TO THE SOUTH LINE OF SAID LOT 2 AND THE TRUE POINT OF BEGINNING;
THENCE NORTH 4°38'18" WEST TO THE CENTER LINE OF SAID HUNTINGTON STREET AND THE END OF SAID DESCRIBED LINE

PARCEL N:
LOTS 3, 4 AND 5, BLOCK 71, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON;
EXCEPT:
THAT PORTION THEREOF LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 5;
THENCE SOUTH 89°03'20" WEST 50.00 FEET ALONG THE SOUTH LINE THEREOF TO THE TRUE POINT OF BEGINNING;
THENCE NORTH 4°38'18" WEST TO THE NORTH LINE OF SAID LOT 3 AND THE END OF SAID DESCRIBED LINE

PARCEL O:
THE WESTERLY 70 FEET OF LOTS 6 AND 7, BLOCK 71, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON

PARCEL P:
LOTS 8 THROUGH 16, INCLUSIVE, BLOCK 71, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON;

PARCEL Q:
ALL SECOND CLASS TIDELANDS ADJOINING AND IN THE FRONT OF LOTS 1 THROUGH 16, INCLUSIVE, IN BLOCK 70, LOTS 1 THROUGH 16, INCLUSIVE, IN BLOCK 71, THE FULL WIDTH OF HUNTINGTON STREET (SOUTH 226TH), ALL IN THE CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON

PARCEL R:
LOTS 2, 3, 4, 5, 6, 7 AND 8, BLOCK 83, IN THE PLAT OF THE CITY OF DES MOINES (AKA TOWN OF DES MOINES), ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 165, IN KING COUNTY, WASHINGTON

EXISTING LEGAL DESCRIPTION
PER PACIFIC NORTHWEST TITLE COMPANY SHORT PLAT CERTIFICATE ORDER
ORDER No. 6731114, DATED MARCH 27, 2008

PARCEL S:
SECOND CLASS TIDELANDS LYING WESTERLY OF THE GOVERNMENT MEANDER LINE AND ADJOINING CROCKER STREET IN THE PLAT OF THE CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON

PARCEL T:
THAT PORTION OF VACATED DOCK STREET (5TH AVENUE SOUTH) LYING SOUTH OF THAT PORTION OF DOCK STREET VACATED BY CAUSE NUMBER 444327 THAT WOULD ATTACH TO THAT PORTION OF BLOCKS 70, 71 AND 83 OF THE CITY OF DES MOINES, BY OPERATION OF LAW

PARCEL U:
THAT PORTION OF THE SECOND CLASS TIDELANDS LYING IN FRONT OF AND ADJACENT TO GOVERNMENT LOT 2, SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON AND THAT PORTION OF VACATED BLOCK 83, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON

PARCEL V:
THE SECOND CLASS TIDELANDS ALL MORE PARTICULARLY DESCRIBED AS LYING WESTERLY OF THE FOLLOWING DESCRIBED LINE:
COMMENCING AT THE INTERSECTION OF THE EAST LINE OF SAID VACATED BLOCK 83 WITH THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF CROCKER STREET (SOUTH 227TH STREET) AS THE SAME IS SHOWN ON SAID PLAT OF THE CITY OF DES MOINES;
THENCE WESTERLY ALONG THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF SAID CROCKER STREET A DISTANCE OF 70.00 FEET TO THE TRUE POINT OF BEGINNING OF THE LINE HEREIN DESCRIBED;
THENCE SOUTHERLY ALONG A LINE DRAWN PERPENDICULAR WITH THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF SAID CROCKER STREET A DISTANCE OF 40.00 FEET;
THENCE WESTERLY PARALLEL WITH THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF SAID CROCKER STREET A DISTANCE OF 120.00 FEET;
THENCE SOUTHERLY ALONG A LINE DRAWN PERPENDICULAR WITH THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF SAID CROCKER STREET A DISTANCE OF 220.00 FEET;
THENCE EASTERLY PARALLEL WITH THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF SAID CROCKER STREET A DISTANCE OF 65.00 FEET;
THENCE SOUTHERLY ALONG A LINE DRAWN PERPENDICULAR WITH THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF SAID CROCKER STREET TO AN INTERSECTION WITH THE WESTERLY PRODUCTION OF THE NORTHERLY LINE OF A TRACT OF LAND CONVEYED TO VAGABOND OUTBOARD BOATING CLUB OF SEATTLE "WHOSE TRUE CORPORATE NAME IS VAGABOND YACHT CLUB OF DES MOINES" BY DEED RECORDED JANUARY 8, 1964, UNDER RECORDING NUMBER 5684545, SAID POINT OF INTERSECTION BEING THE TERMINUS OF THE LINE HEREIN DESCRIBED;
EXCEPT:
ANY PORTION OF SAID SECOND CLASS TIDELANDS LYING NORTHERLY OF THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF SAID CROCKER STREET;
AND EXCEPT:
ANY PORTION OF SAID SECOND CLASS TIDELANDS LYING SOUTHERLY OF THE WESTERLY PRODUCTION OF THE NORTHERLY LINE OF SAID VAGABOND TRACT

PARCEL W:
THAT PORTION OF THE SECOND CLASS TIDELANDS LYING IN FRONT OF AND ADJACENT TO GOVERNMENT LOT 2, SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS LYING WESTERLY OF THE FOLLOWING DESCRIBED LINE:
COMMENCING AT THE INTERSECTION OF THE EAST LINE OF VACATED BLOCK 83, CITY OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 33, IN KING COUNTY, WASHINGTON, WITH THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF CROCKER STREET (SOUTH 227TH STREET) AS THE SAME IS SHOWN ON SAID PLAT OF THE CITY OF DES MOINES;
THENCE WESTERLY ALONG THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF SAID CROCKER STREET A DISTANCE OF 70 FEET;
THENCE SOUTHERLY ALONG A LINE DRAWN PERPENDICULAR WITH THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF SAID CROCKER STREET, A DISTANCE OF 40 FEET;
THENCE WESTERLY, PARALLEL WITH THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF SAID CROCKER STREET A DISTANCE OF 120 FEET;
THENCE SOUTHERLY ALONG A LINE DRAWN PERPENDICULAR WITH THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF SAID CROCKER STREET, A DISTANCE OF 220 FEET;
THENCE EASTERLY PARALLEL WITH THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF SAID CROCKER STREET A DISTANCE OF 65 FEET;
THENCE SOUTHERLY ALONG A LINE DRAWN PERPENDICULAR WITH THE WESTERLY PROLONGATION OF THE SOUTH MARGIN OF SAID CROCKER STREET TO AN INTERSECTION WITH THE WESTERLY PROLONGATION OF THE NORTHERLY LINE OF A TRACT OF LAND CONVEYED TO VAGABOND OUTBOARD BOATING CLUB OF SEATTLE BY DEED RECORDED UNDER RECORDING NUMBER 5684545, SAID POINT OF INTERSECTION BEING THE TRUE POINT OF BEGINNING OF THE LINE HEREIN DESCRIBED;
THENCE CONTINUING SOUTHERLY ALONG SAID PERPENDICULAR LINE TO AN INTERSECTION WITH THE WESTERLY PROLONGATION OF THE SOUTHERLY LINE OF THE HEREINABOVE NAMED VAGABOND TRACT, SAID POINT OF INTERSECTION BEING THE TERMINUS OF THE LINE HEREIN DESCRIBED.

EXISTING LEGAL DESCRIPTION
PER FIRST AMERICAN TITLE INSURANCE COMPANY COMMITMENT No. 4209-2042361, DATED MARCH 7, 2013

REAL PROPERTY IN THE COUNTY OF KING, STATE OF WASHINGTON, DESCRIBED AS FOLLOWS:
THAT PORTION OF THE SECOND CLASS TIDELANDS ADJOINING A PORTION OF GOVERNMENT LOT 2, SECTION 17, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, AND LYING WEST OF THE LINE OF ORDINARY HIGH TIDE, AS MEASURED ON JANUARY 14, 1997, SAID TIDELANDS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST LINE OF SAID GOVERNMENT LOT 2 LYING SOUTH 00°58'41" WEST, 1,795.09 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 17;
THENCE NORTH 87°52'52" WEST, 193.426 FEET;
THENCE SOUTH 01°11'08" WEST, 5.18 FEET;
THENCE NORTH 88°21'52" WEST, 375 FEET;
THENCE NORTH 02°07'08" EAST, 138.77 FEET TO THE SOUTH LINE OF A TRACT OF LAND DESCRIBED IN A DEED TO NESSIM AND ROSE ALHADEFF, RECORDED UNDER RECORDING No. 2920297;
THENCE SOUTH 88°01'41" WEST, 452.39 FEET TO THE LINE OF ORDINARY HIGH TIDE AS MEASURED ON JANUARY 14, 1987 AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH 88°01'41" WEST, TO THE LINE OF EXTREME LOW TIDE;
THENCE SOUTHERLY ALONG SAID LINE OF EXTREME LOW TIDE TO A POINT ON THE BOUNDARY AGREEMENT LINE RECORDED UNDER RECORDING No. 8712240746, WHICH POINT BEARS NORTH 88°41'52" WEST OF A POINT ON SAID LINE OF ORDINARY HIGH TIDE, WHICH POINT ON SAID LINE BEARS SOUTH 32°16'23" EAST 123.44 FEET FROM THE TRUE POINT OF BEGINNING;
THENCE FROM SAID POINT ON SAID LINE OF EXTREME LOW TIDE SOUTH 88°41'52" EAST ON SAID AGREEMENT LINE TO SAID LINE OF ORDINARY HIGH TIDE;
THENCE NORTH 32°16'32" WEST, 123.44 FEET TO THE TRUE POINT OF BEGINNING

EXISTING LEGAL DESCRIPTION
PER FIRST AMERICAN TITLE INSURANCE COMPANY COMMITMENT No. 4209-2042360, DATED APRIL 11, 2013

REAL PROPERTY IN THE COUNTY OF KING, STATE OF WASHINGTON, DESCRIBED AS FOLLOWS:

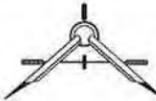
PARCEL A:
LOTS 13 THROUGH 24, INCLUSIVE, BLOCK 39, PLAT OF THE TOWN OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 165, IN KING COUNTY, WASHINGTON;
EXCEPT THE NORTHEASTERLY 20 FEET OF SAID LOTS 13 THROUGH 18;
TOGETHER WITH SECOND CLASS TIDELANDS ADJOINING

PARCEL B:
ALL OF BLOCK 40, PLAT OF THE TOWN OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 165, IN KING COUNTY, WASHINGTON;
TOGETHER WITH THE VACATED WESTERLY 10 FEET OF CLIFF AVENUE AS ORIGINALLY PLATTED ADJACENT;
AND TOGETHER WITH SECOND CLASS TIDELANDS ADJOINING.

PARCEL C:
SECOND CLASS TIDELANDS LYING IN FRONT OF PUYALLUP STREET, AS THE SAME IS SHOWN ON THE PLAT OF THE TOWN OF DES MOINES, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 165, IN KING COUNTY, WASHINGTON

VOL./PAGE

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DES MOINES MARINA SHORT PLAT
SHORT PLAT NO. LUA08-025
CITY OF DES MOINES, WASHINGTON

DWN. BY RF	DATE 09/08/10	JOB NO. 20817
CHKD. BY RGH	SCALE N/A	SHEET 2 OF 13

SHORT PLAT
CITY OF DES MOINES
SHORT PLAT NO. LUA08-025
KING COUNTY, WASHINGTON

RECORDING NO.	VOL./PAGE
SCALE: N/A	
PORTION OF S. 1/2, S.W. 1/4, SEC. 8, TWP. 22 N., RGE. 4 E., W.M. AND N.W. 1/4, SEC. 17, TWP. 22 N., RGE. 4 E., W.M.	

EASEMENT TABLE

ITEM NO.	RECORDING NO.	NOTE
1	4904542	DES MOINES SEWER DISTRICT SEWER MAIN EASEMENT (SHOWN HEREON)
2	4904544	DES MOINES SEWER DISTRICT SEWER MAIN EASEMENT (SHOWN HEREON)
3	4962791	DES MOINES SEWER DISTRICT SEWER MAIN EASEMENT (NOT LOCATABLE - AS CONSTRUCTED)
4	4962792	(NOT LOCATABLE - AS CONSTRUCTED)
5	4963670	DES MOINES SEWER DISTRICT SEWER MAIN EASEMENT (NOT LOCATABLE - AS CONSTRUCTED)
6	4963671	DES MOINES SEWER DISTRICT SEWER MAIN EASEMENT (NOT LOCATABLE - AS CONSTRUCTED)
7	4967675	DES MOINES SEWER DISTRICT SEWER MAIN EASEMENT (SHOWN HEREON)
8	4967676	DES MOINES SEWER DISTRICT SEWER MAIN EASEMENT (SHOWN HEREON)
9	5093874	SIDE SEWER EASEMENT (NOT LOCATABLE - AS CONSTRUCTED)
10	CAUSE NUMBER 664476 20060315001066	INGRESS AND EGRESS EASEMENT ALSO RECORDED UNDER RECORDING NUMBER 20060315001066 QUIT CLAIM DEED RECORDED UNDER RECORDING NUMBER 8402230475 EXTINGUISHED A PORTION OF THE ESM T (SHOWN HEREON)
11	6529373	INGRESS AND EGRESS EASEMENT (SHOWN HEREON)
12	520473	SEWER EASEMENT (SHOWN HEREON)
13	6648965	DES MOINES SEWER DISTRICT SEWER MAIN EASEMENT (SHOWN HEREON)
14	6698441	WATER DISTRICT NO 54 WATER MAIN EASEMENT (AS CONSTRUCTED)
15	7512230483	CITY OF DES MOINES SEWER AND STORM MAIN EASEMENT (SHOWN HEREON)
16	7901110622	SEWER EASEMENT (SHOWN HEREON)
17	7901110623	SIDE SEWER EASEMENT (NOT LOCATABLE - AS CONSTRUCTED)
18	7904030328	INGRESS AND EGRESS EASEMENT GRANTED TO REPLACE AND CORRECT THE EASEMENT GRANTED BY INSTRUMENT RECORDED UNDER KING COUNTY RECORDING NUMBER 7809080972 (SHOWN HEREON)
19	8009300994	TERMS AND CONDITIONS OF CITY OF DES MOINES ORDINANCE NO. 506 (SHOWN HEREON)
20	8105150525	INGRESS AND EGRESS EASEMENT SAID EASEMENT IS THE SAME AS RECORDING NUMBER 7809080972, WHICH WAS REPLACED AND CORRECTED BY RECORDING NUMBER 7904030328 (SHOWN HEREON)
21	8402230474	EASEMENT TO CONSTRUCT, IMPROVE, REPAIR AND MAINTAIN RETAINING WALL AND LANDSCAPING (SHOWN HEREON)
22	9207091314	PUGET SOUND POWER & LIGHT COMPANY UNDERGROUND UTILITY EASEMENT (SHOWN HEREON)
23	20051005000402	PUGET SOUND ENERGY, INC. UNDERGROUND UTILITY EASEMENT (SHOWN HEREON)
24	6460926	RESTRICTIONS CONTAINED IN INSTRUMENT (NOT LOCATABLE)
25	6461525	RESTRICTIONS CONTAINED IN INSTRUMENT (NOT LOCATABLE)
26	6478990	RESTRICTIONS CONTAINED IN INSTRUMENT (NOT LOCATABLE)
27	6523116	RESTRICTIONS CONTAINED IN INSTRUMENT (NOT LOCATABLE)
28	6523189	RESTRICTIONS CONTAINED IN INSTRUMENT (NOT LOCATABLE)
29	CAUSE NUMBER 664476 20060315001066	TERMS AND CONDITIONS (SHOWN HEREON)
30	1207306	AGREEMENT AND THE TERMS AND CONDITIONS THEREOF (NOT LOCATABLE)
31	2755843	AGREEMENT AND THE TERMS AND CONDITIONS THEREOF (SHOWN HEREON)
32	6523115	AGREEMENT ESTABLISHING PROPERTY LINE AND THE TERMS AND CONDITIONS THEREOF (NOT SHOWN)

EASEMENT TABLE

ITEM NO.	RECORDING NO.	NOTE
33	8411050467	AGREEMENT AND THE TERMS AND CONDITIONS THEREOF (NOT LOCATABLE - REZONE AGREEMENT)
34	9710090570	BROADBAND EASEMENT AND RIGHT OF ENTRY AGREEMENT AND THE TERMS AND CONDITIONS THEREOF (NOT LOCATABLE - BLANKET)
35	20041006002785	AGREEMENT AND THE TERMS AND CONDITIONS THEREOF (SHOWN HEREON)
36	20070213001200	NOTICE OF AGREEMENT AND THE TERMS AND CONDITIONS THEREOF (NOT LOCATABLE - USE, PARKING & MAINTENANCE AGREEMENT)
37	570143	EXCEPTIONS AND RESERVATIONS CONTAINED IN DEED (NOT LOCATABLE)
38	841274	EXCEPTIONS AND RESERVATIONS CONTAINED IN DEED (NOT LOCATABLE)
39	8305139012	MATTERS DISCLOSED ON SURVEY (NOT LOCATABLE)
40	8504129003	MATTERS DISCLOSED ON SURVEY (SHOWN HEREON)
41	9602069009	MATTERS DISCLOSED ON SURVEY (NOT LOCATABLE)
42	20020918900004	MATTERS DISCLOSED ON SURVEY (SHOWN HEREON)

EASEMENT TABLE B

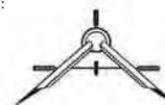
ITEM NO.	RECORDING NO.	NOTE
B10	8906080219	LEASE AND TERMS AND CONDITIONS THEREOF (SHOWN HEREON)
B11	-	UNRECORDED LEASEHOLDS, IF ANY (NOT LOCATABLE)
B12	-	SATISFACTORY SHOWING OF AUTHORIZATION (NOT LOCATABLE)
B13	VOLUME 3 OF PLATS PAGE 65	DEDICATIONS, CONDITIONS, ETC, SHOWN ON PLAT (NOT LOCATABLE)
B14	570143	RESERVATIONS CONTAINED IN DEED (NOT LOCATABLE)
B15	841274 841678	RESERVATIONS CONTAINED IN DEED (NOT LOCATABLE)
B16	3021850	ELECTRIC EASEMENT (SHOWN HEREON)
B17	3047593	ELECTRIC EASEMENT (SHOWN HEREON)
B18	3288815	ELECTRIC EASEMENT (SHOWN HEREON)
B19	4197875	INGRESS/EGRESS EASEMENT (SHOWN HEREON)
B20	4904539	SEWER EASEMENT (SHOWN HEREON)
B21	7903070941	COVENANTS, CONDITIONS, RESTRICTIONS AND/OR EASEMENTS (NOT LOCATABLE)
B22	8009300994	UTILITIES EASEMENT (SHOWN HEREON)
B23	8010140842	SEWER EASEMENT (SHOWN HEREON)
B24	8706230516	COVENANTS, CONDITIONS, RESTRICTIONS AND/OR EASEMENTS (SHOWN HEREON)
B25	8709101054	COVENANTS, CONDITIONS, RESTRICTIONS AND/OR EASEMENTS (NOT LOCATABLE)
B26	K.C. SUPERIOR COURT CAUSE 88-2-13311-5	COVENANTS, CONDITIONS, RESTRICTIONS AND/OR EASEMENTS (NOT LOCATABLE)
B27	8904059001	CONDITIONS, NOTES, EASEMENTS, ETC ON SURVEY (NOT LOCATABLE)
B28	8908210768	ELECTRIC EASEMENT (NOT LOCATABLE - AS CONSTRUCTED)
B29	20000426000435	SEWER EASEMENT (SHOWN HEREON)
B30	20041230002872	CABLE EASEMENT (NOT LOCATABLE - AS CONSTRUCTED)
B31	20050705001621	COVENANTS, CONDITIONS, RESTRICTIONS AND/OR EASEMENTS (NOT LOCATABLE)
B32	20080114900001	CONDITIONS, NOTES, EASEMENTS, ETC ON SURVEY (SHOWN HEREON)
B33	20090205000236	GAS EASEMENT (NOT LOCATABLE - AS CONSTRUCTED)
B34	-	RIGHTS OF PUBLIC OR RIPARIAN OWNERS TO USE ANY PORTION WHICH IS NOW OR HAS BEEN FORMERLY COVERED BY WATER (NOT LOCATABLE)
B35	-	QUESTION OF LOCATION OF LATERAL BOUNDARIES OF THE SECOND CLASS TIDE (OR SHORE) LANDS (NOT LOCATABLE)
B36	-	PARAMOUNT RIGHTS AND EASEMENTS (NOT LOCATABLE)

EASEMENT TABLE A

ITEM NO.	RECORDING NO.	NOTE
A7	570143	RESERVATIONS CONTAINED IN DEED (NOT LOCATABLE - BLANKET)
A8	841274	RESERVATIONS CONTAINED IN DEED (NOT LOCATABLE - BLANKET)
A9	5270870	ELECTRIC EASEMENT (SHOWN HEREON)
A10	5338135	ELECTRIC EASEMENT (SHOWN HEREON)
A11	5559213	ELECTRIC EASEMENT (SHOWN HEREON)
A12	6435127	UTILITIES AND PEDESTRIAN INGRESS/EGRESS EASEMENT (SHOWN HEREON)
A13	6523188	PROPERTY LINE AGREEMENT (NOT LOCATABLE)
A14	8612301371 8809291243	RESERVATIONS AND EXCEPTIONS CONTAINED IN DEED (NOT LOCATABLE - BLANKET)
A15	8712240746	PROPERTY LINE AGREEMENT (NOT LOCATABLE)
A16	-	PROHIBITION OF OR LIMITATION OF USE, OCCUPANCY OR IMPROVEMENT (NOT LOCATABLE)
A17	-	PARAMOUNT RIGHTS AND EASEMENTS (NOT LOCATABLE)

VOL./PAGE

PREPARED BY:



HANSEN SURVEYING

LAND SURVEYORS & CONSULTANTS
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TEL: 425-235-8440 FAX: 425-235-0266



LATEST REVISION: 08/10/15

DES MOINES MARINA SHORT PLAT
SHORT PLAT NO. LUA08-025
CITY OF DES MOINES, WASHINGTON

DWN. BY RF	DATE 09/08/10	JOB NO. 20817
CHKD. BY RGH	SCALE N/A	SHEET 3 OF 13

SHORT PLAT
 CITY OF DES MOINES
 SHORT PLAT NO. LUA08-025
 KING COUNTY, WASHINGTON

89

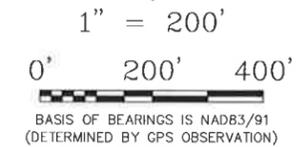
RECORDING NO.

VOL./PAGE

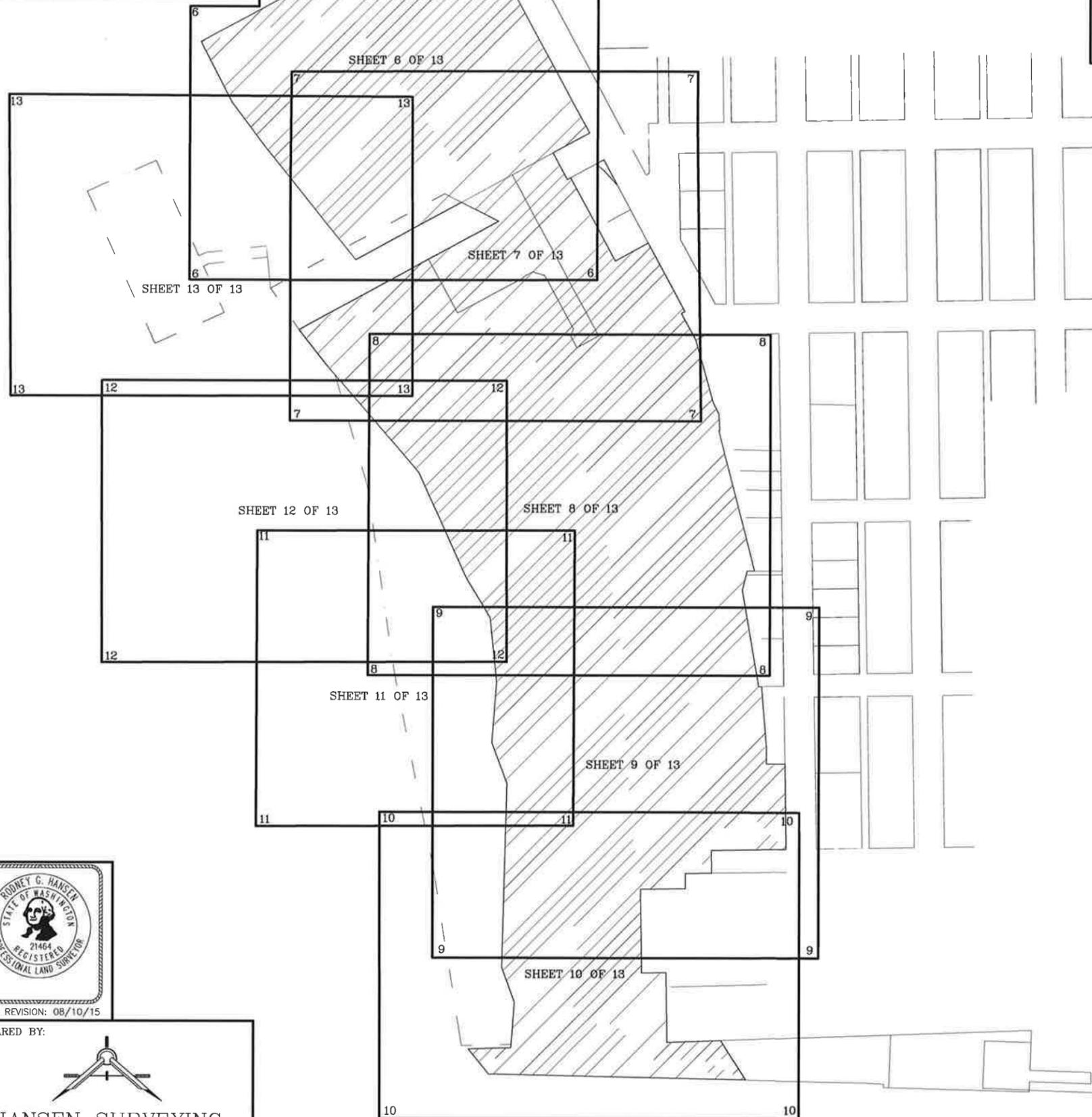
SCALE: 1" = 200'

PORTION OF
 S. 1/2, S.W. 1/4, SEC. 8, TWP. 22 N., RGE. 4 E., W.M.
 AND
 N.W. 1/4, SEC. 17, TWP. 22 N., RGE. 4 E., W.M.

- LEGEND**
- = FND. MON. IN CASE (VISITED MAY 2008)
 - = FND. PROP. COR. AS NOTED
 - = SET 1/2" I.R. W/CAP #21464
 - = SET PK/FLASHER
 - DNR = DNR LEASE APPLICATION No. 20-A09080 (R.O.S. REC. No. 20080716900002)

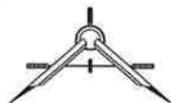


SURVEY METHOD: FIELD TRAVERSE & GPS
 R.T.K.
 EQUIPMENT USED: 1" TOTAL STATION &
 TOPCON HIPER LITE GPS
 SURVEY ACCURACY MEETS OR EXCEEDS
 REQUIREMENTS OF WAC 332-130-090
 CONTROL MONUMENTS FIELD TIED MAY, 2008.
 THIS SURVEY DEPICTS SITE CONDITIONS IN
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LATEST REVISION: 08/10/15

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DES MOINES MARINA SHORT PLAT SHORT PLAT NO. LUA08-025 CITY OF DES MOINES, WASHINGTON		
DWN. BY RF	DATE 09/08/10	JOB NO. 20817
CHKD. BY RGH	SCALE 1" = 200'	SHEET 5 OF 13

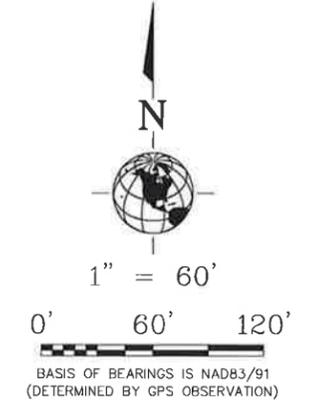
SHORT PLAT
CITY OF DES MOINES
SHORT PLAT NO. LUA08-025
KING COUNTY, WASHINGTON

- NOTES**
1. APPROXIMATE HISTORIC LINE OF MEAN LOW TIDE FROM REID MIDDLETON DRAWING CIRCA 1960, (SEE R.O.S. REC. No. 20080716900002)
 2. APPROXIMATE HISTORIC LINE OF EXTREME LOW TIDE FROM REID MIDDLETON DRAWING CIRCA 1960, (SEE R.O.S. REC. No. 20080716900002)
 3. CURRENT LINE OF EXTREME LOW TIDE IS AT BULKHEAD.
 4. THIS SURVEY DEPICTS SITE CONDITIONS IN AUGUST, 2008.
 5. LINE OF EXTREME LOW TIDE (-4.5' MLLW) FIELD LOCATED IN JANUARY, 2013.

RECORDING NO. _____ VOL./PAGE _____

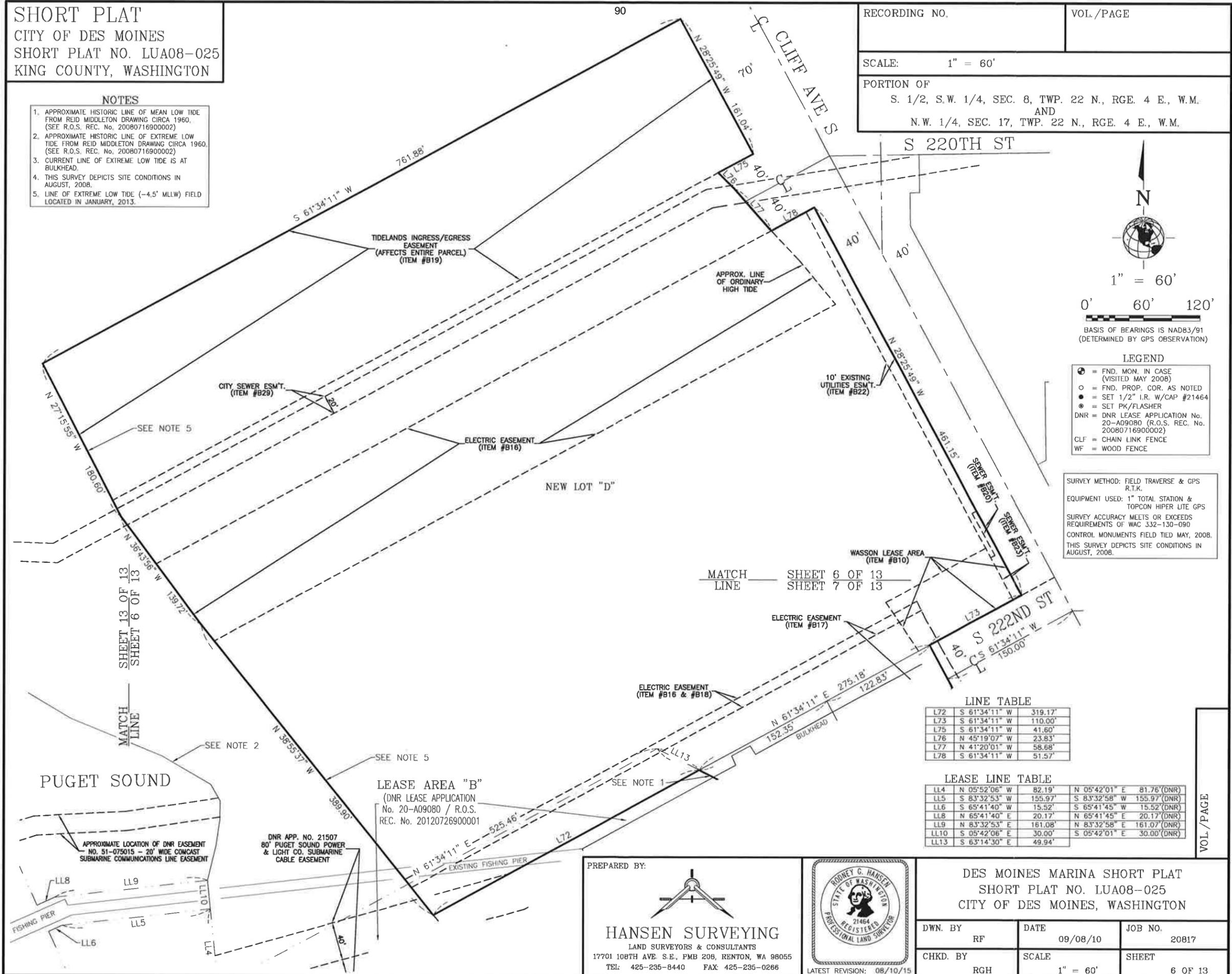
SCALE: 1" = 60'

PORTION OF
S. 1/2, S.W. 1/4, SEC. 8, TWP. 22 N., RGE. 4 E., W.M.
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N.W. 1/4, SEC. 17, TWP. 22 N., RGE. 4 E., W.M.



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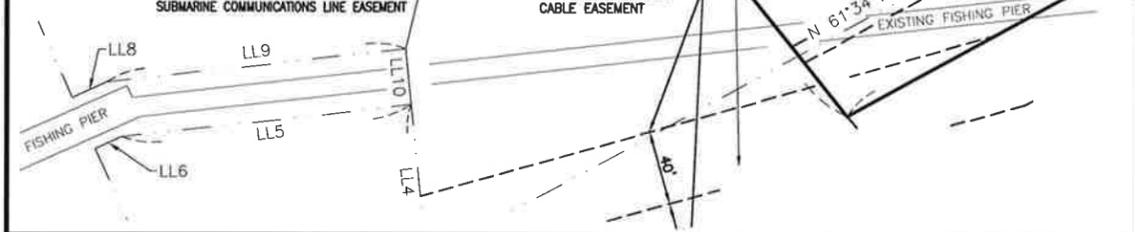


LINE TABLE

L72	S 61°34'11" W	319.17'
L73	S 61°34'11" W	110.00'
L75	S 61°34'11" W	41.60'
L76	N 45°19'07" W	23.83'
L77	N 41°20'01" W	58.68'
L78	S 61°34'11" W	51.57'

LEASE LINE TABLE

LL4	N 05°52'06" W	82.19'	N 05°42'01" E	81.76'(DNR)
LL5	S 83°32'53" W	155.97'	S 83°32'58" W	155.97'(DNR)
LL6	S 65°41'40" W	15.52'	S 65°41'45" W	15.52'(DNR)
LL8	N 65°41'40" E	20.17'	N 65°41'45" E	20.17'(DNR)
LL9	N 83°32'53" E	161.08'	N 83°32'58" E	161.07'(DNR)
LL10	S 05°42'06" E	30.00'	S 05°42'01" E	30.00'(DNR)
LL13	S 63°14'30" E	49.94'		



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CITY OF DES MOINES, WASHINGTON

DWN. BY RF	DATE 09/08/10	JOB NO. 20817
CHKD. BY RGH	SCALE 1" = 60'	SHEET 6 OF 13

VOL./PAGE

SHORT PLAT
CITY OF DES MOINES
SHORT PLAT NO. LUA08-025
KING COUNTY, WASHINGTON

91

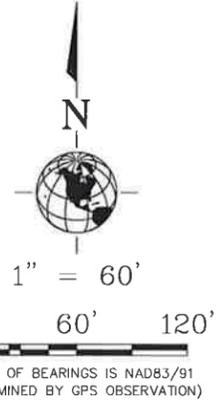
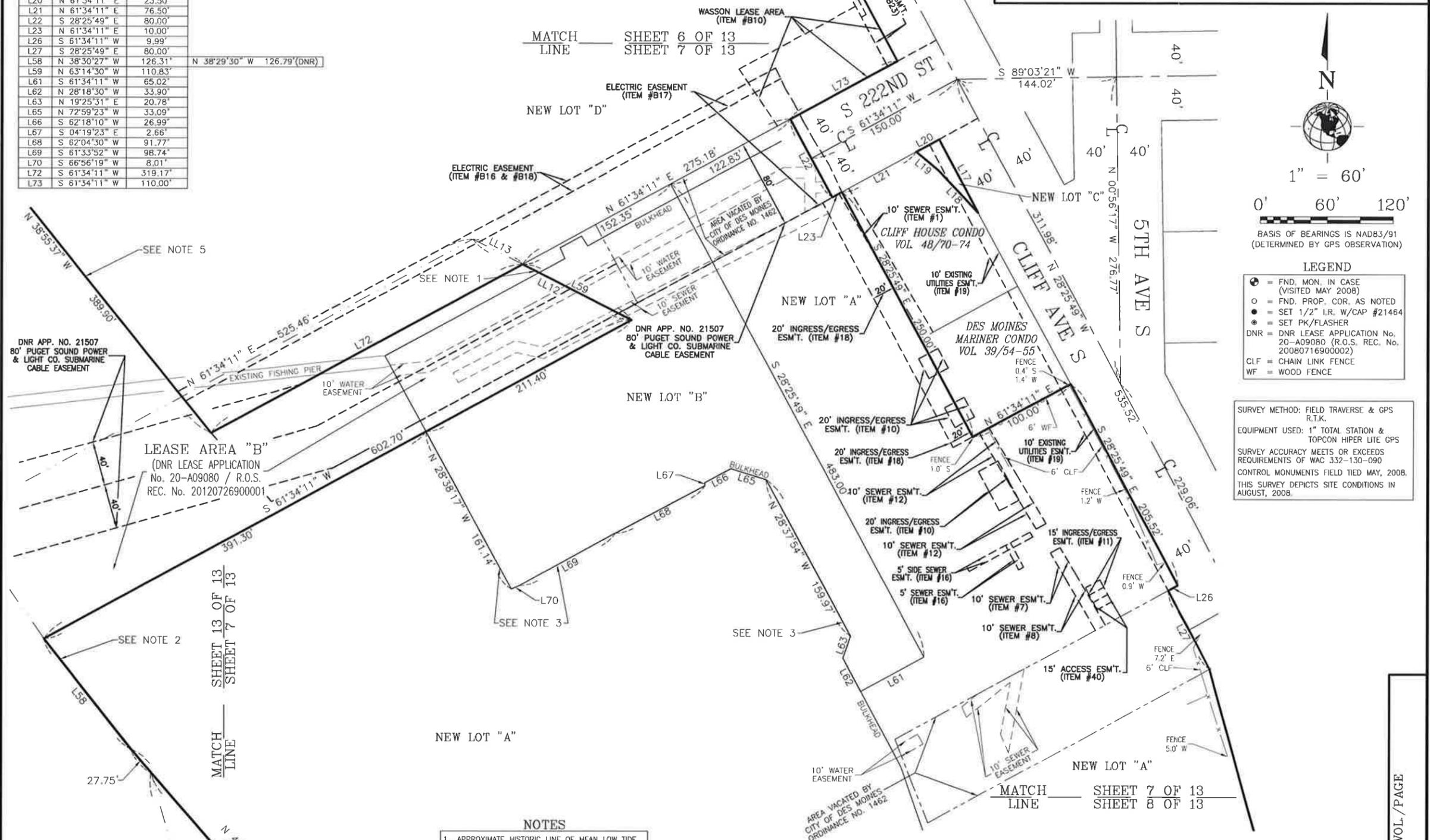
RECORDING NO.	VOL./PAGE
SCALE: 1" = 60'	
PORTION OF S. 1/2, S.W. 1/4, SEC. 8, TWP. 22 N., RGE. 4 E., W.M. AND N.W. 1/4, SEC. 17, TWP. 22 N., RGE. 4 E., W.M.	

LINE TABLE

L17	S 28°25'49" E	75.00'
L18	N 43°32'23" W	51.79'
L19	N 50°13'54" W	26.93'
L20	N 61°34'11" E	23.50'
L21	N 61°34'11" E	76.50'
L22	S 28°25'49" E	80.00'
L23	N 61°34'11" E	10.00'
L26	S 61°34'11" W	9.99'
L27	S 28°25'49" E	80.00'
L58	N 38°30'27" W	126.31'
L59	N 63°14'30" W	110.83'
L61	S 61°34'11" W	65.02'
L62	N 28°18'30" W	33.90'
L63	N 19°25'31" E	20.78'
L65	N 72°59'23" W	33.09'
L66	S 62°18'10" W	26.99'
L67	S 04°19'23" E	2.66'
L68	S 62°04'30" W	91.77'
L69	S 61°33'52" W	98.74'
L70	S 66°56'19" W	8.01'
L72	S 61°34'11" W	319.17'
L73	S 61°34'11" W	110.00'

LEASE LINE TABLE

LL12	S 63°14'30" E	160.77'
LL13	S 63°14'30" E	49.94'



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- WF = WOOD FENCE

SURVEY METHOD: FIELD TRAVERSE & GPS R.T.K.
EQUIPMENT USED: 1" TOTAL STATION & TOPCON HIPER LITE GPS
SURVEY ACCURACY MEETS OR EXCEEDS REQUIREMENTS OF WAC 332-130-090
CONTROL MONUMENTS FIELD TIED MAY, 2008.
THIS SURVEY DEPICTS SITE CONDITIONS IN AUGUST, 2008.

SEE NOTE 5

SEE NOTE 1

DNR APP. NO. 21507
80' PUGET SOUND POWER & LIGHT CO. SUBMARINE CABLE EASEMENT

LEASE AREA "B"
(DNR LEASE APPLICATION No. 20-A09080 / R.O.S. REC. No. 20120726900001)

SEE NOTE 2

SEE NOTE 3

SEE NOTE 3

NEW LOT "A"

MATCH LINE SHEET 7 OF 13 SHEET 8 OF 13

NOTES

- APPROXIMATE HISTORIC LINE OF MEAN LOW TIDE FROM REID MIDDLETON DRAWING CIRCA 1960. (SEE R.O.S. REC. No. 20080716900002)
- APPROXIMATE HISTORIC LINE OF EXTREME LOW TIDE FROM REID MIDDLETON DRAWING CIRCA 1960. (SEE R.O.S. REC. No. 20080716900002)
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- LINE OF EXTREME LOW TIDE (-4.5' MLLW) FIELD LOCATED IN JANUARY, 2013.

PREPARED BY:

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RODNEY G. HANSEN
STATE OF WASHINGTON
21464
REGISTERED
PROFESSIONAL LAND SURVEYOR

DES MOINES MARINA SHORT PLAT
SHORT PLAT NO. LUA08-025
CITY OF DES MOINES, WASHINGTON

DWN. BY	DATE	JOB NO.
RF	09/08/10	20817
CHKD. BY	SCALE	SHEET
RGH	1" = 60'	7 OF 13

VOL./PAGE

SHORT PLAT
CITY OF DES MOINES
SHORT PLAT NO. LUA08-025
KING COUNTY, WASHINGTON

- NOTES**
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RECORDING NO. _____ VOL./PAGE _____

SCALE: 1" = 60'

PORTION OF
 S. 1/2, S.W. 1/4, SEC. 8, TWP. 22 N., RGE. 4 E., W.M.
 AND
 N.W. 1/4, SEC. 17, TWP. 22 N., RGE. 4 E., W.M.



North Arrow

1" = 60'

0' 60' 120'

BASIS OF BEARINGS IS NAD83/91
 (DETERMINED BY GPS OBSERVATION)

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CONTROL MONUMENTS FIELD TIED MAY, 2008.
THIS SURVEY DEPICTS SITE CONDITIONS IN AUGUST, 2008.

LINE TABLE

LINE	BEARING	DISTANCE
L26	S 61°34'11" W	9.99'
L27	S 28°25'49" E	80.00'
L29	S 26°12'35" E	35.63'
L30	S 04°05'08" E	43.56'
L31	N 88°39'11" W	3.02'
L32	S 89°05'10" W	20.00'
L33	S 13°39'34" W	51.67'
L34	S 09°49'38" E	258.28'

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LATEST REVISION: 08/10/15

DES MOINES MARINA SHORT PLAT
SHORT PLAT NO. LUA08-025
CITY OF DES MOINES, WASHINGTON

DWN BY RF	DATE 09/08/10	JOB NO. 20817
CHKD BY RGH	SCALE 1" = 60'	SHEET 8 OF 13

SHORT PLAT
CITY OF DES MOINES
SHORT PLAT NO. LUA08-025
KING COUNTY, WASHINGTON

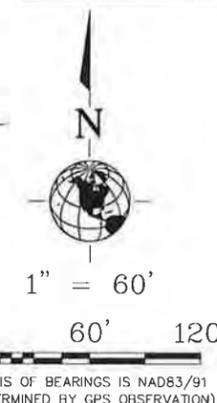
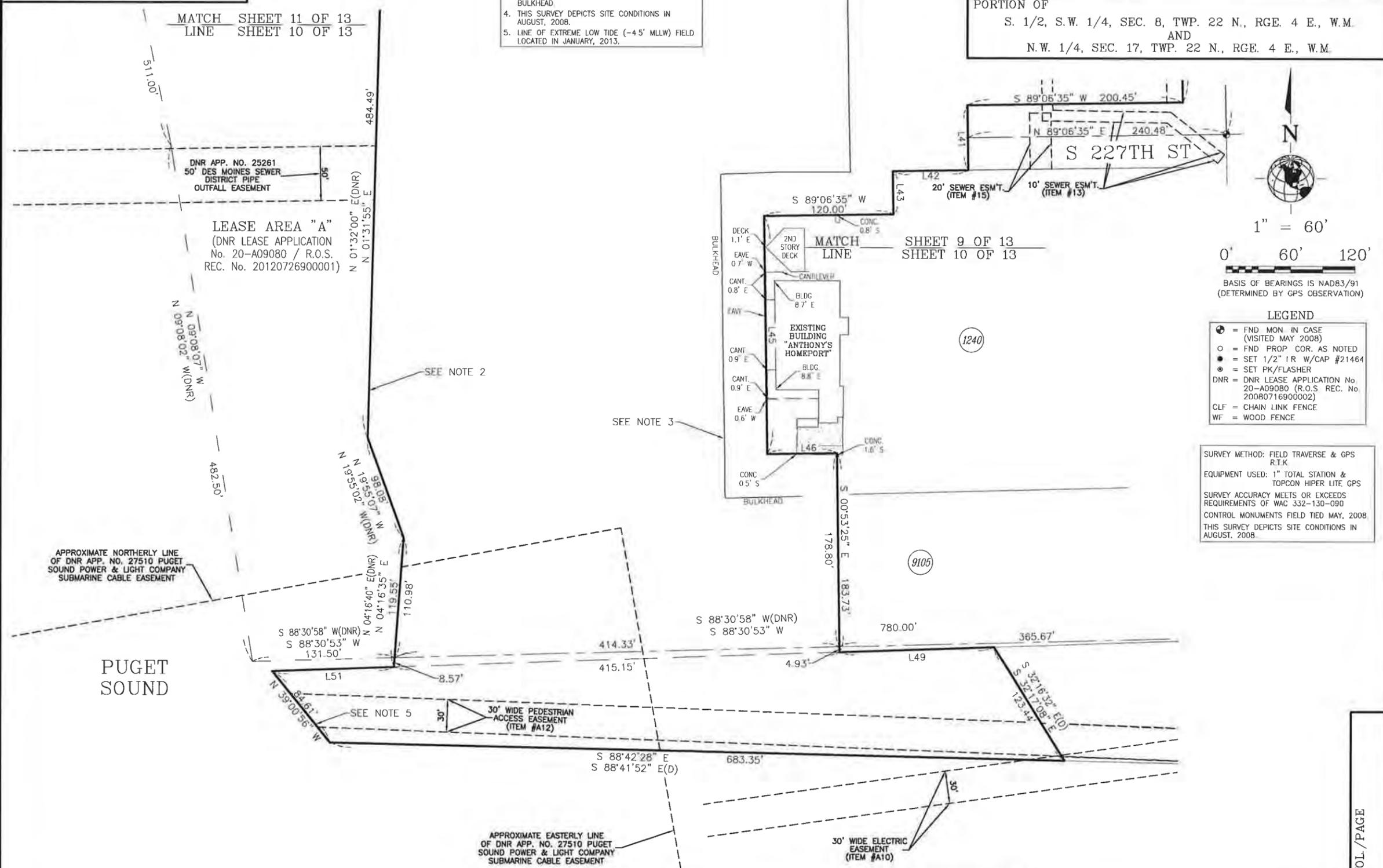
NOTES 94

1. APPROXIMATE HISTORIC LINE OF MEAN LOW TIDE FROM REID MIDDLETON DRAWING CIRCA 1960. (SEE R.O.S. REC. No. 20080716900002)
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5. LINE OF EXTREME LOW TIDE (-4.5' MLLW) FIELD LOCATED IN JANUARY, 2013.

RECORDING NO. _____ VOL./PAGE _____

SCALE: 1" = 60'

PORTION OF
S. 1/2, S.W. 1/4, SEC. 8, TWP. 22 N., RGE. 4 E., W.M.
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SURVEY METHOD: FIELD TRAVERSE & GPS
RTK

EQUIPMENT USED: 1" TOTAL STATION & TOPCON HIPER LITE GPS

SURVEY ACCURACY MEETS OR EXCEEDS REQUIREMENTS OF WAC 332-130-090

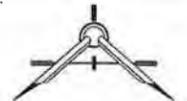
CONTROL MONUMENTS FIELD TIED MAY, 2008

THIS SURVEY DEPICTS SITE CONDITIONS IN AUGUST, 2008.

LINE TABLE

LINE	BEARING	DISTANCE	
L41	S 00°54'50" E	60.00'	
L42	S 89°06'35" W	70.00'	
L43	S 00°53'25" E	40.00'	
L45	S 00°53'25" E	220.00'	
L46	S 89°06'35" W	65.00'	
L49	N 88°01'05" E	143.18'	N 88°01'41" E (D)
L51	N 88°01'05" E	112.59'	N 88°01'41" E (D)

PREPARED BY:



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DES MOINES MARINA SHORT PLAT
SHORT PLAT NO. LUA08-025
CITY OF DES MOINES, WASHINGTON

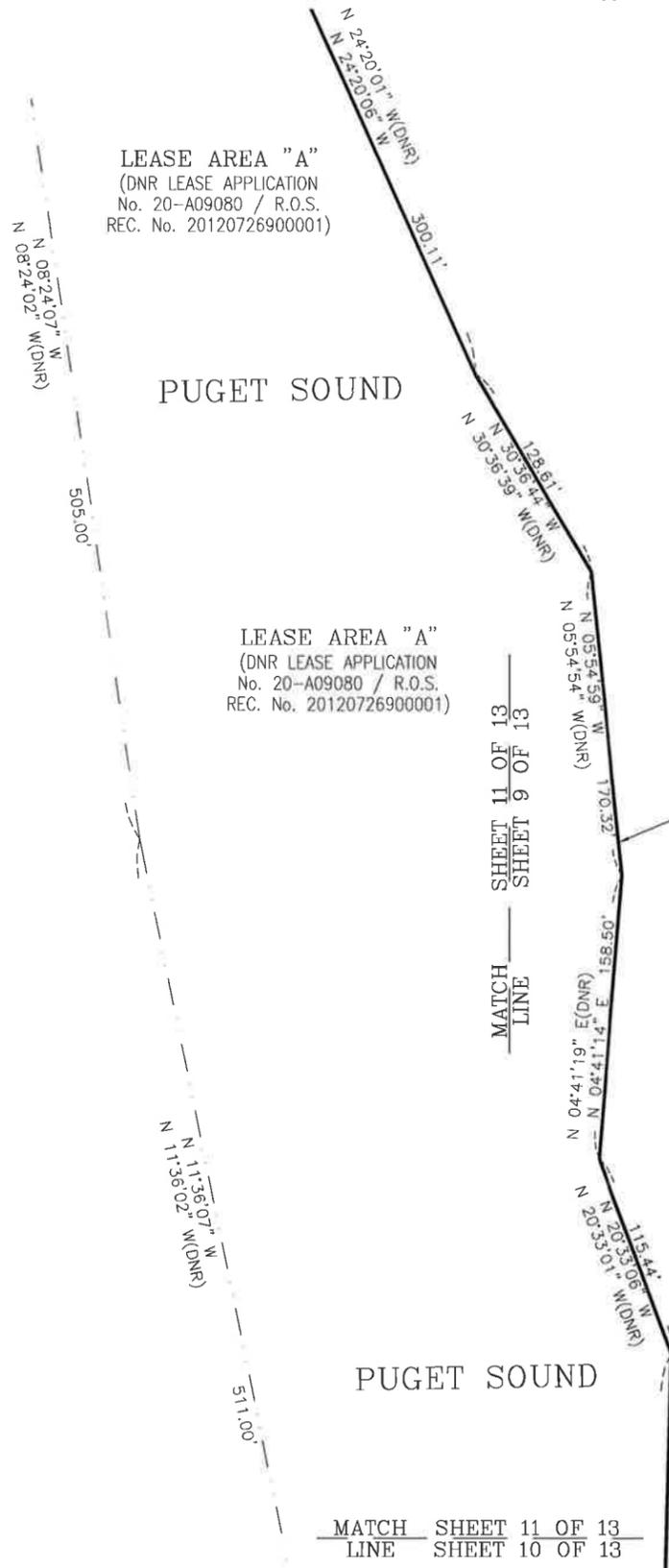
DWN. BY RF	DATE 09/08/10	JOB NO. 20817
CHKD. BY RGH	SCALE 1" = 60'	SHEET 10 OF 13

VOL./PAGE

SHORT PLAT
 CITY OF DES MOINES
 SHORT PLAT NO. LUA08-025
 KING COUNTY, WASHINGTON

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RECORDING NO.	VOL./PAGE
SCALE: 1" = 60'	
PORTION OF S. 1/2, S.W. 1/4, SEC. 8, TWP. 22 N., RGE. 4 E., W.M. AND N.W. 1/4, SEC. 17, TWP. 22 N., RGE. 4 E., W.M.	



MATCH LINE SHEET 12 OF 13
 SHEET 11 OF 13

MATCH LINE SHEET 11 OF 13
 SHEET 9 OF 13

MATCH LINE SHEET 11 OF 13
 SHEET 10 OF 13

NEW LOT "A"

NEW LOT "A"



1" = 60'
 0' 60' 120'
 BASIS OF BEARINGS IS NAD83/91
 (DETERMINED BY GPS OBSERVATION)

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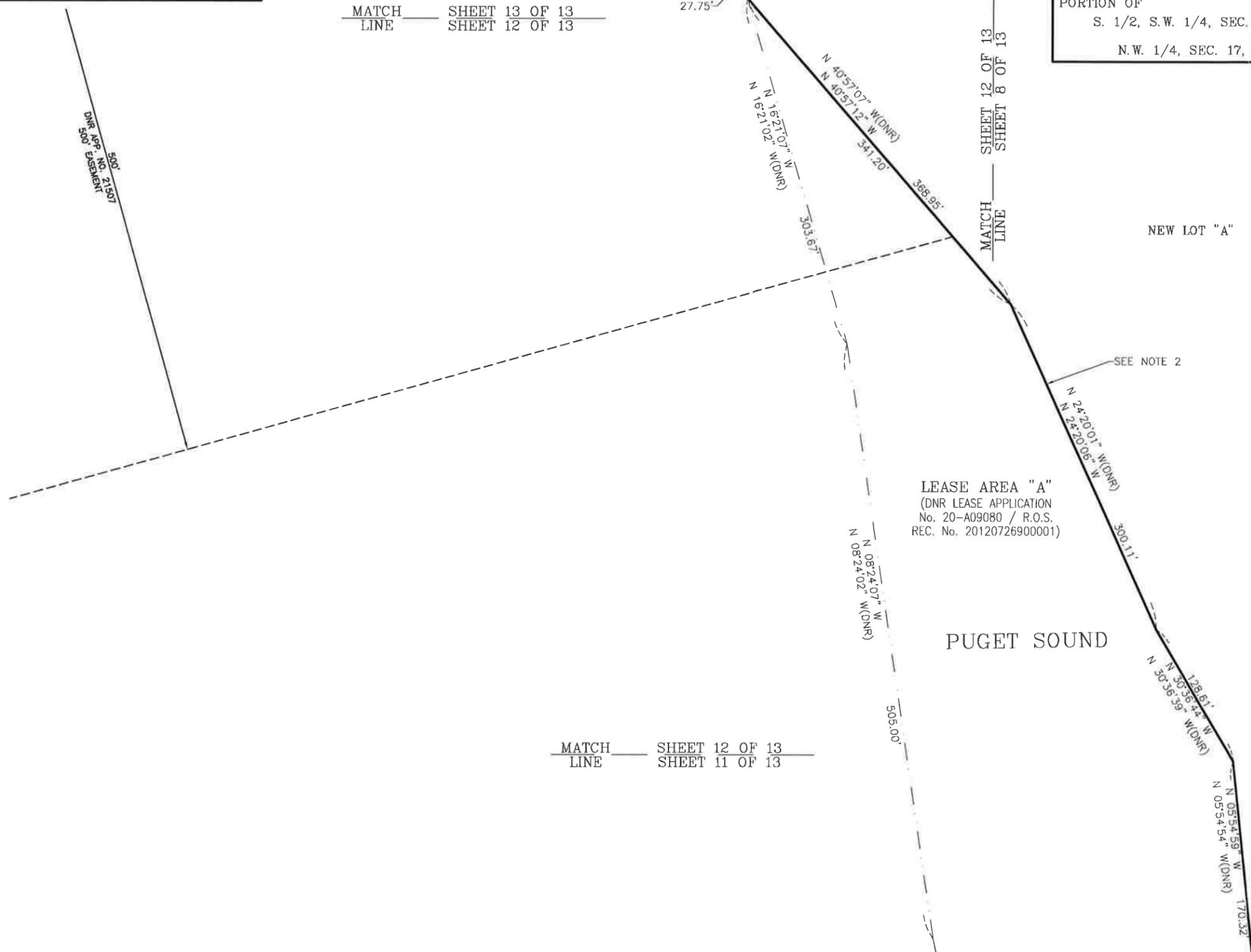
DWN. BY RF	DATE 09/08/10	JOB NO. 20817
CHKD. BY RGH	SCALE 1" = 60'	SHEET 11 OF 13

SHORT PLAT
 CITY OF DES MOINES
 SHORT PLAT NO. LUA08-025
 KING COUNTY, WASHINGTON

96

RECORDING NO.	VOL./PAGE
SCALE: 1" = 60'	
PORTION OF S. 1/2, S.W. 1/4, SEC. 8, TWP. 22 N., RGE. 4 E., W.M. AND N.W. 1/4, SEC. 17, TWP. 22 N., RGE. 4 E., W.M.	

MATCH LINE SHEET 13 OF 13
 SHEET 12 OF 13



MATCH LINE SHEET 12 OF 13
 SHEET 11 OF 13

MATCH LINE SHEET 12 OF 13
 SHEET 8 OF 13



1" = 60'
 0' 60' 120'

BASIS OF BEARINGS IS NAD83/91
 (DETERMINED BY GPS OBSERVATION)

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LEASE AREA "A"
 (DNR LEASE APPLICATION
 No. 20-A09080 / R.O.S.
 REC. No. 20120726900001)

PUGET SOUND

SEE NOTE 2

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CHKD. BY RGH	SCALE 1" = 60'	SHEET 12 OF 13

SHORT PLAT
CITY OF DES MOINES
SHORT PLAT NO. LUA08-025
KING COUNTY, WASHINGTON

97

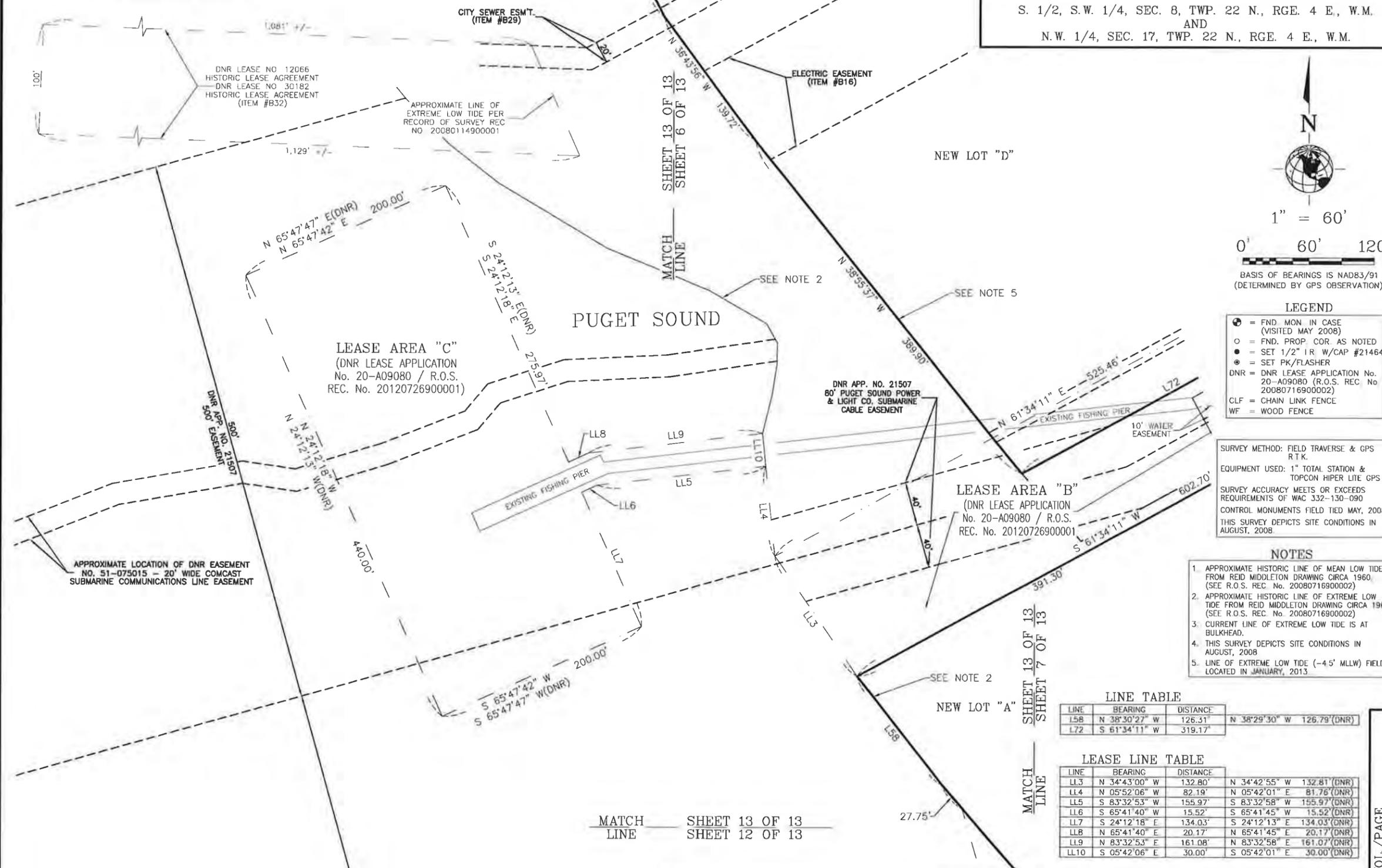
RECORDING NO.

VOL./PAGE

SCALE: 1" = 60'

PORTION OF

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AND
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1" = 60'
0' 60' 120'
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 - = FND. PROP. COR. AS NOTED
 - = SET 1/2" IR W/CAP #21464
 - = SET PK/FLASHER
 - DNR = DNR LEASE APPLICATION No. 20-A09080 (R.O.S. REC. No. 20080716900002)
 - CLF = CHAIN LINK FENCE
 - WF = WOOD FENCE

SURVEY METHOD: FIELD TRAVERSE & GPS RTK.
EQUIPMENT USED: 1" TOTAL STATION & TOPCON HIPER LITE GPS
SURVEY ACCURACY MEETS OR EXCEEDS REQUIREMENTS OF WAC 332-130-090
CONTROL MONUMENTS FIELD TIED MAY, 2008
THIS SURVEY DEPICTS SITE CONDITIONS IN AUGUST, 2008

- NOTES**
1. APPROXIMATE HISTORIC LINE OF MEAN LOW TIDE FROM REID MIDDLETON DRAWING CIRCA 1960. (SEE R.O.S. REC. No. 20080716900002)
 2. APPROXIMATE HISTORIC LINE OF EXTREME LOW TIDE FROM REID MIDDLETON DRAWING CIRCA 1960. (SEE R.O.S. REC. No. 20080716900002)
 3. CURRENT LINE OF EXTREME LOW TIDE IS AT BULKHEAD.
 4. THIS SURVEY DEPICTS SITE CONDITIONS IN AUGUST, 2008
 5. LINE OF EXTREME LOW TIDE (-4.5' MLLW) FIELD LOCATED IN JANUARY, 2013

LINE TABLE

LINE	BEARING	DISTANCE
L58	N 38°30'27" W	126.31'
L72	S 61°34'11" W	319.17'

LEASE LINE TABLE

LINE	BEARING	DISTANCE
LL3	N 34°43'00" W	132.80'
LL4	N 05°52'06" W	82.19'
LL5	S 83°32'53" W	155.97'
LL6	S 65°41'40" W	15.52'
LL7	S 24°12'18" E	134.03'
LL8	N 65°41'40" E	20.17'
LL9	N 83°32'53" E	161.08'
LL10	S 05°42'06" E	30.00'

MATCH LINE SHEET 13 OF 13
SHEET 12 OF 13

PREPARED BY:

HANSEN SURVEYING
LAND SURVEYORS & CONSULTANTS
17701 108TH AVE S.E., PMB 208, RENTON, WA 98055
TEL: 425-235-8440 FAX: 425-235-0266

RODNEY G. HANSEN
STATE OF WASHINGTON
21454
REGISTERED
PROFESSIONAL LAND SURVEYOR
LATEST REVISION: 08/10/15

DES MOINES MARINA SHORT PLAT
SHORT PLAT NO. LUA08-025
CITY OF DES MOINES, WASHINGTON

DWN. BY	DATE	JOB NO.
RF	09/08/10	20817
CHKD. BY	SCALE	SHEET
RGH	1" = 60'	13 OF 13

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Sun Home Lodge Grant Requests

FOR AGENDA OF: May 12, 2016

ATTACHMENTS:

- 1. 2016 CIP Request Form- Sun Home Lodge

DEPT. OF ORIGIN: Parks, Recreation and Senior Services

DATE SUBMITTED: May 4, 2016

CLEARANCES:

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

APPROVED BY CITY MANAGER
FOR SUBMITTAL 

Purpose and Recommendation

The purpose of this agenda item is to request that the City Council approve the submittal of grant applications for the Des Moines Beach Park Sun Home Lodge Renovation Project.

Suggested Motion

Motion: "I move to approve authorizing the City Manager to submit grant applications to the Washington Heritage Capital Grant Fund in the amount of up to \$500,000 and to King County 4Culture in the amount of \$30,000 for the Des Moines Beach Park Sun Home Lodge Renovation Project."

Background:

The City of Des Moines approved the renovation of the Des Moines Beach Park Sun Home Lodge with the use of outside grant funds in the 2016-2021 Capital Improvement Plan.

Discussion:

The Des Moines Beach Park Sun Home Lodge Renovation Project is identified in the 2016-2021 Municipal Capital Improvement Program and is a top priority of the 2016 Parks, Recreation and Senior Services Master Plan. The project initially included a full remodel of the building to include a catering kitchen and restroom improvements. The project scope has been reduced to include the replacement of the building foundation, decking, exterior stairs and reconnection of utilities at a cost of \$605,000. These improvements will make the building safe and help to protect the building from further deterioration. The grant applications are due to the granting agencies in May 2016. It is anticipated that the City will be required to make a separate appropriation request to our state legislators in support of funding for this project during the upcoming 2017 legislative session. If awarded, the funds would be available in July 2017.

Alternatives:

None Provided

Financial Impact:

The Des Moines Beach Park Sun Home Lodge Renovation Project will utilize heritage grants from 4Culture and Washington Capital Heritage Fund as the main source of the \$605,000 funds needed to renovate the building. Future costs would include facility maintenance and utilities to be offset by Beach Park Event Center rental revenues.

Recommendation/Conclusion:

This project was approved by City Council in the 2016-2021 CIP.



**CITY OF DES MOINES
2016 -2021 CAPITAL IMPROVEMENT PLAN
(Amount in Thousands)**

DMBP Sun Home Lodge Rehab	310.05	Summary Project Description:
<p>CIP Category: Park Facility Projects Managing Department: Parks, Recr & Sr Services</p>		<p>Rehabilitation of the Sun Home Lodge for it's continued use as a recreation facility. Will include lifting the building, connecting new utilities (electrical, gas, phone, cable, water and sewer), constructing a new foundation, decking, exterior stairway and minor interior improvements. Additional interior building remodel work would be completed in future phases. This project relies on funding support from King County and Washington State. \$459K previously expended Picnic Shelter/Restroom funds will provide additional match for the project</p>

Justification/Benefits: King County has just announced that it will provide up to \$20M bonds for the rehabilitation of historic properties. These funds and past Beach Park expenditures could provide match for a Washington Heritage Capital Grant to lift and construct a new foundation for the Sun Home Lodge. The Sun Home Lodge is in desperate need of life and safety repairs for its continued use as a recreation facility. Funds available will not provide for major interior remodel work. The Des Moines Beach Park is listed on the State and National Historic Register.

PROJECT SCOPE		ANNUAL ALLOCATION																
Expenditures	Total Budget	Project to Date 12/31/14	Scheduled Year		Plan Year		2016		2017		2018		2019		2020		2021	
			Design/Engineering	65							65							
Construction	475								475									
Contingency	65									65								
Total Expenditures	605							65										

Funding Sources		Total Budget		ANNUAL ALLOCATION														
Funding Sources	Total Budget	Project to Date 12/31/14	Scheduled Year		Plan Year		2016		2017		2018		2019		2020		2021	
			King County	250								65						
WA State Heritage	355									185								
Total Funding	605								65									

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT:

Agreements with Highline Water District and Puget Sound Energy for the 268th Street Sidewalk Improvements

ATTACHMENTS:

1. Agreement, CITY OF DES MOINES AND HIGHLINE WATER DISTRICT
2. Agreement, CITY OF DES MOINES AND PUGET SOUND ENERGY

AGENDA OF: May 12, 2016

DEPT. OF ORIGIN: Planning, Building & Public Works

DATE SUBMITTED: May 5, 2016

CLEARANCES:

- [X] Legal RB
 [X] Finance Bm
 [] Marina N/A
 [] Parks, Recreation & Senior Services N/A
 [X] Planning, Building & Public Works RBC
 [] Police N/A

**APPROVED BY CITY MANAGER
FOR SUBMITTAL:** SA

Purpose:

The purpose of this item is for approval of proposed construction agreements between the Highline Water District and the City of Des Moines, and Puget Sound Energy (PSE) and the City of Des Moines. The Agreements (Attachment 1 & 2) will allow Highline Water District, Puget Sound Energy, and the City to combine asphalt restoration work with the City's 268th Street Sidewalk Improvements into a single construction contract, benefiting the City, the District, PSE, and the overall community. The following motions will appear on the consent calendar:

Suggested Motions

Motion 1: "I move to approve the Agreement between the City of Des Moines and Highline Water District regarding asphalt restoration for the 268th Street Sidewalk Project, and further authorize the City Manager to sign the Agreement, substantially in the form as submitted."

Motion 1: "I move to approve the Agreement between the City of Des Moines and Puget Sound Energy (PSE) regarding asphalt restoration for the 268th Street Sidewalk Project, and further authorize the City Manager to sign the Agreement, substantially in the form as submitted."

Background:

During the preliminary engineering of the South 268th Street Sidewalk Improvements Project the City became aware that both the Highline Water District, Midway Sewer and PSE wished to upgrade their existing facilities within the City's project limits. Highline Water District will be installing approximately 875 lineal feet of ductile iron water main and 650 lineal feet of sewer mains (on behalf of Midway Sewer District), while abandoning the existing mains in place. PSE intends to install 1,150 lineal feet of gas main and abandon the existing main in place. As part of the Right-of-Way permits for the utility work utilities are required to do roadway restoration.

The City's plans are at 90% completion and plan to advertise for bid in late May/early June.

Discussion:

If the City and the Utility's plans are combined into a single contract as proposed in the referenced Agreement, staff believes that there will be three significant benefits:

- Soliciting bids under a single construction contract will stimulate more competitive bidding due to a larger contract
- Construction coordination will be much smoother reducing conflicts between contractors and potential for construction delay and increased project costs.
- Disruption to the community and other conflicts will be minimized.

Acceptance of bids and award of contracts will be subject to approval by the City Council. It is possible that City Council may reject bids. As stipulated in the Agreements, cost of the improvements will be born equitably and separately by the City and the District for their respective improvements. The entire project's roadway restoration costs have been estimated at \$88,636. Each utility will be responsible for one-third of the restoration costs. PSE's responsibility will be \$29,545 and Highline Water District will be responsible for \$59,091 as they will be constructing facilities on behalf of Midway Sewer District.

The 268th Street Sidewalk Improvements were included in this year's CIP with a planned construction phase to begin in the summer of 2016. Accordingly, staff plans to advertise the project for construction bids this spring/summer.

Alternatives:

Council could decide not to enter into this Agreement with the Utility's. In doing so, the Utility's and City may decide to proceed independently and risk losing the benefits of a combined bid as well as better coordination between the projects and more inconvenience to the traveling public.

Financial Impact:

The costs associated with the Utility's work have been included in the Capital Improvement Program. Payments will be equitably balanced between the parties.

Recommendation/Conclusion:

Staff recommends that Council approve the suggested motions.

Concurrence:

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

AGREEMENT

This Agreement ("Agreement") is made by and between Highline Water District, a municipal corporation ("District"), and the City of Des Moines, a municipal corporation ("Des Moines" or "City"), (individually a "Party" and collectively the "Parties") for the purposes set forth herein.

Section 1: Recitals

1.01 The District is installing approximately 875 lineal feet ("LF") of 8-inch diameter ductile iron water main and 650 LF of sanitary sewer mains [on behalf of Midway Sewer District] along S 268th St between 16th Ave S and 19th Ave S as described in Plans and Specifications ("Plans and Specifications") prepared by Gray & Osborne, Inc., consulting engineers (the "Project" or the "Work"). The Work includes the installation of all pipes, fittings, valves, hydrants, services, manholes, sewer stubs and other appurtenances necessary for a complete water and sewer system. The District will abandon the existing water and sewer mains in place.

1.02 The Work will be performed in City right-of-way.

1.03 Puget Sound Energy plans to upgrade existing gas mains and service within the project limits.

1.04 The City intends to perform certain storm water and other road work in the area of the Project in the future, and, in lieu of requiring the District to perform trench patching and HMA overlay ("HMA Surface Improvements") in the area of City right-of-way where trenching will be performed as part of the Project, the City desires the District to pay a fee to the City in lieu of performing the HMA Surface Improvements following the completion of temporary trench patching required for the Project. The City intends to utilize the funds paid to the City by the District to perform future HMA surface improvements by the City within the City right-of-way in the area of the Project.

1.05 The purpose of this Agreement is to provide for the terms and conditions of the Parties' agreement to not require the District to perform the HMA Surface Improvements in consideration of the District's payment of an agreed amount to the City as part of the Project.

1.06 The Parties are authorized by the Interlocal Cooperation Act, Chapter 39.34 RCW, to undertake joint and cooperative action.

Now, therefore, in consideration of the terms and conditions contained in this Agreement, the Parties agree as follows:

Section 2: Payment in lieu of HMA Surface Improvements

2.01 The City agrees the District's obligation as required by the City's Road Standards to restore City right-of-way impacted by trenching in such right-of-way due to the Work shall be satisfied by the District, through its contractor(s), performing a temporary trench patch in all trenches in City right-of-way due to the District's Work as required by the Plans and Specifications ("Trench Restoration Work"). The District shall also pay to the City within thirty (30) days of the City's acceptance of the Trench Restoration Work the sum of Fifty nine thousand ninety one Dollars (\$59,091.00) ("Payment") in lieu of requiring the District to perform the HMA Surface Improvements.

2.02 In consideration of the District's performance of the Trench Restoration Work and remission of the Payment to the City, the City agrees to accept the Payment in full satisfaction of the District's obligation to perform the HMA Surface Improvements related to the Work. Following the City's acceptance of the Trench Restoration Work and receipt of the Payment, the City agrees to be responsible for the condition of the City right-of-way where the Trench Restoration Work was performed, and to perform any further improvements to the City right-of-way which the City would have required the District to perform as part of the Project, if the City determines to perform such improvements in its discretion.

2.03 Following the City's acceptance of the Trench Restoration Work and receipt of the Payment, the City agrees to indemnify, defend, and hold harmless the District and its officers, agents, employees, and volunteers from and against any and all damages, costs or expenses in law or equity that may any time arise out of or related to damages to property or personal injury by reason of the condition the City right-of-way and the Trench Restoration Work following the District's completion of the Work.

Section 3: Provisions

3.01 This Agreement shall terminate by its terms, or sooner by written agreement of the Parties.

3.02 No separate legal or administrative entity is created by this Agreement.

3.03 Any joint or cooperative undertaking resulting from this Agreement does not require the joint financing, budgeting, acquisition, holding or disposal of any real or personal property.

3.04 To the extent necessary, this Agreement shall be administered jointly by the City's Public Work's Director and the District's General Manager.

3.05 Consistent with RCW 39.34.040, this Agreement shall be filed for recording with the King County Department of Records upon full execution or posted on the City's and the District's respective websites listed by subject matter.

Section 4: General

4.01 This Agreement is made under, and shall be governed by and construed in accordance with the laws of the State of Washington. Venue and jurisdiction of any lawsuit involving this Agreement shall exist exclusively in state and federal courts in King County, Washington. If either Party breaches or threatens to breach this Agreement, the other Party shall be entitled to seek all legal, injunctive or other equitable relief.

4.02 All notices and/or correspondence hereunder, shall be mailed, faxed or hand-delivered and addressed as follows:

If to the DISTRICT:

Highline Water District
23828 30th Avenue South
P.O. Box 3867
Kent, WA 98032-3867
Attn: Jeremy DelMar
Email: jdelmar@highlinewater.org

If to the CITY:

City of Des Moines
21650 11th Ave South
Des Moines, Washington 98198
Attn: R. Brandon Carver
Email: bcarver@desmoineswa.gov

4.03 If any part or provision of this Agreement is held invalid or unenforceable as written, it shall not affect any other part. If any part of this Agreement is held to be unenforceable as written, it shall be enforced to the maximum extent allowed under applicable law.

4.04 The waiver of any breach of this Agreement or failure to enforce any provision of this Agreement shall not waive any later breach.

4.05 The term "Party" as used in this Agreement shall include, but not be limited to, the Party's employees, staff, agents, contractors, sub-contractors and any other persons, parties or entities acting on behalf of or providing services to the Party for the purposes set forth herein.

4.06 This Agreement shall be effective on the date by which both Parties have executed this Agreement ("Effective Date").

4.07 The Parties represent and warrant that each Party has the full power and authority to enter into this Agreement and to carry out the actions required of them by this Agreement, and all persons signing this Agreement in a representative capacity represent and warrant they have the full power and authority to bind their respective municipal entities.

4.08 It is the Parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions by the City Manager of the City and the General Manager of the District. If unsuccessful, then the Parties agree to submit the dispute to mediation administered by a professional mediator before resorting to a lawsuit. All fees and expenses for mediation shall be borne by the Parties equally. However, each Party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation at the mediation.

4.09 The Parties agree to perform all duties and obligations in this Agreement with due diligence and in good faith. Time is of the essence to perform all duties and obligations in this Agreement.

4.10 The Recitals set forth above in Section 1 are incorporated by reference herein and made part of this Agreement.

4.11 This Agreement is made for the sole benefit of the Parties and is not intended to benefit any other person or entity.

IN WITNESS WHEREOF, the Parties have executed this Agreement as set forth below.

CITY OF DESMOINES

HIGHLINE WATER DISTRICT

By: _____
Its: _____
Dated: _____

By: _____
Its: _____
Dated: _____

ATTEST:

APPROVED AS TO FORM:

By: _____
City Clerk

By: _____
John W. Milne, District Attorney

APPROVED AS TO FORM:
OFFICE OF CITY ATTORNEY:

By: _____
City Attorney

AGREEMENT

This Agreement ("Agreement") is made by and between Puget Sound Energy (PSE) a utility corporation, and the City of Des Moines, a municipal corporation ("Des Moines" or "City"), (individually a "Party" and collectively the "Parties") for the purposes set forth herein.

Section 1: Recitals

1.01 In advance of the City's South 268th Street Sidewalk Improvement Project ("the Project"), PSE is installing approximately 1,150 lineal feet ("LF") of 2-inch diameter pipe within S 268th St between 16th Ave S and 19th Ave S ("the Work"). The Work includes the installation of pipes, fittings, valves, and other appurtenances necessary for the gas system. PSE will abandon the existing gas main in place.

1.02 The Work will be performed in City right-of-way.

1.03 Highline Water District and Midway Sewer District plans to upgrade existing mains and service within the project limits.

1.04 The City intends to perform certain storm water and other road work in the area of the Project in the future, and, in lieu of requiring PSE to perform trench patching and HMA overlay ("HMA Surface Improvements") in the area of City right-of-way where trenching will be performed as part of the Project, the City desires PSE to pay a fee to the City in lieu of performing the HMA Surface Improvements following the completion of temporary trench patching required for the Project. The City intends to utilize the funds paid to the City by PSE to perform future HMA Surface Improvements by the City within the City right-of-way in the area of the Project.

1.05 The purpose of this Agreement is to provide for the terms and conditions of the Parties' agreement to not require PSE to perform the HMA Surface Improvements in consideration of the PSE's payment of an agreed amount to the City as part of the Project.

Now, therefore, in consideration of the terms and conditions contained in this Agreement, the Parties agree as follows:

Section 2: Payment in lieu of HMA Surface Improvements

2.01 The City agrees PSE's obligation as required by the City's Road Standards to restore City right-of-way impacted by trenching in such right-of-way due to the Work shall be satisfied by PSE, through its contractor(s), performing a temporary trench patch in all trenches in City right-of-way due to PSE's Work as required by the Plans and Specifications ("Trench Restoration Work"). PSE shall also pay to the City within thirty (30) days of the City's acceptance

of the Trench Restoration Work the sum of Twenty nine thousand five hundred forty five Dollars (\$29,545.00) (“Payment”) in lieu of requiring PSE to perform the HMA Surface Improvements.

2.02 In consideration of PSE’s performance of the Trench Restoration Work and remission of the Payment to the City, the City agrees to accept the Payment in full satisfaction of PSE’s obligation to perform the HMA Surface Improvements related to the Work. Following the City’s acceptance of the Trench Restoration Work and receipt of the Payment, the City agrees to be responsible for the condition of the City right-of-way where the Trench Restoration Work was performed, and to perform any further improvements to the City right-of-way which the City would have required PSE to perform as part of the Project, if the City determines to perform such improvements in its discretion.

2.03 Following the City’s acceptance of the Trench Restoration Work and receipt of the Payment, the City agrees to indemnify, defend, and hold harmless PSE and its officers, agents, employees, and volunteers from and against any and all damages, costs or expenses in law or equity that may any time arise out of or related to damages to property or personal injury by reason of the condition the City right-of-way and the Trench Restoration Work following PSE’s completion of the Work.

Section 3: Agreement Provisions

3.01 This Agreement shall terminate by its terms, or sooner by written agreement of the Parties.

3.02 No separate legal or administrative entity is created by this Agreement.

3.03 Any joint or cooperative undertaking resulting from this Agreement does not require the joint financing, budgeting, acquisition, holding or disposal of any real or personal property.

3.04 To the extent necessary, this Agreement shall be administered jointly by the City’s Public Work’s Director and PSE’s Supervisor Customer & System Projects.

3.05 Consistent with RCW 39.34.040, this Agreement shall be filed for recording with the King County Department of Records upon full execution or posted on the City’s website listed by subject matter.

Section 4: General

4.01 This Agreement is made under, and shall be governed by and construed in accordance with the laws of the State of Washington. Venue and jurisdiction of any lawsuit involving this Agreement shall exist exclusively in state and federal courts in King County, Washington. If either Party breaches or threatens to breach this Agreement, the other Party shall be entitled to seek all legal, injunctive or other equitable relief.

4.02 All notices and/or correspondence hereunder, shall be mailed, faxed or hand-delivered and addressed as follows:

If to PSE:

Puget Sound Energy
6905 South 228th Street
Kent, WA 98032
Attn: Leslie D. Wright
Email: leslie.wright@pse.com

If to the CITY:

City of Des Moines
21650 11th Ave South
Des Moines, Washington 98198
Attn: R. Brandon Carver
Email: bcarver@desmoineswa.gov

4.03 If any part or provision of this Agreement is held invalid or unenforceable as written, it shall not affect any other part. If any part of this Agreement is held to be unenforceable as written, it shall be enforced to the maximum extent allowed under applicable law.

4.04 The waiver of any breach of this Agreement or failure to enforce any provision of this Agreement shall not waive any later breach.

4.05 The term "Party" as used in this Agreement shall include, but not be limited to, the Party's employees, staff, agents, contractors, sub-contractors and any other persons, parties or entities acting on behalf of or providing services to the Party for the purposes set forth herein.

4.06 This Agreement shall be effective on the date by which both Parties have executed this Agreement ("Effective Date").

4.07 The Parties represent and warrant that each Party has the full power and authority to enter into this Agreement and to carry out the actions required of them by this Agreement, and all persons signing this Agreement in a representative capacity represent and warrant they have the full power and authority to bind their respective municipal entities.

4.08 It is the Parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions by the City Manager of the City and the Supervisor Customer & System Projects of PSE. If unsuccessful, then the Parties agree to submit the dispute to mediation administered by a professional mediator before resorting to a lawsuit. All fees and expenses for mediation shall be borne by the Parties equally. However, each

Party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation at the mediation.

4.09 The Parties agree to perform all duties and obligations in this Agreement with due diligence and in good faith. Time is of the essence to perform all duties and obligations in this Agreement.

4.10 The Recitals set forth above in Section 1 are incorporated by reference herein and made part of this Agreement.

4.11 This Agreement is made for the sole benefit of the Parties and is not intended to benefit any other person or entity.

IN WITNESS WHEREOF, the Parties have executed this Agreement as set forth below.

CITY OF DESMOINES

PUGET SOUND ENERGY

By: _____
Its: _____
Dated: _____

By: _____
Its: Supr. Customer & System Projects
Dated: _____

ATTEST:

APPROVED AS TO FORM:

By: _____
City Clerk

By: _____
PSE Attorney

APPROVED AS TO FORM:
OFFICE OF CITY ATTORNEY:

By: _____
City Attorney

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Public Hearing on Draft Ordinance No. 15-147 relating to the update to City of Des Moines Environmentally Critical Area Regulations

FOR AGENDA OF: May 12, 2016

DEPT. OF ORIGIN: Planning, Building and Public Works

DATE SUBMITTED: May 3, 2016

ATTACHMENTS:

1. Draft Ordinance No. 15-147
2. FEMA Program Compliance Review

CLEARANCES:

- Legal 6
- Finance N/A
- Marina N/A
- Parks, Recreation & Senior Services N/A
- Planning, Building & Public Works DJB
- Police N/A
- Courts N/A
- Economic Development _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is for City Council hold a public hearing to consider Draft Ordinance No. 15-147 (Attachment 1) relating to the periodic review and update of the development code and specifically the environmentally critical area regulations codified in Chapters 16.10 and 16.20 of the Des Moines Municipal Code (DMMC) pursuant to RCW 36.70A.130, RCW 36.70A.170 and RCW 36.70A.172.

Suggested Motion

Motion 1: "I move to suspend Rule 26(a) in order to enact Draft Ordinance No 15-147 on first reading."

Motion 2: "I move to enact Draft Ordinance No. 15-147 amending chapter 16.10 DMMC to add definitions and update document references, wetland habitat scores, and wetlands mitigation requirements, and amending chapter 16.20 DMMC to add an errata sheet, and finding that the revised development regulations meet the statutory requirements of RCW 36.70A.130, RCW 36.70A.170 and RCW 36.70A. 172."

Alternate Motion: “I move to pass Draft Ordinance No. 15-147 to a second reading on _____ or as soon thereafter as the matter may be heard.”

Background

The Growth Management Act requires that development code be reviewed and updated during the comprehensive plan periodic review process by June 30, 2015. Pursuant to RCW 36.70A.130, this periodic review and update is necessary to ensure that the City’s development regulations reflect current laws. While Des Moines completed review and update of the Comprehensive Plan by the June 30, 2015 deadline, the review of the development regulations related to the protection of environmentally critical areas required additional time to complete.

Key regulatory changes and recommendations considered in conjunction with the 2015 update process relate to recent changes to Ecology’s wetlands rating system, wetland mitigation ratios to reflect best available science, and changes to Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps and designations. These amendments affect the City’s Environmentally Critical Areas regulations, Shoreline Master Program and Frequently Flooded Areas regulations which are codified in Title 16 of the DMMC.

2014 Changes to Wetland Wetland Rating System: In 2014, the Washington State Department of Ecology (Ecology) updated the Washington State Wetland Rating Systems for eastern and western Washington that were published in 2004 and annotated in 2006. The need to update the rating systems was driven by scientific evidence and understanding of how wetlands function and what is needed to protect them. The updated rating systems, provide a more accurate characterization of the functions performed by individual wetlands: one that is based on the most recent science. The primary changes relate to:

- Changing the scale of scores from 1 – 100 to 9 -27 to better reflect the scientific accuracy of the tools.
- Starting with a qualitative rating of High, Medium, or Low for different aspects of functions before assigning a score to them.
- Keeping the questions for the Site Potential found in the 2004 versions, but replacing the Opportunity section with two new sections called Landscape Potential and Value.

The new sections on Landscape Potential and Value were developed as part of the Credit-Debit Method (Calculating Credits and Debits for Compensatory Mitigation in Wetlands) developed by Ecology in 2012. The Credit-Debit Method underwent peer and public review and was field tested for one year prior to publication in 2012.

Other changes include:

- The addition of interdunal wetlands with very high habitat scores to the list of Category I wetlands. This is based on field work during the last decade on barrier beaches along the coast. In the 2004 version, all interdunal wetlands were categorized only as Category II and III.
- The addition of calcareous fens to Category I peat wetlands in eastern Washington. These peat systems are extremely rare in the state and sensitive to disturbance. As of 2014 only five calcareous fens have been found in the Okanogan region by the Natural Heritage Program at the Department of Natural Resources.

- Incorporating the annotations that were added in 2006 directly into the text.
- Including current definitions used by the Washington State Department of Fish and Wildlife for Priority Habitats and by the Natural Heritage Program at the Department of Natural Resources for Natural Heritage Wetlands. These wetlands are now called Wetlands of High Conservation Value.

Wetland Mitigation Ratios: Since 1998, numerous studies of wetland mitigation were conducted and revealed that wetland mitigation continues to have significant shortcomings. In response to these findings, the Ecology, the US Army Corps of Engineers (Corps), and Environmental Protection Agency (EPA) began a process to update and improve their guidance on wetland mitigation.

The agencies drew on the experience of staff from natural resource agencies and evaluated information from Ecology’s Washington State Wetland Mitigation Evaluation Study, Ecology’s “Best Available Science” for freshwater wetlands project, a study by the National Academy of Sciences called Compensating for Wetland Losses under the Clean Water Act, and other research (Ecology, Corps, EPA Publication # 06-06-011a, Version 1, March 2006). The agencies also received many comments via the Internet and e-mail. The result is this substantially revised and expanded guidance, which has now been adopted by the majority of cities and counties in western Washington.

The agencies developed this guidance to:

- Improve the quality and effectiveness of compensatory mitigation in Washington State.
- Provide more predictability by clearly outlining the requirements of state and federal agencies for compensatory mitigation.
- Provide guidance on compensatory mitigation that is consistent among several federal and state agencies in Washington (Corps, EPA, and Ecology) that regulate wetlands.
- Provide guidance on compensatory mitigation that is based on “Best Available Science.”
- Provide guidance that local governments can use to develop consistent mitigation requirements as they update their wetland regulations to include BAS under the Growth Management Act.
- Provide guidance in a format that is user-friendly, easy to update, and web-accessible.

This guidance is intended to help in developing mitigation proposals for impacts to wetlands (primarily for individual projects) authorized under Section 404 of the Clean Water Act (33 USC § 1344) or the State of Washington’s Water Pollution Control Act (Chapter 90.48 RCW).

National Marine Fisheries Service 2008 Biological Opinion: The City of Des Moines participates in the National Flood Insurance Program (NFIP) which is administered by the FEMA. The City has been administering the flood program in some form since its inception in the late 1970’s. Participation in the program allows the City to be eligible for Federal funds in the event of a flood disaster emergency and the residents of the City to be eligible for subsidized flood insurance. The program includes studies, standards, policies, maps, ordinances, and other program elements that a community is expected to adopt and execute to participate in the NFIP. Specifically, the City has adopted, through ordinance, certain flood loss reduction measures including: regulating development in the floodplain; requiring certain building restrictions, such as elevating structures above flood elevations or flood proofing; and protecting the floodway. The jurisdiction of the NFIP applies to those lands mapped by FEMA on Flood Insurance Rate Maps and Floodway maps. The City is required to produce an annual report to FEMA to summarize the flood program-related activities for the previous year.

In 2004, FEMA entered into a consultation with the National Marine Fisheries Service to consult on the effects of implementation of the NFIP on endangered species and critical habitat. In September 2008 National Marine Fisheries Service provided a Biological Opinion (BiOp) in which they concluded that development consistent with the NFIP jeopardizes threatened or endangered Chinook salmon, chum salmon, steelhead, and killer whales and adversely modifies critical habitat based on potential take of listed species.

As part of the City's on-going participation in the NFIP, they must consider provisions of the BiOp from NMFS to apply "Reasonable and Prudent Alternatives" to protect listed species and their critical habitat. Generally, the BiOp requires each community to apply what are referred to as Door 1, Door 2, or Door 3 strategies that demonstrate "basic mechanisms" to achieve compliance. The "doors" are as follows:

- Door 1: Adopt FEMA's code language as the City code;
- Door 2: Demonstrate how the City's code language meets the requirements of the FEMA biological assessment; or
- Door 3: Allow applicants on a case-by-case basis to demonstrate that their proposals will not have any short- or long-term adverse effects on ESA-listed species or adverse modifications to critical habitats.

Like many cities, Des Moines currently operates under Door 3. A more detailed overview of the FEMA Program Compliance Review is provided as Attachment 2.

Discussion

The Des Moines Environmentally Critical Area regulations, Shoreline Master Program and Frequently Flooded Areas regulations were reviewed for consistency with the 2014 changes to the Ecology's wetland classification and rating system, wetland mitigation ratios, and the FEMA Flood Insurance Rate Maps and designations. These technical reviews were completed by the City's consultants AHBL, Inc. and Parametrix with input from Ecology. As a result of these reviews, updates to the City's Environmentally Critical Areas regulations are necessary.

The proposed amendments update references to the state wetlands ratings manual and the wetlands delineation manual, habitat scores and wetland mitigation ratios to reflect changes in State Law and reflect best available science. Because the City's Shoreline Master Program adopts the critical areas regulations by reference, it was also reviewed for consistency with the update. A minor update in the form of an errata sheet is proposed to correct code references to the Environmentally Critical Area regulations.

Per the August 11, 2015 memo by Parametrix, it is recommended that the City of Des Moines remain in Door 3. The city is basically "built out" and most projects in the shoreline will be infill and repairs or replacements to damaged structures, including bulkheads. This means a relatively small demand for development that would require compliance with the NFIP. The potential negative consequences of staying in Door 3 are low: there is little development pressure, the more detailed analysis effort is directed to the project proponent, and the City maintains some discretion in the decision. Remaining in Door 3 does mean that the City has the direct responsibility to make "affects determinations" on threatened and endangered species and risks exclusion (while very low) from the NFIP for failure to appropriately evaluate impacts.

Door 3 requires a project-by-project review and determination that each project will have no adverse effect. The local official must "...formally determine (and document the basis and supporting data for

that determination) that a project will not have any short- or long-term adverse effects on ESA-listed species, or any adverse modifications to designated critical habitats.” This effectively places the burden of proof on the applicant. Staying in Door 3 only requires the City provide guidance to the applicant in the form of additional submittal requirements as well as providing the FEMA Floodplain Habitat Assessment Guide (Parametrix, 2015).

The proposed amendments were discussed with the Council Environment Committee on May 21, 2015 and February 18, 2016. On March 10, 2016, a 60-day notice of intent to adopt the proposed amendments was sent to the Washington State Department of Commerce. On March 16, 2016, the City received acknowledgement from Commerce that the procedural requirements of RCW 36.70A.106 have been met. A SEPA Determination of Nonsignificance was issued on April 6, 2016 and the comment and appeal periods have lapsed and no comments or appeals were filed.

Alternatives

The City Council may:

1. Enact the proposed Draft Ordinance No. 15-147.
2. Pass enactment of Draft Ordinance No. 15-147 to a second reading.
3. Decline to enact Draft Ordinance No. 15-147.

Financial Impact

Failure to meet the periodic update deadline has immediate financial consequences. A county or city that has not completed the basic actions described above by the deadline set in the GMA will be ineligible to receive funds from the Public Works Trust Fund or the Centennial Clean Water account or to receive preference for other state grants and loans.

Recommendation

Staff recommends Council enact Draft Ordinance No. 15-147.

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CITY ATTORNEY'S FIRST DRAFT 04/05/2016**DRAFT ORDINANCE NO. 15-147**

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON amending the City of Des Moines development regulations relating to the protection and regulation of environmentally critical areas to ensure compliance with the Washington State Growth Management Act (chapter 36.70A RCW); amending chapter 16.10 DMMC to add definitions and update document references, wetland habitat scores, and wetlands mitigation requirements, and amending chapter 16.20 DMMC to add an errata sheet; and finding that the revised development regulations meet the statutory requirements of RCW 36.70A.130(1).

WHEREAS, the Department of Ecology updated the Washington State Wetland Rating System in 2014 to provide a more accurate rating of wetlands based on best available science, and

WHEREAS, the Department of Ecology repealed the state delineation manual and replaced it with the approved federal wetland delineation manual and applicable regional supplements, and

WHEREAS, chapter 16.10 DMMC is not consistent with the updated ratings system and delineation manual, and

WHEREAS, the Shoreline Master Program is not consistent with the updated ratings system and delineation manual, and

WHEREAS, the Shoreline Master Program update was adopted prior to the 2013 reorganization of the City's Development Code, and

WHEREAS, references to sections of the DMMC in the Shoreline Master Program are no longer accurate, and

WHEREAS, the City Council finds that it is in the best interest of the public health, safety, and general welfare to establish comprehensive, uniform, and current provisions for the City's development regulations; now therefore,

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

Ordinance No. 15-147
Page 2 of 12

Sec. 1. DMMC 16.01.050 ("Wetland" or "wetlands" definition) and section 5 of Ordinance No. 1583 are amended as follows:

Definitions.

"Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created for non-wetland areas created to mitigate conversion of wetlands.

To differentiate between levels of wetland protection and the application of development standards, wetlands shall be rated according to the "Washington State Wetland Rating System for Western Washington" (Ecology Publication No. ~~04-06-025, 14-06-29, August 2004~~October 2014) or as revised by the Department of Ecology. Wetland rating categories shall be applied as the wetland exists at the time of the adoption of this chapter or as it exists at the time of an associated permit application. Wetland rating categories shall not change due to illegal modifications.

(a) Category I. Category I wetlands represent a unique or rare wetland type, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain some ecological attributes

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that are impossible to replace within a human lifetime, or provide a very high level of functions. Category I wetlands are:

(i) Relatively undisturbed estuarine wetlands larger than 1 acre ~~Mature forested wetlands larger than one acre; or~~

(ii) Wetlands that have been identified by the Washington Natural Heritage Program as important ecosystems for maintaining plant diversity ~~Wetlands that perform many functions well;-~~

(iii) Bogs;

(iv) Mature and old-growth forested wetlands over 1 ac in size;

(v) Wetlands in coastal lagoons;

(vi) Interdunal wetlands larger than 1 acre and score high for habitat; or

(vii) Wetlands that perform functions at high levels.

(b) Category II. Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but they still need a relatively high level of protection. Category II wetlands are:

(i) Estuarine wetlands smaller than 1 acre, or those that are disturbed and larger than 1 acre ~~Wetlands identified by the Washington State Department of Natural Resources as containing "sensitive" plant species;~~

(ii) Wetlands with a moderately high level of functions.

(iii) Interdunal Wetlands Larger than 1 Ac

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(c) Category III. Generally, wetlands in this category may have been disturbed in some way and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands. Category III wetlands are:

(i) Wetlands with a moderate level of functions;

(ii) Can often be adequately replaced with a well-planned mitigation project; or

(iii) Interdunal wetlands between 0.1 and 1 acre in size.

(d) Category IV. Category IV wetlands have the lowest levels of functions and are often heavily disturbed. These are wetlands that should be replaceable, and in some cases may be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

Sec. 2. DMMC 16.05.310(4)(d)(xxix) and section 42(4)(d)(xxix) of Ordinance No. 1583 are amended to read as follows:

(xxix) Washington State Wetlands Identification and Delineation Manual (Ecology Publication No. 96-94). The approved federal wetland delineation manual and applicable regional supplements.

Sec. 3. DMMC 16.10.100(1) and section 58(1) of Ordinance No. 1583 are amended as follows:

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Development restrictions.

(1) Undevelopable Environmentally Critical Areas. The following environmentally critical areas shall remain undeveloped except as otherwise provided in DMMC 16.10.120 through 16.10.140, 16.10.170 through 16.10.190, and 16.10.230 and 16.10.300.

(a) Wetlands and Their Buffers. The edge of the wetland and the outside edge of its buffer shall be determined and field marked by a professional wetland biologist or similarly qualified professional in accordance with the federal wetland delineation manual and applicable regional supplements;

(b) Streams and their buffers. The top of the upper bank of the streams and the outside edge of its buffer shall be determined and field marked by a professional biologist, ecologist, or similarly qualified professional; and

(c) Ravine sidewalls and bluffs and their buffers. The top, toe, and edges of ravine sidewalls and bluffs, and the outside edge of their buffers, shall be determined and field marked by a qualified geotechnical engineer or similarly qualified professional.

Sec. 4. DMMC 16.10.120(2) and (6) and subsections 60(2) and (6) of Ordinance No. 1583 are amended as follows:

(2) Wetland buffers. The following standard buffers shall be established from the wetland edge as delineated and marked in the field:

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	Width of Buffer (feet)
Category I Wetlands	
High habitat function (habitat score 29--368-9)	300
Moderate habitat function (habitat score 20--285-7)	150
High water quality function and low habitat function or none of the above characteristics (habitat score less than 205)	100
Category II Wetlands	
High habitat function (habitat score 29--368-9 points)	300
Moderate habitat function (habitat score 20--285-7)	150
High water quality function and low habitat function or none of the above characteristics (habitat score less than 205)	100
Category III Wetlands	
Moderate habitat function (habitat score 20--285-7)	150
Low habitat or not meeting above criteria (habitat score less than 205)	80
Category IV Wetlands	
Low functions	50

(6) Wetland Buffer Reduction. The City Manager or the City Manager's designee may allow reduction of the required wetland buffer widths when accompanied by a special study that identifies appropriate mitigation strategies. Reduction of wetland buffer widths may be allowed where a qualified professional wetland scientist demonstrates that:

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(a) The reduction in buffer width based on reducing the intensity of impacts from proposed land uses. Buffer widths required for proposed land uses with high-intensity impacts to wetlands may be reduced to those recommended for moderate-intensity impacts under the following conditions:

(i) For wetlands that score moderate or high for habitat (~~20~~5 points or more for the habitat functions), the width of the buffer can be reduced if both of the following criteria are met:

(A) A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other priority habitats as defined by the Washington State Department of Fish and Wildlife. The corridor must be protected for the entire distance between the wetland and the priority habitat by some type of legal protection such as a conservation easement.

(B) Measures to minimize the impacts of different land uses on wetlands, such as the examples summarized in Table 8C-8 from "Wetlands in Washington State: Volume 2 - Protecting and Managing Wetlands" (Ecology, 2005), are applied.

(ii) For wetlands that score less than ~~20~~5 points for habitat, the buffer width can be reduced to that required for moderate land-use impacts by applying measures to minimize the impacts of the proposed land uses. Measures include but are not limited to the following: direct light and noise away from wetlands, route untreated runoff away from wetlands, apply an integrated pest management program, use privacy fencing or vegetative buffer to delineate the wetland buffer edge and discourage disturbance, and use best management practices to control dust (see examples in Table 8C-8).

Sec. 5. DMMC 16.10.140 and section 62 of Ordinance No. 1583 are amended as follows:

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Wetlands - Limited exemptions. The City Manager or the City Manager's designee may allow exemptions from the provisions of this chapter based on the following criteria:

(1) Wetlands larger than 4,000 square feet will be evaluated using standard procedures for wetland review.

(2) Wetlands between 1,000 and 4,000 square feet shall be evaluated using the Washington State Wetland Rating System for Western Washington (Ecology Publication No. 14-06-29, October 2014 Hruby, 2004, or as revised) to establish category and evaluate functions. The following criteria and local knowledge of natural resources shall be used to determine whether to exempt wetlands between 1,000 and 4,000 square feet from the requirement to avoid impacts.

(a) The requirement to avoid impacts may be dropped for Category III and IV wetlands between 1,000 and 4,000 square feet that meet all of the following criteria:

(i) Wetland is not associated with a riparian corridor; and

(ii) Wetland is not part of a wetland mosaic; and

(iii) Wetland does not score 20-5 points or more for habitat in the wetland rating system; and

(iv) Wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife.

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(b) Impacts allowed under this provision to these wetlands will be fully mitigated as set forth in DMMC 16.10.150.

(c) All Category I and II wetlands between 1,000 and 4,000 square feet should be evaluated with full mitigation sequencing and buffer establishment. Any approved impacts should be adequately compensated by mitigation as set forth in DMMC 16.10.150.

(3) Wetlands less than 1,000 square feet shall be exempt from regulation where the applicant has shown that they:

(a) Are not associated with a riparian corridor ;

(b) Are not part o f a wetland mosaic; and

(c) Do not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife.

Sec. 6. DMMC 16.10.150(7) and section 63(7) of Ordinance No. 1583 are amended as follows:

(7) Mitigation Ratios. The following ratios shall apply to creation or restoration that is in-kind, is on-site, is the same category, is timed prior to or concurrent with alteration, and has a high probability of success. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

Wetland Mitigation Ratios			
	Enhancement	Rehabilitation	Creation
Category I	6:1 16:1	4.5:1 18:1	3:1 14:1
Category II	3:1 12:1	2:1 16:1	1.5:1 13:1
Category III	2:1 18:1	1.5:1 14:1	1:1 12:1
Category IV	1.5:1 16:1	1:1 13:1	1:1 11.5:1

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(a) The mitigation ratio is the acreage required for compensatory mitigation divided by the acreage of impact.

(b) The ratios are for a concurrent compensatory mitigation project. If the impacts to a wetland are to be mitigated by using an approved and established mitigation bank, the rules and ratios applicable to the bank should be used.

(c) The ratios are based on the assumption that the category, based on wetland ratings established in DMMC 16.01.050 (definition of wetland), and hydrogeomorphic (HGM) class/subclass of the wetland proposed as compensation are the same as the category and HGM class/subclass of the wetland impacts.

(d) Ratios for projects in which the category and HGM class/subclass of wetlands proposed as compensation is not the same as that of the wetland impacts will be determined on a case-by-case basis using the recommended ratios as a starting point. The ratios could be higher in such cases.

(e) Creation can be used in combination with rehabilitation or enhancement. For example, two acres of impact to a Category II wetland would require two acres of creation (i.e., replacing the lost acreage at a 1:1 ratio); the remaining one acre of creation necessary to compensate for impact could be substituted with one and one-half acres of rehabilitation or three acres of enhancement and eight acres of rehabilitation or sixteen acres of enhancement.

(f) Generally the use of enhancement alone as compensation is discouraged. Using enhancement in combination with some amount of creation is preferred.

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Sec. 7. DMMC 16.20.10 and section 113 of Ordinance No. 1583 are amended as follows:

Shoreline Master Program - Adopted. The "City of Des Moines Shoreline Master Program" attached as Exhibit "A" to the ordinance codified in this chapter, dated January 27, 2011, and consisting of 133 pages, and Appendix "A" entitled "Shoreline Inventory and Characterization Report," dated March 2005, are adopted as the official Shoreline Master Program for the City and an errata sheet, Exhibit "B", is added to the SMP in 2016. All SMP documents are available at the City Clerk's office and on the City's website, www.desmoineswa.gov.

Sec. 8. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

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

Sec. 9. Effective date. This Ordinance shall take effect and be in full force thirty (30) days after its final passage by the Des Moines City Council.

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2016 and signed in authentication thereof this ____ day of _____, 2016.

M A Y O R

APPROVED AS TO FORM:

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City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____

Exhibit A**Draft Ordinance No. 15-147****Findings of Fact
Review and Revision of Comprehensive Plans and Development
Regulations Required (RCW 36.70A.040)**

1. Counties and cities required to plan under RCW 36.70A.040 must review, and revise if necessary, their entire comprehensive plan and development regulations. These cities and counties should affirm this status in their findings.
2. The City of Des Moines is required to plan under RCW 36.70A.040. Every seven years, RCW 36.70A.130(1) requires City of Des Moines to take legislative action to review and, if needed, revise its comprehensive plan and development regulations, including its policies and regulations designating and conserving natural resource lands and designating and protecting critical areas to comply with the requirements in Chapter 36.70A RCW.
3. Pursuant to RCW 36.70A.130(4), the deadline for the City of Des Moines to comply with the update required by RCW 36.70A.130(1) is June 30, 2015.
4. On June 25, 2015, the City of Des Moines adopted Ordinance No. 1623 revising and updating the comprehensive plan now entitled *Des Moines 2035: Charting Our Course for a Sustainable Future*.
5. Washington Department of Commerce August 19, 2015 letter to the City of Des Moines indicating:
 - a. Receipt of Des Moines's adopted Ordinance No. 1623 on June 6, 2015;
 - b. Completion of the City's comprehensive plan review and update required under RCW 36.70A.130(1); and
 - c. Notifying the City of the need to finalize the review and update of the City's development regulations and critical area regulations.
6. On August 11, 2015, consultant Parametrix prepared a technical memorandum related to the Federal Emergency Management Agency's National Flood Insurance Program Compliance Review

that discussed the City's on-going participation in the Program and strategies to achieve compliance with the Biological Opinion from National Marine Fisheries Services to apply Reasonable and Prudent Alternatives to protect listed species and their critical habitat, referred to as Door 1, Door 2, or Door 3 strategies and recommending that the City of Des Moines remain in Door 3.

7. On October 26, 2015, consultant AHBL, Inc. prepared a GAP analysis of the City's environmentally critical area regulations currently in effect in the City of Des Moines for consistency with the requirements of Chapter 36.70A.172 RCW and best available science. This analysis was supplemented by a February 12, 2016 technical memorandum related to the National Flood Insurance Program Compliance. Based on this analysis, AHBL, Inc. prepared proposed revisions to Des Moines environmentally critical area regulations it concluded are needed to comply with Chapter 36.70A RCW.
8. The Des Moines City Council Environment Committee reviewed the analysis and recommended updates to the environmentally critical area regulations at their February 18, 2016 meeting and recommended that proposed revisions be brought forward to the full City Council at a public hearing.
9. On March 10, 2016, a 60-day notice of intent to adopt the proposed amendments was sent to the Washington State Department of Commerce and the City received acknowledgement from Commerce that the procedural requirements of RCW 36.70A.106 have been met on March 16, 2016.
10. On March 31, 2016, Des Moines City Council adopted Resolution No. 1327 setting a public hearing date on May 12, 2016 to consider Draft Ordinance No. 15-147 amending the City of Des Moines development regulations relating to the protection and regulation of environmentally critical areas to ensure compliance with the Washington State Growth Management Act (chapter 36.70A RCW).
11. On April 6, 2016 a combined Notice of Public Hearing and SEPA Determination of Nonsignificance was issued providing for a 15-day comment period and 10-day appeal period and no comments or appeals were filed.
12. On May 12, 2016, the Des Moines City Council held a public hearing to receive public comments on the recommended findings on review and proposed revisions. Based on its review of the

Exhibit A
Draft Ordinance No. 15-147
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requirements of Chapter 36.70A RCW, the analysis and proposed revisions prepared by (staff and consultants AHBL, Inc. and Parametrix), the recommended findings on review and proposed revisions, the Des Moines City Council finds and declares that the review and needed revisions have been prepared in conformance with applicable law, including Chapter 36.70A RCW, Chapter 43.21C RCW, and appropriate public participation and adoption process established in chapter 18.20 DMMC.

EXHIBIT B**Draft Ordinance No. 15-147****City of Des Moines Shoreline Master Program Errata**

Page	Section	Correction
2	1.1	Change "Des Moines Zoning Code (18.90 DMMC)" to "Des Moines Municipal Code (16.20 DMMC)"
	1.4	"Chapter 18.86" should read "Chapter 16.10"
	1.4	"DMMC 18.86" should read "DMMC 16.10" (two entries)
8	1.5	"DMMC 18.86" should read "DMMC 16.10" (two entries)
64	6.1.2(2(a))	"DMMC 18.86" should read "DMMC 16.10"
66	6.1.4(1)	"DMMC 18.86" should read "DMMC 16.10" (two entries)
	6.1.4(2)	"DMMC 18.86" should read "DMMC 16.10"
	6.1.4(4)	"DMMC 18.86" should read "DMMC 16.10"
	6.1.4(5)	"DMMC 18.86" should read "DMMC 16.10"
77	6.3.2(1)	"DMMC 18.48" should read "DMMC 18.15"
	6.3.2(1)(a)	Change "18.48.030" to "18.15.050"
	6.3.2(1)(b)	Change "18.48.040" to "18.15.060"
	6.3.2(1)(c)	Change "18.48.050" to "18.15.070"
80	6.3.6(2)	"DMMC 18.42" should read "DMMC 18.200"
102	7.4.7	"DMMC 17.40.070" should read "DMMC 18.20.130"
108	7.5.6	"DMMC 17.40.070" should read "DMMC 18.20.130"
113	Chapter 8	Change "Des Moines Zoning Code (18.04 DMMC)" to "Des Moines Municipal Code (DMMC 16.01)"

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132 Wetland Change "Washington State Wetlands
Identification and Delineation Manual
(Ecology Publication No. 96-94, March 1997)"
to "approved federal wetland delineation
manual and applicable regional supplements"

"Chapter 18.86 DMMC" should read "Chapter
16.10 DMMC"

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TECHNICAL MEMORANDUM

DATE: August 11, 2015
TO: Loren Reinhold, PE
 City of Des Moines
FROM: Paul Fendt, PE
SUBJECT: FEMA Program Compliance Review
CC: Austin Fisher, PE
PROJECT NUMBER: 213-1792-012 (01/02)
PROJECT NAME: FEMA Program Compliance Review

INTRODUCTION

The City of Des Moines (City) participates in the National Flood Insurance Program (NFIP) which is administered by the Federal Emergency Management Agency (FEMA). Participation in the program allows the City to be eligible for Federal funds in the event of a flood disaster emergency and the residents of the City to be eligible for subsidized flood insurance. The program includes studies, standards, policies, maps, ordinances, and other program elements that a community is expected to adopt and execute to participate in the NFIP. Specifically, the City has adopted, through ordinance, certain flood loss reduction measures including: regulating development in the floodplain; requiring certain building restrictions, such as elevating structures above flood elevations or floodproofing; and protecting the floodway. The jurisdiction of the NFIP applies to those lands mapped by FEMA on Flood Insurance Rate Maps (FIRM) and Floodway maps. The City is required to produce an annual report to FEMA to summarize the flood program-related activities for the previous year. There are additional program elements, such as flood insurance and the mapping program, that are not closely related to the topic of this technical memorandum and are not further discussed.

In 2003, a suit was filed against FEMA alleging that they had failed to consult with National Marine Fisheries Service (NMFS) under the Endangered Species Act (ESA) on the potential impact of the NFIP on threatened or endangered salmon. In 2004, the court agreed and ordered FEMA to undergo a consultation with NMFS. A detailed summary of the FEMA program, the ESA consultation, the lawsuits, and outcomes that in part resulted in the proposed actions described in this technical memorandum can be found in Issue #131 of The Water Report (Envirotech 2014).

As part of the City's on-going participation in the program, they must consider provisions of the Biological Opinion (BiOp) from NMFS to apply Reasonable and Prudent Alternatives (RPA) to protect listed species and their critical habitat. Generally, the BiOp requires each community to apply what are referred to as Door 1, Door 2, or Door 3 strategies that demonstrate "basic mechanisms" to achieve compliance. FEMA sent a letter dated December 3, 2014 to the City (FEMA 2014) and all other community programs in Washington with an update on the recent and "final" court decisions along with a summary reminder of the City's obligations under the program to select and implement one of the three Doors. The purpose of this technical memorandum is to review the course (which Door) the City could take, reasons that support the choice, and provide additional materials that will help the City administer the chosen Door and meet their obligations to FEMA, including an annual reporting checklist.

BACKGROUND

The City has been administering the flood program in some form since its inception in the late 70's. FEMA likely prepared provisional floodplain maps for the City which were subsequently published as Flood Insurance Rate Maps (FIRM). In addition, a Flood Insurance Study (FIS) was prepared, which documents available data from studies used to provide a basis for the FIRM. These maps generally show areas of inundation from the "Base Flood", also described as the 100-year floodplain, which form the jurisdictional basis for the ordinances and regulations that are applied. For example, new development, fill, or structures that are to be located in the areas shown in the floodplain on the FIRM are regulated, using standards generally provided by FEMA, to limit the impacts of the proposal to the pattern of flooding (e.g. limit the amount of fill in the floodplain that could cause new land to flood) and to protect structures placed in the floodplain from damage due to flooding, usually by requiring that the structure be placed above the 100-year flood elevation or floodproofed. Floodplains are shown as "Zone A (number)", which is an insurance rate designation, and also indicates if a detailed study was used to develop the floodplain data. Detailed studies include base flood elevations on the FIRM, where Zone A (no number) areas do not and are considered areas of estimated flooding extent using a variety of supporting data. Some FIRM also show the 500-year floodplain (Zone D). In addition, when FIRM are prepared for coastal waters, they also include a "V" Zone, which depicts a wave height hazard zone in which there are development restrictions. FEMA also publishes Floodway Maps, which depict an area within the floodplain that typically conveys the majority of the flood waters and is calculated by the FIS. The floodway area has different regulations and protection measures, but are typically considered "no encroachment or fill zones" and structures are severely restricted.

The floodplain protection measures are usually administered through the City's critical areas ordinance, which is true in Des Moines. The review and evaluation of compliance with the flood standards are administered by the local building official. The critical areas ordinances also regulate development in wetlands, on steep slopes, and at shorelines. These regulations generally require avoidance, minimization, and mitigation for adverse impacts to these resources in critical areas. There are no specific City ordinance requirements to directly evaluate the impacts to fish or fish habitat, but many of the same resources – floodplains, riparian zones, shorelines, and wetlands – are regulated under the critical areas ordinance and address the same resources. FEMA requires an annual report that summarizes actions taken by the City administering floodplain development during the prior year. FEMA contacted community NFIP officials in February 2015 to report the status of the Biological Opinion Reporting tool, which is being updated and should be used by Des Moines when available for the 2015 report.

The outcome of the FEMA consultation with NMFS on the NFIP in Washington State is a BiOp, which includes seven RPAs that FEMA can implement to result in a NFIP that is determined to not jeopardize the threatened salmonids. RPA Element 3 addresses minimum floodplain development criteria that each community must adopt and implement to remain in the flood insurance program. The FEMA letter sent to Des Moines and all other flood program communities in Washington on December 3, 2014 reaffirmed that the NFIP and its approach to addressing RPA Element 3 is sound and provides a reminder to the City to select and implement one of the three Doors.

Most communities have apparently been working within the framework of Door 3. However, the FEMA is encouraging communities to consider 'moving up' to Door 1 or 2, which are more complete programmatic options. Each choice requires a set of initial actions, modifications, processes, or programs, with attendant follow-up reporting. As of January 2014, 5 communities have selected Door 1 (Envirotech 2014); 40 are in the review process for Door 2 of which 12 have been approved by FEMA as of May 2015 (Pers Communication M. Lawrence). The remaining 80 or so communities remain in Door 3.

The Washington Department of Ecology (Ecology) has also weighed in with "Guidance to Local Governments with Frequently Flooded Area Updates in CAOs" (Ecology 2015). There are limited additional information or directives to local government for implementation of Critical Areas Ordinance (CAO) changes for compliance with the FEMA program or BiOp, merely identifying an awareness that these program updates are occurring. It would be useful, when selecting the appropriate Door, to consider and guidance provided. Additionally, Ecology has completed a

review of the City's CAO and made certain limited recommendations. There are no specific recommendations provided relating to the BiOp or Door selection.

SUMMARY OF RPA ELEMENT 3 "DOORS"

As described above, the BiOp prepared by NMFS and negotiated between FEMA and NMFS identified RPAs to be implemented by FEMA, one of which is Element 3. Generally, it directs FEMA to require local jurisdictions to modify their standards regulating development in the floodplain to minimize or prevent impacts to *habitat*. Each community is required to apply what are referred to as Door 1, Door 2, or Door 3 strategies that demonstrate programmatic mechanisms to evaluate development proposals that will presumptively achieve concurrence with RPA Element 3 and, consequently, compliance with FEMA's program. This is a change from prior FEMA obligations to evaluate development to address public safety and risk due to flooding.

Door 1

FEMA has long provided guidance to local communities regarding standards to be in compliance with the NFIP through model floodplain ordinances. Door 1 is an apparent continuation of this practice, which is a model ordinance that provides and describes the standards that, when adopted, are expected to regulate the floodplain to address public safety due to flooding and protect habitat (FEMA 2010). In general, the model ordinance prohibits development in the floodway and channel migration zones (CMZ) within the floodplain; severely limits if not prohibits development in the Riparian Buffer Zone (RBZ)(e.g. RPA Element 3 part A.3.a states: "Prohibit development in the 100-year floodplain"; restricts development and specifies uses in the RBZ "fringe"; and requires stormwater regulations to apply Low Impact Design (LID) for all development (in the floodplain)(Note: this LID standard already applies to all development in Washington, so it is not a new requirement). See Figure 1 for a schematic of the restricted zones (floodplain, floodway, CMZ, and RBZ) as applied in Des Moines. The model ordinance guidance document also includes a useful "Commentary" column to provide some additional clarity for provisions that can help the community make decisions on how the ordinance may apply to specific development projects.

There are a number of concerns regarding adoption of the model ordinance under Door 1. The model ordinance is broad and covers a number of topics (e.g. floodplains, critical areas, water resources and wetlands, building codes, stormwater, etc.), which means every affected current code or ordinance would need to be removed or appended to the model ordinance. It is unclear of the extent to which the model ordinance could be modified to meet unique local conditions or in response to the public adoption process. The City of Everett identified a number of potential problems, including promulgation of the ordinance with no public input; that it is written for greenfield development, whereas the city is all developed and it would be applied to virtually all redevelopment; the ordinance has no provision for habitat restoration; the City would be subject to takings claims (Proceedings of Law Seminars International 2015, City of Everett, Gerry Ervine).

Door 2

Door 2 requires that the local jurisdiction demonstrate that its current regulations already meet the requirements of RPA Element 3, using a FEMA-approved checklist, by showing that the individual programs (growth management, critical areas, and shorelines) provide the same protection (FEMA 2013). This Door could be considered an evaluation of whether current regulations meet the intent of the RPA Element 3, while not the letter, and does show potential for demonstrating and defining exceptions to the strict development prohibition under certain circumstances. Another option is to conduct a watershed plan that evaluates existing habitat conditions, evaluates land use and the in-place protections, and demonstrates that standards in the RPA are met. The regulations must be periodically reviewed to confirm that they still meet any revised "understanding and interpretation" of BiOp (FEMA 2014).

It is unclear of the standard being used by FEMA to evaluate Door 2 requests. A more complete review of the approved Door 2 reviews could provide some insight. The process is unclear regarding the latitude to which exceptions can be made due to unique local circumstances. For example, the City of Everett has shown that redevelopment of its extensive brownfields, while located in the protected zones, should be provided some latitude versus strict application of prohibitions outlined in the RPA guidance. Their approach was approved by FEMA (City of Everett 2015).

The selection of Door 2, if accepted by FEMA using the Des Moines CAO in its current form with limited changes, would be beneficial to the City and the building or development community. It would not require duplicate review processes and the community and staff have accepted the approach and standards, are familiar with the time and effort required, and understand when “compliance” is reached. The City would have limited exposure to losing its continued participation in the NFIP because approval of Door 2 would be compliance.

Because the City is “fully developed” and has limited available developable greenspace, most of the reviews under Door 2 would be expected to be redevelopment proposals. The definitions of “development” and “substantial improvements” will be key to understanding how Door 2 will apply. Acceptable building additions and increased project footprints would expect to be scrutinized. In addition, damage repair and definition of “in-kind” restoration would be closely evaluated. For example, repair and replacement of bulkheads is a “hot button” item with the regulatory agencies and could pose a challenge in approval of the existing codes. Close review of approved Door 2 communities on these issues is recommended.

The cost of implementing Door 2 could range broadly. The extent of potential changes is only known by the extent to which the current CAO is already meeting the protective intent of the BiOp, the nature of unique circumstances in the City, the influence and concern of affected stakeholders, and the use of internal versus external resources to make the changes, if any. Also, the potential cost of future litigation over these changes cannot be predicted. The cost of implementing the program, once in place, is not expected to be significantly different than the current review process. If the City elects to further investigate Door 2 and reviews other outcomes, the staff could be polled to estimate the cost.

Door 3

Door 3 requires a project-by-project review and determination that each project will have no adverse effect. The local official must “...formally determine (and document the basis and supporting data for that determination) that a project will not have any short- or long-term adverse effects on ESA-listed species, or any adverse modifications to designated critical habitats.” As an alternative, the project can seek and receive an individual consultation with NMFS. In addition, an ESA consultation on the same project by another federal agency can be used. FEMA has provided additional guidance in its December 3, 2014 letter (the “enclosure”) regarding “Provisions and Authorities” for Door 3 communities when adopting and implementing Door 3.

The Door 3 option requires the lowest amount of direct immediate action by the City to implement – no ordinances need to be reviewed, changed, or adopted. The City would need to consider the review process, materials, operating procedures and checklists, and staff time for processing a development proposal in the floodplain under the Door 3 process. The local official is required to document and make the “effects” decision and report to FEMA. Failure to do so or to make a decision which has no clear discretionary guidance can subject the City to actions by FEMA regarding inclusion in the NFIP, which could have severe consequences.

One example of expected uncertainty is likely to hinge on the definition of development and redevelopment and the evaluating in-kind replacement of damaged structures. Even small additions, upgrades, and single residential redevelopment projects could trigger extensive evaluations if located in RBZ, which means all proposals in the floodplain or wave zones (VE on the FIRM). Repair and replacement are likely to be the result of a single event, which means there could be a number of facilities or structures at risk requiring “emergency action” and with a detailed process to evaluate in-kind replacement versus upgrades, which could stress City resources. The impact to staff time and development review costs would be expected to increase for even minor projects.

DES MOINES PROGRAM

The City is currently in Door 3 and has not chosen at this time to pursue Door 2. A checklist has been prepared for use by City staff for Door 3 evaluations (Attachment A). This checklist provides the materials that must be reviewed and considered when making a Door 3 effects determination.

The City should consider a Door 2 and 3 review to evaluate the differences in the review process and the expected outcomes (i.e. impacts to development scenarios) and prepare a Door 2 review to determine the likelihood of issues around the expected FEMA review.

In the course of reviewing these programs and anticipated consequences to the City, we have identified other considerations for the City's program:

CMZ mapping. The four named streams in the City, Des Moines, McSorely, Massey, and Barnes, are unlikely to have a significant CMZ beyond the current ordinary high water elevation. The restricted development zone extends 50 feet beyond the CMZ, which is likely to extend past any designated floodway but generally be contained within the floodplain, which means there may be small sections of CMZ fringe. However, all would still be in the RBZ. LIDAR mapping of the city is available via King County imap which could provide insight into the expected results of a more detailed CMZ evaluation.

Application of and extent of floodplain development standards to floodplain, floodway, and RBZ in Des Moines. The floodplains determined in Des Moines and depicted on the FIRM are limited to detailed or approximate studies on Des Moines, Massey, and Barnes Creeks. The velocity or wave action zones are limited to the shoreline of Puget Sound. Only Des Moines Creek has had a detailed study with a floodway designated. The widest floodplain section in the City is about 200 feet. The minimum RBZ is 150 feet from the edge of ordinary high water (OHW). Consequently, the narrowest restricted zone in the RPZ would be 300 feet plus the stream width, which means the ordinance would be limited to the width of the floodplain (i.e. there is no RBZ "fringe" expected anywhere in Des Moines). See Figure 1 for a schematic of the restricted zones as applied in Des Moines.

Proposed FIRM revisions. A new set of preliminary FIRM for Des Moines dated February 1, 2013 have been published. We have made a cursory review to compare the proposed maps to the current FIRM and find very limited changes, if any, to the stream floodplains that have been mapped. However, the Puget Sound shoreline maps have been modified. The VE zones (velocity or wave action hazard) have been modified to show a variability along the shore where the previous maps show a single wave zone elevation. Some VE zone elevations have been raised by several feet. This means that the provisions of Door 2 or 3 will apply to more shoreline and extend further landward.

FEMA requires an annual report using the Biological Opinion Reporting tool that summarizes actions taken by the City administering floodplain development during the prior year. The tool is being updated and should be used by Des Moines when available for the 2015 report.

CHECKLIST FOR DEVELOPMENT

See Attachment A.

RISKS AND UNCERTAINTY

The City is almost fully developed and has little significant available greenfield development potential. In addition, the floodplains of the named creeks are very restricted and often limited by other critical area restrictions such as steep slopes and stream buffers. As noted by the City of Everett (LSI 2015), this program is very focused on new development in floodplains and is not clearly defined for redevelopment or repair and replacement, the latter of which is a significant issue in floodplain regulations. In addition, the CMZ is not applicable to the Puget Sound shoreline and the riparian buffer widths were established with greater consideration to streams and rivers, not marine shorelines. Most concerns and uncertainty regarding development review processes are likely to be

regarding marine shore development and redevelopment; marine shoreline and floodplain repair; and the definition of development, new development, and redevelopment to which these standards would apply.

Replacement and in-kind repair are highly subjective and generally occur in the heat of an emergency immediately after a disaster. The greatest risk to the City are the consequences of a large flood or shoreline event that results in damages requiring repair and replacement that would be reviewed under the provisions of the BiOp. The City should consider preparing for programmatic approaches and policy decisions regarding repair and replacement permitting and review processes.

EXAMPLE SCENARIOS

Scenario 1: A major storm causes damage to the Puget Sound shoreline in Des Moines. All of the damage and proposed construction is in the VE zones mapped by FEMA. Owner #1 has an existing bulkhead damaged by the storm. He plans to replace in-kind in the same footprint (and no more than a 10 percent increase in footprint area). His project is exempt from the flood protection ordinance (other rules may apply). Owner #2 has the same damage but wants to upgrade her bulkhead landward of the damaged one, she may make it higher or not, and the footprint increases by more than 10 percent. The ordinance applies to her project and habitat values are assessed (other rules may also apply). Owner #3 plans to build a bulkhead to protect from future damage. His bulkhead is defined as “development” for “alteration of natural site characteristics”, “filling”, and “grading” and the ordinance applies to his project and habitat values are assessed (other rules may apply).

Scenario 2: An existing lot is partially or all located in the floodplain with a house all in the floodplain or VE zone. The owner is pondering her options. Her first choice is a modest improvement to the structure, with less than a 10 percent increase in the footprint of the structure and it entails an improvement value less than 50 percent of the structure value. She is (generally) exempt from the ordinance (e.g. she still subject to compensating storage requirements). She also considers other options, but still keeps the expansion modest (under 10 percent footprint increase) but the value of the “substantial improvement” increases to over 50 percent of the structure value. Her substantial improvements all need to meet floodplain protection standards in the Ordinance, but not habitat values. Finally she considers an option to add another room that would expand the home by more than 10 percent, but under the 50 percent value increase. Her increase needs to meet habitat impact and mitigation standards, but not the flood protection standards. Only when her expansion footprint is greater than 10 percent and the value of the substantial improvement is greater than 50 percent of the existing structure value does full ordinance apply (habitat and floodplain protection). It is unclear if any of the development prohibitions apply when exceeding 10 percent of the existing footprint on a rebuilt or expanded structure, but mitigation would be required. If she moves her house to avoid the floodplain completely, none of these restrictions apply, even if the house would be in the Riparian Buffer Zone (if the floodplain extended that far)

Scenario 3: A neighbor is pondering the same courses of action when a major storm hits and causes damage to his house. If he sticks to under 10 percent expansion and the “substantial damage” repair is less than 50 percent of the value, he is exempt from the ordinance. If the repairs for the substantial damage exceed 50 percent of the structure’s value, the project is a substantial improvement and the full ordinance applies, although it is unclear if the floodplain development prohibitions apply.

Scenario 4: A third neighbor is considering tearing down the old structure and starting over. Regardless of the footprint expansion, this is a substantial improvement and the full ordinance applies. He learns that he must build on the portion of the lot outside of the floodplain or, if no part is out of the floodplain, and cannot create more than 10 percent new impervious surface and must locate the new house to minimize the potential impacts to salmon.

Scenario 5: A homeowners association is planning major clearing and restoration of a greenbelt. The clearing entails exotic and non-native vegetation, native trees and shrubs will be planted, and no grading or fill is required. The project is exempt from the ordinance.

SUMMARY AND RECOMMENDATIONS

The City has chosen to remain in Door 3. This appropriate due to the limited nature of potential development and redevelopment in restricted zones.

The potential negative consequences of staying in Door 3 are low; there is little development pressure, the more detailed analysis effort is directed to the project proponent, and the City maintains some discretion in the decision. However, remaining in Door 3 means that the City has the direct responsibility to make “affects determinations” on threatened and endangered species and risks exclusion (while very low) from the NFIP for failure to appropriately evaluate impacts.

The City should consider review under Door 2 by reviewing the results from other communities that have passed and are having issues passing and review the City’s codes and determine the likelihood of passing the FEMA review. Consider starting the process and stopping if issues cannot be resolved.

The City should evaluate and review redevelopment and repair potential for the Puget Sound shoreline and determine if specific considerations should be developed before an event or redevelopment pressure increases.

Earlier this year, President Obama issued Executive Orders 13690 and 11988, which generally directed FEMA to update and revise the Federal Flood Risk Management Standard. While there are many provisions to consider, the highlighted change requires an increase of the current 100-year flood plain protection standard to one of the following choices:

- Use best available science integrating future climate changes to flooding risk;
- The Freeboard Approach, which is the 100-year flood stage plus two or three feet; or
- The 500-year flood.

The City should consider evaluating the new Executive Orders on the floodplain development review process concurrently with the Door 2 or Door 3 evaluation.

Attachment A

Door 3 Checklist

DOOR 3 CHECKLIST

The purpose of this checklist is provide guidance to applicants submitting development, redevelopment, and repair proposals for projects located in the 100-year floodplain (Zone A) or wave action velocity hazard zones (Zone V), as depicted on the effective Flood Insurance Rate Map (FIRM). Materials required for review, when applicable to the proposal, are listed. Considerations for approval are also provided. This checklist is provided to assist applicants and facilitate the review process only. Applicable Des Moines City codes take precedence over any apparent conflicts with this checklist.

Applicability

Development in the Zone A or V Zones on the FIRM require review under the Door 3 process. Any portion of the site located in the floodplain or “V” zones must follow this process. For purposes of this process, development means:

“Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, subdivision of land, removal of substantial amounts of vegetation, or alteration of natural site characteristics.”

Applicability extends to redevelopment of sites, “substantial Improvement” to structures, and repair of “substantial damage”. Substantial improvement means:

“Any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or before the structure was damaged.”

(note: it is not clear if damage repair to non-structures, such as bulkheads, are considered “development” for this review)

For this review,

structures include

mining, dredging , filling, or grading means in excess of XX cubic yards of material

paving includes concrete, asphalt, compacted gravel, pervious pavements, and pavers or brick

drilling includes

storage of equipment or materials means storage or rotation of materials for periods exceeding 1 month

subdivision of land means

substantial amounts of vegetation means exceeding 100 square feet or more than 10 percent of the property

Temporary development can be considered for redevelopment, damage repair, materials storage, stream and habitat restoration, and construction related to the project site with the following time limitations:

- Redevelopment – 1 year
- Damage repair – 6 months
- Materials storage – 1 year
- Stream and habitat restoration – 2 years

- Construction related to the project site – 1 year

Checklist for Development in the Special Hazard Areas

	Review materials to be submitted	Additional information	Review considerations for approval
All projects	Location		
	Location map showing property location with nearby major highways		
	Site map, with site address, showing lot dimensions, scale, and north arrow		
	Stream name with ordinary high water (OHW), wetland delineations, and Puget Sound shoreline (when applicable)	Supporting information of location of OHW and wetland delineation	
	Floodplains/Wave Zone		
	Flood hazard (Zone A) and/or wave zones (Zone V) shown on site plan		
	Base flood elevation or VE zone elevation, if shown on FIRM, on site plan	If no base flood elevation is provided, provide materials, studies, calculations, or estimates of the hazard elevations to be used at the site	
	Floodway, if applicable, shown on site plan	If no floodway is determined, provide supporting information that the development proposal will not result in an increase of the base flood elevation exceeding 1-foot	No encroachment or fill will be permitted in floodways. If repair or redevelopment, substantial restrictions will apply
	Stormwater Plan		
	Stormwater plan approval	Must be approved by other codes.	Approved stormwater plan codes
Project-Specific Information for Development	Development Proposal: provide materials for applicable section		
	New development or structure; substantial redevelopment		
	Site map showing existing conditions, including site contours (2-foot or more detailed), vegetation, trees over 6" dbh, existing structures and impervious surfaces		
	Site map showing proposed conditions, including site contours and grading (2-foot or more detailed), proposed planting plan, retained vegetation and trees over 6" dbh, retained and proposed structures and retained, replaced and proposed impervious surfaces		

Review materials to be submitted	Additional information	Review considerations for approval
<p>Proposed development in the special hazard areas.</p> <p>Description and demonstration that there are no adverse impacts to floodplain habitat</p>		<p>All structures, fill, and new impervious surfaces in the hazard zones would be considered to have impact. There is no mitigation for these impacts, just avoidance. Examples of successful demonstration include, but are not limited to: restoration projects; temporary (less than one year) encroachment; vegetation removal for exotic control; temporary access for construction (less than 3 months in appropriate season).</p>
<p>Demonstrate avoidance and minimization measures</p>	<p>Clearing limits; site restoration and removal of existing and temporary impervious surfaces; removal of structures</p>	<p>There are no minimization or mitigation measures applicable to floodplain development that includes encroachment or fill in the floodplain or placement of new structures</p>
<p>Demonstration of flood mitigation measures and structure floodproofing</p>	<p>Required for new development and substantial redevelopment</p>	<p>There are no minimization or mitigation measures applicable to floodplain development that includes new encroachment or fill in the floodplain. This applies to substantial redevelopment only.</p>
<p>Redevelopment: not substantial redevelopment</p> <p>Site map showing existing conditions, including site contours (2-foot or more detailed), vegetation, trees over 6" dbh, existing structures and impervious surfaces</p> <p>Calculations of existing value and proposed value of improvements</p>	<p>Determine if value of improvements exceeds 50 percent threshold. If yes, change review process. If no, the review is limited to fill or encroachment into the floodplain</p>	
<p>Demonstration of flood mitigation measures and structure floodproofing</p>	<p>Not required to upgrade to flood stage. Floodproofing required.</p>	
<p>Development related to damage repair</p> <p>Site map showing pre-existing conditions, including site contours (2-foot or more detailed), pre-existing structures and impervious surfaces, and pre-existing items to be repaired</p> <p>Site map showing proposed conditions, including site</p>		<p>Proposed structure footprints cannot exceed pre-existing</p>

	Review materials to be submitted	Additional information	Review considerations for approval
	contours (2-foot or more detailed), structures and impervious surfaces, and pre-existing items to be repaired.		footprint. No net fill or floodplain encroachment. No repair or restoration of structures in floodway or CMZ. Repair limited to in-kind replacement. No new impervious surfaces
	Projects not including structures or damage repair		
	Stream description, riparian habitat description, and fish use	Use and habitat evaluation.	
	Site map showing proposed conditions, including site contours (2-foot or more detailed), proposed fill or excavation, new or replaced impervious surfaces	No Fill or encroachment in the floodway or CMZ. Net fill or encroachment in the floodplain can be reviewed for avoidance, minimization, and mitigation	Potential impacts to existing habitat are assessed.
	Proposal for use and materials storage, including type of materials, location, and duration.	Hazardous or dangerous materials storage not permitted in floodplain or hazard zones.	Storage cannot exceed prescribed time limits. Re-use for storage prohibited for 1-year.
	Grading and planting plan for habitat restoration. Construction timing and project duration. Hydraulic calculations and floodplain study. Revised floodway, if applicable.		Results in no net change in floodplain stages at up and downstream river sections.
	Stream crossings for roadways		
	Stream description, riparian habitat description, and fish use		
	Hydraulic analysis of proposed structure for fish passage.		Meets WDFW standards for fish use.
	Grading and planting plan for habitat restoration. Construction timing and project duration. Hydraulic calculations and floodplain study. Revised floodway, if applicable.		Results in no net change in floodplain stages at up and downstream river sections.
Flood protection and floodproofing	Structures in floodplain		
	Proposed base flood elevation and lowest floor elevation; proposed lowest elevation of key house infrastructure.	No structures allowed in floodway or CMZ	Lowest habitat floor and essential infrastructure above base flood elevation.
	Floodproofing measures for structure elements below the base flood elevation		Appropriate floodproofing measures
	Major roadways and critical structures (utilities, power, primary emergency access, emergency responders)		Lowest elevation above base flood elevation plus 2 feet of freeboard.
	Minor roadways, primary access and utilities		Lowest elevation at or above base flood elevation.

Not included in checklist:

- Mapping of RBZ fringe area and provision for development those areas
- 10- and 50-year flood elevation data
- Notice on title of land in 100-year floodplain
- 10 percent impervious limit
- 65 percent vegetation retention
- Removal of woody debris from the floodplain
- Zoning density transfer
- New road crossing prohibited outside Protected Area??
- Bank stabilization measures

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Public Hearing on Draft Ordinance 15-206 related to the siting of Essential Public Facilities (EPFs).

FOR AGENDA OF: May 12, 2016

DEPT. OF ORIGIN: Planning, Building & Public Works

ATTACHMENTS:

1. Draft Ordinance No. 15-206
2. WAC 365-196-550 and RCW 36.70A.200
3. Comprehensive Plan Excerpts for EPFs
4. SEPA Comments

DATE SUBMITTED: May 5, 2016

CLEARANCES:

- Legal VB
- Finance N/A
- Marina N/A
- Parks, Recreation & Senior Services N/A
- Planning, Building & Public Works DEL
- Police N/A
- Economic Development Manager

APPROVED BY CITY MANAGER
FOR SUBMITTAL: AA

Purpose and Recommendation

The purpose of this agenda item is for City Council to continue the public hearing to consider Draft Ordinance No. 15-206 (refer to Attachment 1) to establish regulations related to the Siting of Essential Public Facilities pursuant to RCW 36.70A.200.

Suggested Motions

Motion 1: "I move to suspend Rule 26(a) in order to enact Draft Ordinance No 15-206 on first reading."

Motion 2: "I move to enact Draft Ordinance 15-206 amending DMMC 18.01.050, Table 18.20.080A, Table 18.52.010A, Table 18.52.010B, DMMC 18.140.020, DMMC 18.140.050(13) and DMMC 18.140.060 and adding and codifying a new chapter entitled "Essential Public Facilities" that establishes a process, regulations, and criteria for the siting and expansion of essential public facilities (EPFs) pursuant to RCW 36.70A.200.

Background

According to RCW 36.70A.200 (refer to Attachment 2), EPFs include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

Per the requirements of RCW 36.70A.200, the comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities, and no local comprehensive plan or development regulation may preclude the siting of essential public facilities. The City of Des Moines 2035 Comprehensive Plan establishes the policy framework for the siting of EPFs (refer to Attachment 3).

Currently, EPFs are permitted through the City's Conditional Use Permit (CUP) and Unclassified Use Permit (UUP) processes pursuant to the criteria established in Chapter 18.140 DMMC. CUPs are a Type III land use decision made by the Hearing Examiner, while UUPs are a Type IV land use decision made by the City Council.

Public noticing requirements for land use actions are provided for in Title 16 and Title 18 of the Des Moines Municipal Code. Currently, for a State Environmental Policy Act (SEPA) Determination of Non-significance (DNS), mitigated DNS (MDNS), or Determination of Significance (DS), the noticing requirement to adjacent property owners and occupants is a 300 foot radius (DMMC 16.05.190(5)).

During the fall of 2015, the Des Moines City Council directed staff to develop an Ordinance to establish specific noticing requirements for EPFs, with the intent to provide broader noticing for certain types of EPFs. Subsequently, Council expanded the scope of this work to include a process and criteria for siting EPFs. On December 17, 2015 the City Council adopted Resolution 1320, setting a public hearing date on February 11, 2016. The public hearing was opened and continued to May 12, 2016.

At the January 14, 2016 Council Finance and Economic Development Committee meeting, the Planning, Building and Public Works Director discussed the importance of addressing the siting of EPFs in a more holistic manner. The purpose was to enable the City Council and staff to revisit our current regulations and if necessary, expand upon and/or clarify the review criteria, noticing and decision processes.

For discussion purposes, staff identified 5 jurisdictions and one county that have established more comprehensive review and approval processes for EPFs. These jurisdictions include the Cities of SeaTac, Tukwila, Edmonds, Mountlake Terrace and Woodinville and Snohomish County. A number of these jurisdictions established their processes in anticipation of the Brightwater regional wastewater treatment plant and conveyance system that affected multiple jurisdictions in Snohomish and King Counties. The following summary indicates the most common permit type, decision authority and review criteria:

Permit Type: Conditional Use Permit

Decision Authority: Hearing Examiner

Process/Criteria:

- Local EPFs vs. Regional\State\Federal EPFs

- Local – must demonstrate local need and CUP typically tied to underlying zoning requirements
- Regional – requires a regional siting study to ensure multiple sites were considered; more stringent review and approval process
- Project Notification – varies from 300 feet (SEPA); ½ mile (Mountlake Terrace); 1,000 feet (Snohomish County)

Draft Ordinance No. 15-206 was developed in coordination with the Council Finance and Economic Development Committee (F&EDC). At the March 10, 2016 Council Finance and Economic Development Committee meeting, staff provided an overview of essential public facility regulations in other jurisdictions. Staff also provided the committee with an annotated outline of the proposed regulations that indicated the jurisdictions from which the proposed code language is based, along with a working draft of the proposed regulations for the siting essential public facilities (Draft Ordinance No. 15-206).

On March 11, 2016, a 60-day notice of intent to adopt development regulations for EPFs was sent to Washington State Department of Commerce. On March 16, 2016, Commerce sent a letter to the city documenting that the procedural requirement under RCW 36.70A.106 were met. Subsequently, the SEPA Official issued a determination that the proposed development regulations do not have a probable significant adverse impact on the environment. The comment period lapsed on April 28, 2016 and the appeal period closes on May 9, 2016. One written comment letter from a citizen (refer to Attachment 4) and one verbal comment from Sound Transit (via phone) were received during the comment period.

The citizen comment recommended limiting EPFs to commercial districts and establishing a 1000 foot buffer, much like the marijuana dispensaries and homeless encampments, around certain types of facilities that cause safety concerns to children, families and the elderly. The following was recommended as a guideline when determining the potential siting of an EPF with respect to WAC 365-196-550 (1 vi, viii, ix, x, xi, xii):

- (vi) State and local correctional facilities;
- (viii) In-patient facilities, including substance abuse facilities;
- (ix) Mental health facilities;
- (x) Group homes;
- (xi) Secure community transition facilities
- (xii) Any facility on the state ten-year capital plan maintained by the office of financial management.

Sound Transit expressed concerns about how the proposed legislation could impact the schedule of the Federal Way Link Extension project.

Discussion

Enactment of Draft Ordinance No. 15-206 would establish a more specific process for the siting and expansion of essential public facilities, as necessary, to support orderly growth and delivery of public services. Essential public facilities (EPFs) and transportation facilities of state-wide significance are necessary and important in the provision of public systems and services. The City's goal in promulgating the regulations under this chapter is to ensure the timely, efficient and appropriate siting of EPFs while simultaneously acknowledging and mitigating the significant community impacts often created by such facilities. Proposed regulations provide a more detailed process for the review and permitting of EPFs:

Permit Types:

- Type A/local essential public facilities that require a UUP with the decision is made by the City Council.
- Type B/State and regional essential public facilities that require a UUP with the decision made by the City Council.

Determination, notice, and appeal processes.

Exemptions.

Notification and Affected Agencies/Neighborhood meeting.

Permit Conditions – Siting and expansion of Type A/local essential public facilities.

Permit Conditions – Siting and expansion of Type B/State and regional essential public facilities.

Decision criteria for siting and expansion of Type A/local essential public facilities.

Decision criteria for siting and expansion of Type B/state and regional essential public facilities.

Independent consultant review and environmental review.

Decision Timing.

Building Permit Application.

Suspension or revocation of permit.

As it relates to the permit review and approval process, F&EDC recommended that both Type A and Type B permits be processed as a UUP. This will ensure that all EPF's are brought before the Council so they are aware of them, and enable Council to decide if they want to issue the decision on a particular EPF, or remand the decision to the Hearings Examiner, as allowed by the DMMC.

To address concerns expressed by Sound Transit regarding the timeliness of reviews for regional EPFs such as the Federal Way Link Extension project, staff added an exemptions section to Draft Ordinance No. 15-206 that provides a path for the City to bifurcate the more lengthy EPF siting process when it can be demonstrated that an EPF proponent has met the intent of the proposed regulations.

As it relates to the SEPA comment recommending that the City limiting EPFs to commercial districts and establishing a 1000 foot buffer around certain types of EPFs, staff did not make any changes to the proposed draft ordinance absent further discussion with Council.

Alternatives

The City Council may:

1. Enact the proposed Draft Ordinance No. 15-206.
2. Pass Draft Ordinance No. 15-206 to a second reading.
3. Decline to enact Draft Ordinance No. 15-206.

Financial Impact

Establishing specific noticing requirements, siting criteria and development regulations for EPFs is not anticipated to have a financial impact on the City.

Recommendation or Conclusion

Staff recommends that the City Council pass the suggested motions.

CITY ATTORNEY'S FIRST DRAFT 05/03/2016**DRAFT ORDINANCE NO. 15-206**

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to essential public facilities and amending DMMC 18.01.050, Table 18.52.010A, Table 18.52.010B, DMMC 18.140.020, chapter 18.20 DMMC, DMMC 18.140.020, DMMC 18.140.050(13) and DMMC 18.140.060 and adding and codifying a new chapter entitled "*Essential Public Facilities*" that establishes a process, regulations, and criteria for the siting and expansion of essential public facilities (EPFs) pursuant to RCW 36.70A.

WHEREAS, the City Council is considering amendments to Title 18 to establish a new chapter entitled "*Essential Public Facilities*" that establishes a process, regulations, and criteria for the siting and expansion of essential public facilities (EPFs) pursuant to RCW 36.70A.200, and

WHEREAS, the City of Des Moines 2035 Comprehensive Plan Goal LU5 and supporting policies and implementation strategies LU 5.1, LU 5.1.1, LU 5.1.2, CF 1.3, CF 1.3.1, CF 1.4, CF 1.4.1 and CF 1.4.2 provide the policy basis for a siting process to be developed and implemented through the City's development regulations, and

WHEREAS, the Des Moines City Council desires to amend its process for siting essential public facilities, and

WHEREAS, the Des Moines City Council intends to comply with RCW 36.70A.200, and

WHEREAS, Draft Ordinance No. 15-206 provides guidance for the siting of essential public facilities and provides the City with broad discretion to protect the health and safety of our citizens; and

WHEREAS, on December 17, 2015 the City Council passed Resolution 1320 setting a Public Hearing on February 11, 2016, or as soon thereafter as the matter could be heard, to consider Draft Ordinance 15-206, and

WHEREAS, notice of the public hearing was issued on January 25, 2016 in accordance with the DMMC, and

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WHEREAS, the public hearing was opened on February 11, 2016 and continued to May 12, 2016 to allow more time for staff and the Council to prepare the draft ordinance, and

WHEREAS, the City Council Finance and Economic Development Committee met on February 11, 2016, March 10, 2016 and April 14, 2016 to review, discuss, and provide guidance on the development of Draft Ordinance No. 15-206, and directed staff to bring the Draft Ordinance to the full Council, and

WHEREAS, a notice of intent to adopt the proposed code amendments was sent to the Washington State Department of Commerce on March 11, 2016 for a 60-day review and comment period in accordance with State law, and

WHEREAS, the Planning, Building and Public Works Director acting as the SEPA responsible official reviewed this proposed non-project action and determined that the changes proposed by this Ordinance have been processed in accordance with the requirements of the State Environmental Policy Act (SEPA), a final determination of non-significance was issued and published on April 14, 2016, in the *Seattle Times*, and the appropriate comment period expired on April 28, 2016, and the appeal period concluded on May 9, 2016, and two comments from the public were received, and

WHEREAS, a public hearing was held on the 12th day of May 2016, 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 preservation of the public health and welfare; now therefore,

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

Sec. 1. DMMC 18.01.050, *Definitions*, and section 5 of Ordinance No. 1591, shall be amended to add the following definitions:

“Transportation facilities of statewide significance” means transportation facilities and services of statewide significance, as defined in

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RCW 47.06.140, as now or hereinafter may be amended, to include the interstate highway system, interregional state principal arterials, intercity high-speed ground transportation, major passenger intermodal terminals, regional high-capacity transportation systems, and any improvements identified in the statewide multimodal plan.

"Type A local essential public facilities" means essential public facilities that are not included in the definition of Type B essential public facilities. Type A essential public facilities include, but are not limited to, public and private schools, capital facilities that are included in the city's capital improvement plan or transportation improvement program, governmental offices, telecommunication facilities, energy transmission lines, energy substations, public facilities that are not part of a multicounty project, group home institutions, group homes subject to fair housing requirements, juvenile foster homes, adult care households, shelter housing for victims of domestic abuse, student housing that is part of a higher education facility located within the city, and remodels or alterations to existing Type B essential public facilities that do not expand the size of the facility.

"Type B state and regional essential public facilities" means essential public facilities that are typically difficult to site because they have significant multicounty or statewide impacts, are otherwise of a controversial nature or not specifically included as a Type B essential public facility. Type B essential public facilities include only correctional facilities, secure community transition facilities, drug treatment facilities, transportation facilities of statewide significance, and public facilities that are part of a multicounty project, have significant multicounty or statewide impacts, and are not a Type B essential public facility.

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Sec. 2. DMMC 18.20.080, and those parts of section 58 of Ordinance No. 1591 and section 2 of Ordinance No. 1628 shown below, are each amended to read as follows:

18.20.080 Project review.

(1) Specific types of project approval are categorized as is set forth in 18.20.080A Project Review Chart below.

18.20.080A Project Review Chart

	Decision Maker	Applicable Code Section
Type I – Administrative land use decisions made without legal requirement for public comment	Planning, Building and Public Works Director	DMMC 18.20.150 and 18.20.160
Accessory living quarters (ALQ) development permit	Planning, Building and Public Works Director	DMMC 18.55.140
Building height bonus	City Manager	DMMC 18.115.060 (2)
Comprehensive signage design plan permit	Planning, Building and Public Works Director	DMMC 18.200.120 through 18.200.140
Lot line adjustment (exempt DMMC 18.20.060 (2))	Planning, Building and Public Works Director	Chapter 17.25 DMMC
Sign permit	Planning, Building and Public Works Director	DMMC 18.200.060 and DMMC 18.200.080
Special use sign permit	Planning, Building and Public Works Director	DMMC 18.200.110
Construction permits required under Title 14 DMMC (Buildings and Construction) categorically exempt from SEPA (exempt DMMC 18.20.060 (2))	Building Official	Title 14 DMMC
Design review decisions	Planning, Building and Public Works Director	DMMC 18.235.110 and 18.235.120
Determination that action is categorically exempt	SEPA Official	DMMC 16.05.110
Reasonable use exceptions or determinations in environmentally critical areas	Planning, Building and Public Works Director	Chapter 16.10 DMMC and DMMC 16.10.400
Interpretation of Title 12 DMMC, Streets, Sidewalks, and Public Places, Title 14 DMMC, Buildings and Construction, Title 16 DMMC, Environment, Title 17 DMMC, Subdivisions, and this Title	Planning, Building and Public Works Director or Building Official as applicable	Chapter 12.02 DMMC Chapter 14.02 DMMC Chapter 16.02 DMMC Chapter 17.02 DMMC Chapter 18.50 DMMC
Off-street parking permit	Planning, Building and Public Works Director	DMMC 18.210.060

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18.20.080A Project Review Chart

	Decision Maker	Applicable Code Section
Reduction of the minimum retail trade or personal business services requirements for mixed use developments	Planning, Building and Public Works Director	DMMC 18.115.050 (9)(b)
Waiver of zoning requirements	Planning, Building and Public Works Director	DMMC 18.35.050
Street vacations and other actions relating to use of public areas or facilities (exempt DMMC 18.20.060 (1))	Planning, Building and Public Works Director	Title 12 DMMC
Noise mitigation plan	Planning, Building and Public Works Director	DMMC 18.185.060
Landscaping site plans	Planning, Building and Public Works Director	DMMC 18.195.020 (4)
Modification of same	Planning, Building and Public Works Director	DMMC 18.195.420
Temporary homeless encampments	Planning, Building and Public Works Director	DMMC 18.170.080
Type II – Administrative land use decisions made after legally required opportunity for public comment	Planning, Building and Public Works Director	DMMC 18.20.170
Applications for small domestic animals, large domestic animals and bee review	City Manager or City Manager's Designee	Chapter 18.150 DMMC
Short subdivisions, preliminary approval	Planning, Building and Public Works Director	DMMC 17.05.060 through 17.05.090 and 17.05.140 through 17.05.210
Modified short subdivisions	Planning, Building and Public Works Director	DMMC 17.05.060 through 17.05.090 and 17.05.140 through 17.05.210
Alteration or vacation of binding site plan with no more than four lots	Planning, Building and Public Works Director	Chapter 17.20 DMMC
Alteration or vacation of short subdivision without public dedication	Planning, Building and Public Works Director	DMMC 17.20.050 (2) and chapter 17.05 DMMC
Binding site plan with no more than four lots	Planning, Building and Public Works Director	DMMC 17.20.050 (2) and chapter 17.30 DMMC
Determination of the adequacy of a final environmental impact statement	SEPA Official	DMMC 16.05.150 through 16.05.170 and 16.05.300 through 16.05.320
Determination of nonsignificance (DNS) and mitigated DNS	SEPA Official	DMMC 16.05.140 and 16.05.300 through 16.05.320

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18.20.080A Project Review Chart

	Decision Maker	Applicable Code Section
Determination of significance (DS) (appeal by LUPA action only)	Planning, Building and Public Works Director	DMMC 16.05.320 (5)(d)
Planning, Building and Public Works Director approval, conditional approval, or denial of a project based upon chapter 16.05 DMMC (SEPA rules)	Planning, Building and Public Works Director	DMMC 16.05.300 through 16.05.320
Administrative decision made pursuant to chapter 16.15 DMMC, Flood Hazard Areas	City Manager or the City Manager's designee	DMMC 16.15.170
Townhouse development with no more than four lots	Planning, Building and Public Works Director	DMMC 18.60.050 (2) and 17.05.150
Shoreline substantial development permit revisions	Planning, Building and Public Works Director	DMMC 16.20.010
Exemptions from shoreline substantial development permit	Planning, Building and Public Works Director	DMMC 16.20.010
Environmentally critical area development exception	Hearing Examiner	DMMC 16.10.300
Type III – Quasi-judicial and other decisions by the Hearing Examiner made after legally required opportunity for public comment	Hearing Examiner	DMMC 18.20.180
Appeal of an administrative/land use decision	Hearing Examiner	DMMC 18.20.160
Conditional use permit	Hearing Examiner	Chapter 18.140 DMMC
Hearing Examiner approval, conditional approval or denial of a project based upon chapter 16.05 DMMC, SEPA	Hearing Examiner	Chapter 16.05 DMMC
Modification of parking provisions by Hearing Examiner	Hearing Examiner	DMMC 18.210.070
Variance	Hearing Examiner	DMMC 18.35.070
Abatement of nonconforming uses (exempt DMMC 18.20.060 (1))	Hearing Examiner	DMMC 18.15.110
Type IV – Quasi-judicial and other nonlegislative decisions by the City Council made after legally required opportunity for public comment	City Council	DMMC 18.20.190
Zoning map amendments (site specific)	City Council	Chapter 18.30 DMMC
Subdivisions – preliminary plat approval	City Council	DMMC 17.10.130 through 17.10.200
Modified subdivision – preliminary	City Council	DMMC 17.15.060 through 17.15.090

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18.20.080A Project Review Chart

	Decision Maker	Applicable Code Section
Alteration or vacation of a subdivision – preliminary	City Council	DMMC 17.20.050 and chapter 17.10 DMMC
Alteration or vacation of a short plat with public dedication – preliminary	City Council	DMMC 17.20.050 and chapter 17.05 DMMC
Alteration or vacation of a binding site plan with public dedication – preliminary	City Council	DMMC 17.20.050 (1)(b) and chapter 17.10 DMMC
Alteration or vacation of binding site plan with more than four lots; not involving a public dedication – preliminary	City Council	DMMC 17.20.050 (1) and chapter 17.30 DMMC
Approval of business park master plan (exempt DMMC 18.20.060 (1))	City Council	DMMC 18.105.050
Binding site plan with more than nine lots, preliminary approval	City Council	DMMC 17.30.050 (2) and 17.30.090
Planned unit development, preliminary approval	City Council	Chapter 18.230 DMMC
Townhouse development with more than nine lots	City Council	DMMC 18.50.050 (3) and 17.10.130 through 17.10.170
City Council approval, conditional approval or denial of a project based upon chapter 16.05 DMMC	City Council	Chapter 16.05 DMMC
Shoreline substantial development permit with an environmental impact statement	City Council	DMMC 16.20.010
Shoreline conditional use	City Council	DMMC 16.20.010
Shoreline variance	City Council	DMMC 16.20.010
Unclassified use permit	City Council	DMMC 18.20.190
Type A and B essential public facilities	City Council	DMMC 18.20.190 and Chapter 18. DMMC
Type V – Quasi-judicial and other nonlegislative decisions by the City Council without requirement for public comment	City Council	DMMC 18.20.200
Final alteration or vacation of binding site plan with public dedication	City Council	DMMC 17.20.050 and 17.20.060
Final alteration or vacation of binding site plan with more than four lots and not involving a public dedication	City Council	DMMC 17.20.050 and 17.20.060
Final alteration or vacation of short subdivision with public dedication	City Council	DMMC 17.20.050 and 17.20.060 and chapter 17.05 DMMC

18.20.080A Project Review Chart

	Decision Maker	Applicable Code Section
Final alteration or vacation of subdivision	City Council	DMMC 17.20.050 and chapter 17.10 DMMC
Final binding site plan with more than four lots	City Council	DMMC 17.30.070
Final modified short subdivision	City Council	DMMC 17.15.090
Final modified subdivision	City Council	DMMC 17.15.090
Final planned unit development	City Council	Chapter 18.230 DMMC
Final townhouse development with more than four lots	City Council	Chapter 18.60 DMMC
Subdivision – final plat	City Council	DMMC 17.10.240 through 17.10.270
Type VI – Legislative decisions made by the City Council made after legally required opportunity for public comment (exempt pursuant to DMMC 18.20.060(1))	City Council	DMMC 18.20.210
Area-wide rezones	City Council	DMMC 18.30.100
Comprehensive Plan adoption or amendments	City Council	DMMC 18.25.050
Textual code amendment of Titles 12 , 14 , 16 and 17 DMMC, Subdivisions, and this Title	Planning, Building and Public Works Director schedules public meeting before the City Council	Chapter 17.45 DMMC and DMMC 18.30.100

Sec. 3. DMMC 18.52.010A and those parts of the Residential Use Chart and limitations and section 132 of Ordinance No. 1591 noted below, shall be amended to add the following uses:

Use is:	SFR	RA-3600	RM-2400	RM-1800	RM-900	RM-900A	RM-900B	R-SE	R-SR>35000	R-SR<35000	PR-R
P: Permitted											
P/L: Permitted but with special limitations											
CUP: Conditional use review required											
UUP: Unclassified											

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use review required												
Accessory buildings and uses	P/L _[1]	P/L _[1]	P/L _[1]	P/L _{[1][16]}	P/L _{[1][16]}	P	P	P/L _{[1][27]}	P/L _{[1][27]}	P/L _[1]	P	
Adult family homes	P/L _[13]	P/L _[13]	P/L _[13]	P/L _[13]	P/L _[13]			P/L _[13]	P/L _[13]	P/L _[13]	P/L _[13]	
Agricultural crops								P/L _[26]	P/L _[26]			
Amusement parks												P/L _[44]
Antenna systems (one)	P/L _[1]	P/L _[1]	P/L _[1]	P/L _[1]	P/L _[1]			P/L _[1]	P/L _[1]	P/L _[1]		
Antenna systems (not accessory)	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Apartment hotels					P							
Art galleries	P/L _[2]	P/L _[2]	P/L _[2]	P/L _[2]	P/L _[2]			P/L _[2]	P/L _[2]	P/L _[2]		
Arts, entertainment, and recreation facilities												P/L _[44]
Automobile, parking				P/L _[17]								
Bed and breakfast facilities	UUP	UUP	UUP	UUP	UUP	UUP	UUP	UUP	UUP	UUP	UUP	UUP
Boarding homes							P					
Boats, moorage, noncommercial in connection with community or recreational facilities	CUP / L _[3]	CUP / L _[3]	CUP / L _[3]	CUP / L _[3]	CUP / L _[3]			CUP / L _[3]	CUP / L _[3]	CUP / L _[3]		
Booster stations		UUP / L _[45]					UUP / L _[45]	UUP / L _[45]				
Cemeteries (pre-1964)	P	P	P	P	P			P	P	P		
Cemeteries (post-1964)	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Churches	P/L _[4]	P/L _[4]	P/L _[4]	P/L _[4]	P/L _[4]	P/L _[4]	P/L _[4]	P/L _[4]	P/L _[4]	P/L _[4]	P/L _[4]	P

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Columbariums, crematories, mausoleums with permitted cemeteries	CUP											
Community care facilities												P/L _[44]
Continuing care retirement communities							P					P/L _[44]
Day care centers and mini day care providers	P/L _[5]	P/L _[5]	P/L _[5]	CUP/ L _[5]	CUP/ L _[5]	CUP/ L _[5]	CUP/ L _[5]	CUP/ L _[5]	P/L _[5]	P/L _[5]	P/L _[5]	P/L _[5]
Day care, child and adult												P/L _[38]
Duplex		P/L _[14]	P/L _[14]	P/L _[14]	P							P
Family day care providers	P/L _[41]											
Fire stations	CUP											
Food services and drinking places												P/ _[36] [44]
Foster care home (24 hour)	P	P	P	P	P	P			P	P	P	P
Fraternal organizations/societies	CUP					P/L _[21]			CUP	CUP	CUP	P/L _[44]
Fraternal societies, libraries, museums, meeting rooms, and admin. offices							UUP					P/L _[44]
Group home facilities	UUP <u>/L_[45]</u>											
Golf courses, public or private	P/L _[6]				P/L _[6]	P/L _[6]	P/L _[6]	P				
Greenhouse	P/L _[1]											
Hamsters, nutria and chinchillas for									P/L _[31]	P/L _[31]		P/L _[31]

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commercial use											
Health care and social services											P/L _[35] [44]
Home occupation	P/L _[1] ₁	P/L _[11]		P/L _[11]	P/L _[11]	P/L _[11]	P/L _[44] [11]				
Horticultural nurseries	UUP	UUP	UUP	UUP	UUP	UUP	UUP	UUP	UUP	UUP	UUP
Horses or cattle, private use	P/L _[1] ₂	P/L _[12]	P/L _[12]	P/L _[12]	P/L _[12]			P/L _[28]	P/L _[28]	P/L _[12]	
Hospitals [except mental and alcoholic]					P/L _[18]						
Hospitals [mental and alcoholic]					CUP	CUP	CUP				CUP
Hotels					P/L _[19]						
Libraries (public)	P	P	P	P	P	P	P	P	P	P	
Management of companies and enterprises											P/L _[44]
Mixed use	UUP	UUP	UUP	UUP	UUP			UUP	UUP	UUP	P _[44]
Motels					P/L _[20]						
Multiple family dwelling				P	P	P					P
Museums	P/L _[2]	P/L _[2]	P/L _[2]	P/L _[2]	P/L _[2]			P/L _[2]	P/L _[2]	P/L _[2]	
Nursing homes					P/L _[42]		P				P
Nursery schools, day care centers or mini-care facilities and respite care facilities on same site as retirement housing, nursing homes, continuing care retirement communities,							P				

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boarding homes or churches												
Parks (public)	P/L _[7]	P/L _[7]	P/L _[7]	P/L _[7]	P/L _[7]	P/L _[7]	P/L _[44]					
Pasture and grazing								P/L _[29]	P/L _[29]			
Planned unit development	P	P	P	P	P	P		P	P	P		
Professional, scientific, technical services												P/L _[44]
Professional offices, medical, dental					P/L _[22]		P/L _[25]					P/L _[44]
Public administration facilities												P/L _[44]
Public utility facilities	P/L _[8]	P/L _[8]	P/L _[8]	P/L _[8]	P/L _[8]	P/L _[8]	P/L _[32]					
Public works maintenance and storage facility buildings	CUP	CUP	CUP	CUP	CUP	CUP		CUP	CUP	CUP	CUP	CUP
Race tracks, drag strips, motorcycle hills and Go-Kart tracks								CUP	CUP	CUP	CUP	CUP
Raising chickens, squab, rabbits	P/L _[43]	P/L _[43]	P/L _[30]	P/L _[30]	P/L _[30]	P/L _[43]						
Real estate renting and leasing												P/L _[34] _[44]
Recreational facilities – commercial	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Recreational facilities – noncommercial	CUP / L _[9]	P/L _[9]	CUP / L _[9]	CUP / L _[9]	CUP / L _[9]	CUP / L _[9]	P/L _[39]					
Religious grant writing, civic and professional organizations												P/L _[44]

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Retail services and trade												P/L _[33] [44]
Retirement housing							P					P
Sanitariums	-	-	-	-	P/L _[23]	-	-	-	-	-	-	[DL1]
Sewage treatment plants	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]
Single-family dwellings	P	P	P	P	P	P		P	P	P		
Schools (elementary, middle or high schools), public or private	UUP /L _[45] P/L _[4] e)	UUP /L _[45] P/L _[10]										
Services, miscellaneous												P/L _[37] [44]
Telecommunication facilities	UUP /L _[45] CUP	UUP /L _[45] CUP	UUP /L _[45] G UP	UUP /L _[45] CUP	UUP /L _[45] P/L _[49]							
Townhouse development		P/L _[15]	P/L _[15]	P/L _[15]	P/L _[15]							
Trailer parks					P/L _[24]							
Type A essential public facility	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]
Type B essential public facility	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]	UUP /L _[45]

45. Type A and Type B essential public facilities shall comply with Chapters 18.190 and 18. DMCC.

Sec. 4. DMCC 18.52.010B and those parts of the Commercial Use Chart and limitations and section 133 of Ordinance No. 1591 as amended by section 12 of Ordinance No. 1601 as amended by section 8 of Ordinance 1618-A as amended by section 1 of Ordinance No. 1645, shall be amended to add the following uses:

Use is:	NC	I-C	B-P	C-C	D-C	H-C	PR-C	T-C	W-C
P: Permitted									
P/L: Permitted, but with special limitations									

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CUP: Conditional use review required									
UUP: Unclassified use review required									
Accessory buildings and uses (as described in the applicable zone)	P	P	P	P	P	P	P	P	P
Admin, support services	P/L _[3]		P	P/L _[16]	P/L _[22]		P	P	P
Adult family homes				P	P		P	P	P
Adult entertainment facilities							P/L _[46] [78]		
Adult theaters						P/L _[35]	P/L _[46] [78]		
Amusement and recreational services				P/L _[16]	P/L _[22]				P/L _[68]
Amusement parks	CUP	CUP	CUP	CUP		CUP	CUP	CUP	CUP
Animal or veterinary services			P	P	P	P	P	P	P
Antenna system (one)	P/L _[6]								
Animal grooming	P/L _[3]		P	P	P		P	P	P
Antenna systems (not accessory)	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Apparel and accessories stores	P/L _[1]		P	P	P	P	P	P	P
Arrangement of passenger transportation	P/L _[3]			P	P		P	P	P
Art galleries	P			P	P		P	P	P
Art, glassware manufacturing			P	P	P				P
Art, ornamental ware				P	P				P
Arts, entertainment, and recreation facilities				P/L _[16]	P/L _[22]		P	P	P
Auction houses or stores				P	P	P/L _[41]	P		P

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Automobile, body, paint, interior and/or glass repair				P/L _[18]	P/L _[25]		P/L _[48]		P/L _[70]
Automobile, detail shop				P/L _[18]	P/L _[25]		P/L _[48]		P/L _[70]
Automobile, maintenance and repair				P/L _[18]	P/L _[25]	P	P/L _[48]		P/L _[70]
Automobile, parking	P/L _[5]		P	P/L _[16] [20]	P/L _[22]	P	P	P/L _[54]	P/L _[72]
Automobile, sales						P	P/L _[43]		
Automobile, service stations				P/L _[18]	P/L _[25]	P/L _[36]	P/L _[48]		P/L _[70]
Automobile, trailer sales						P	P		
Automotive equipment, rental and leasing				P	P	P	P	P/L _[53]	P
Bakeries, manufacturing and retail sales	P/L _[1]		P			P		P/L _[55]	P/L _[73]
Ballparks	CUP	CUP	CUP	CUP	CUP	CUP	CUP		CUP
Banks				P	P		P	P	P
Barber, beauty and hairstyling shops	P/L _[3]			P	P		P	P	P
Bed and breakfast facilities				P	P		P	P	P
Boats, building and repairing (less than 48 feet)						P	P		
Boats, repair/sale						P	P		
Boat moorage	P/L _[3]					P/L _[42]			
Botanical and zoological gardens				P	P		P		P
Bookbinding			P			P		P	P
Booster stations	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]		UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]
Boxing and wrestling arenas	CUP	CUP	CUP	CUP		CUP	CUP	CUP	CUP
Building materials and garden equipment supply	P/L _[1]		P	P	P	P/L _[28]	P		P
Car washes				P/L _[18]	P/L _[25]	P			P/L _[70]
Carpentry and cabinet shops	P/L _[1] [2]		P	P	P	P	P		P

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Casino hotels and motels				P	P		P	P	P
Cemeteries	CUP	CUP	CUP	CUP		CUP	CUP		CUP
Ceramics, manufacture						P/L _[29]			
Columbariums, crematories, mausoleums with permitted cemeteries	CUP	CUP	CUP	CUP		CUP	CUP		CUP
Commercial and industrial machinery and equipment, rental and leasing			P			P	P		
Community care facilities				P	P		P	P	P/L _[74]
Community gardens				P	P				P
Community housing services				P/L _[80]	P/L _[80]				P/L _[80]
Confectionery, manufacture			P			P		P/L _[56]	P/L _[73]
Contractors, general	P/L _[3]		P/L _[14]			P	P	P	P
Convention facilities			P	P	P	P		P	P
Correctional institutions			UUP /L _[83] P						
Couriers and messengers	P/L _[3]		P				P	P	P
Data processing, business and record storage	P/L _[3]		P	P	P	P	P	P	P
Day care centers and mini-day care providers	CUP	CUP	CUP	CUP	CUP		CUP	CUP	CUP
Death care services	P/L _[3]		P	P	P	P/L _[42]	P		P
Distribution centers, home deliveries			P			P			
Drive-in or drive-through facilities	P			P/L _[18]	P/L _[25]		P		P/L _[70]
Dry cleaning and laundering services	P/L _[3]		P	P	P	P	P	P	P
Educational services		P	P/L _[7]	P	P/L _[27]	P/L _[37]	P	P	P

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Electric power generation, biomass			P/L _[12]						
Electrical appliances and supplies, retail sales, wholesale trade and repairs						P			
Equipment rental and leasing			P	P/L _[16]	P/L _[22]	P	P		P/L _[68]
Fairgrounds and rodeos	CUP	CUP	CUP	CUP		CUP	CUP		CUP
Family day care providers					P/L _[80]		P/L _[80]	P/L _[80]	P/L _[80]
Financial and insurance services			P	P	P		P	P	P
Fish hatcheries and preserves					P				
Fix-it shops			P	P	P	P	P		P
Food, frozen or cold storage lockers			P	P	P	P			P
Food stores	P/L _[1]		P	P	P		P	P	P
Footwear and leather goods repair	P		P	P	P	P	P	P	P
Foreign trade			P/L _[13]						
Fraternal organizations/societies		P	P/L _[7]	P	P		P	P	P
Fuel dealers, other							P		
Furniture, home furnishings and equipment, sales	P/L _[1] [2]		P	P	P	P	P	P	P
Furniture, repair	P/L _[2] [3]		P	P	P	P	P	P	P
Gambling, amusement, and recreation industries			P/L _[7]	P/L _[16]	P/L _[22]		P	P	P
Garages, public						P/L _[30]			
General merchandise stores	P/L _[1]		P/L _[9]	P/L _[15]	P/L _[21]		P	P	P
Glass, edging, beveling, silvering			P			P/L _[31]			
Glass, stained glass studios	P					P			
Golf courses, with accessory				P	P	CUP	P		P

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driving ranges, clubhouses and pitch and putt									
Golf driving ranges	CUP	CUP	CUP	CUP		CUP	CUP		CUP
Hardware store	P/L _[1]		P	P		P	P	P	P
Health care and social services			P/L _[81]	P/L _[81]	P		P/L _[81]	P/L _[81]	P/L _[74] [81]
Heating oil dealers							P		
Horticultural and landscaping services			P	P	P				P
Horticultural nurseries	UUP	UUP	UUP	UUP		P	UUP		UUP
Hospitals (except mental and alcoholic)				P	P	P	P	P	P
Hospitals (mental and alcoholic)	UUP /L_[83] CUP	UUP /L_[83] CUP	UUP /L_[83] CUP	UUP /L_[83] CUP		UUP /L_[83] CUP	UUP /L_[83] CUP	UUP /L_[83] CUP	UUP /L_[83] P/L_[74]
Hotels				P	P	P/L _[40]	P/L _[47]	P	P
Information establishments						P	P	P	P
Internet service providers			P				P	P	P
Job printing, newspapers, lithography, and publishing						P		P	
Kennels, commercial			P	P	P		P	P/L _[57]	P
Labor camps (transient)	UUP /L_[83] CUP	UUP /L_[83] CUP	UUP /L_[83] CUP	UUP /L_[83] CUP		UUP /L_[83] CUP	UUP /L_[83] CUP		UUP /L_[83] CUP
Laboratories			P	P	P	CUP	P	P	P
Laboratories (incl. medical, dental, or photographic)			P/L	P	P	P	P	P	P
Laundry, industrial			P				P		
Legal services	P/L _[3]		P	P	P	P	P	P	P
Libraries (public)	P			P	P		P	P	P
Light manufacturing, fabrication, and assembly			P/L _[8]						
Limousine/taxi service							P		
Machine shop			P			P/L _[32]			
Management of companies and enterprises	P/L _[3]		P	P	P		P	P	P

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Manufactured home sales							P		
Marijuana producer/processor, recreational			P/L _[79]	P/L _[79]		P/L _[79]		P/L _[79]	P/L _[79]
Marijuana retailer, recreational				P/L _[79]		P/L _[79]		P/L _[79]	P/L _[79]
Marinas					P/L _[24]				
Mixed use	UUP	UUP	UUP	UUP	P/L _[26]	UUP	P/L _[50]	P/L _[58]	
Motels				P	P	P/L _[40]	P/L _[47]		P
Motion picture services	P/L _[3]			P	P		P	P	P
Museums	P		P/L _[7]	P	P		P	P	P
Nursing homes (PR-R-Nursing care facility; IC-Nursing and residential care facility)				P	P		P		
Offices, business and professional	P/L _[3]		P		P/L _[26]	P	P	P	P
Open air theaters	CUP	CUP	CUP	CUP		CUP	CUP		CUP
Parcel service delivery	P/L _[3]		P			P	P/L _[51]		
Parole or probation offices			P	P	P		P		P
Pawnshop			P	P	P	P	P		P
Personal and business services	P/L _[3]		P/L _[7]	P/L _[16]	P/L _[22]		P	P	P/L _[68]
Pet boarding			P	P	P		P	P/L _[59]	P
Pet shop	P/L _[1]			P	P	P/L _[33]	P	P	P
Photocopying and duplicating services	P/L _[1] [3]		P	P	P		P	P	P
Photo finishing	P/L _[1]		P	P	P	P	P	P	P
Planned unit development	P								
Postal service	P		P	P	P		P		P
Professional, scientific, technical services	P/L _[3]		P	P	P		P	P	P
Professional offices, medical, dental	P/L _[3]		P	P	P		P	P	P
Public administration facilities	P		P	P/L _[17]	P/L _[23]		P/L _[49]	P/L _[60]	P/L _[69]
Public facilities	P		P/L _[10]	P	P		P	P	P
Public utility facilities	P/L _[4]		P/L _[10]		P	P/L _[34]	P/L _[52]	P/L _[61]	

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Publishing, telecommunications, Internet service providers, data processing services	P/L _[3]		P	P	P	P	P	P	P
Race tracks, drag strips, motorcycles hills and Go-Kart tracks	CUP	CUP	CUP	CUP		CUP	CUP		CUP
Real estate renting and leasing	P/L _[3]		P	P	P	P	P	P	P
Recreational facilities – commercial	CUP	CUP	CUP	CUP	CUP	P	CUP		CUP
Recreational vehicles, sales and storage						P	P		
Religious grant writing, civic and professional organizations	P/L _[3]	P	P/L _[7]	P	P	P	P	P	P
Repair services	P/L _[2] [3]		P/L _[7]	P/L _[16] [18]	P/L _[22] [25]		P		P/L _[68] [70]
Repossession services	P/L _[3]		P	P	P				P
Restaurants	P		P/L _[9]	P	P	P	P	P	P
Retail services and trade	P/L _[1]		P/L _[7]	P/L _[15] [19]	P/L _[21]	P	P/L _[43]	P	P/L _[67]
Retirement housing		P		P	P		P	P	
Reupholster	P		P	P/L _[19]	P	P	P	P	P/L _[71]
Saws and filing shops			P			P			
Sewage treatment plants	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]		UUP /L _[83]	UUP /L _[83]		UUP /L _[83]
Signs, manufacturing						P			
Self-storage/mini-warehouse leasing			P				P/L _[44]	P/L _[62]	
Services to buildings and dwellings	P/L _[3]		P	P	P		P		P
Services, miscellaneous	P/L _[3]		P/L _[7]	P/L _[16] [18]	P/L _[22]		P/L _[45] [48]	P/L _[63]	P/L _[68] [70]
Spectator sports	CUP		CUP	P	P		P		P
Stadiums	CUP	CUP	CUP	CUP		CUP	CUP		CUP
Supermarkets	P/L _[1]		P	P	P		P	P	P
Taverns and cocktail lounges	P/L _[1]		P	P	P	P/L _[38]	P	P/L _[64]	P/L _[75]

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Telecommunication facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Telephone exchanges						P			
Tire sales and service	P/L _[3]						P		
Theaters				P	P	P/L _[35]	P	P/L _[65]	P/L _[76]
Towing operations						UUP			
Transportation and wholesale trade			P/L _[11]						
Type A essential public facility	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]
Type B essential public facility	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]	UUP /L _[83]
Water transportation					CUP				
Welding repair	P/L _[2] [3] [82]		P	P/L _[16] [82]	P/L _[82]	P	P		P/L _[68] [82]
Wholesale business			P			P		P/L _[66]	P/L _[77]
Wholesale trade and distribution of groceries				CUP					CUP

Notes:

- Limitations that correspond to the bracketed numbers [] are set forth below.
- Uses and developments are also subject to the specific standards for each zone.
- Conditional and Unclassified Use Permit requirements may be found in chapter [18.140](#) DMMC.

All Zones

83. Type A and Type B essential public facilities shall comply with Chapters 18.190 and 18. DMMC.

Sec. 5. DMMC 18.140.020 and section 321 of Ordinance No. 1591 are amended as follows:

18.140.020 Application.

Unconditional and conditional use permits may be granted upon the filing of an application therefor by a property owner or a lessee pursuant to chapters 18.20 and 18.240 DMMC and the provisions of this chapter. The procedure to be followed in considering an application for a conditional use permit shall be those for

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a Type III land use action as set forth in chapter 18.20 DMMC. The procedure to be followed in considering an application for an unclassified use permit shall be those for a Type IV land use action as set forth in chapter 18.20 DMMC. The procedure to be followed in considering an application for an unclassified use permit for Type A or Type B essential public facilities as defined in DMMC 18.01.050 will be processed in accordance with chapter 18. DMMC.

Sec. 6. DMMC 18.140.050(13) and section 324 of Ordinance No. 1591 are amended as follows:

(13) Unless authorized by other provisions of this Title, Type B state and regional essential public facilities as defined by RCW 36.70A.200 and DMMC 18.01.050, as presently constituted or as may subsequently be amended, shall be permitted pursuant to DMMC 18.52.010A and DMMC 18.52.010B and chapter 18. DMMC. ~~except such uses are not permitted in the Downtown Commercial (D-C) Zone.~~

Sec. 7. DMMC 18.140.060 and section 325 of Ordinance 1591 are amended to add the following:

(13) Unless authorized by other provisions of this Title, Type A local essential public facilities as defined by RCW 36.70A.200 and DMMC 18.01.050, as presently constituted or as may subsequently be amended, shall be permitted pursuant to DMMC 18.52.010A and DMMC 18.52.010B and chapter 18. DMMC.

Sec. 8. A new chapter is added to Title 18 DMMC to read as follows:

ESSENTIAL PUBLIC FACILITIES

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(1) Title. This chapter shall be entitled "Essential Public Facilities."

(2) Application. This chapter shall be applicable to all zones as set forth herein.

(3) Purpose. The purpose of this chapter is to implement the Growth Management Act (RCW 36.70A) and the Des Moines Comprehensive Plan by establishing a process for the siting and expansion of essential public facilities, as necessary, to support orderly growth and delivery of public services. Essential public facilities (EPFs) and transportation facilities of state-wide significance are necessary and important in the provision of public systems and services. The City's goal in promulgating the regulations under this chapter is to ensure the timely, efficient and appropriate siting of EPFs while simultaneously acknowledging and mitigating the significant community impacts often created by such facilities. Nothing in this chapter should be construed as an attempt by the City to preclude the siting of essential public facilities in contravention of applicable state law (RCW 36.70A.200, WAC 365-196-550).

(4) Authority. This chapter is established to regulate the siting of essential public facilities pursuant to RCW 36.70A.200 and WAC 365-196-550).

(5) Permit type.

(a) Local Essential Public Facilities/Type A - Unclassified Use Permit.

(b) State, Regional Essential Public Facilities/Type B - Unclassified Use Permit.

(c) Other EPFs, as defined in WAC 365-196-550, are subject to the limitations of the underlying zone.

(d) In accordance with chapter 18.20__ DMMC, the City Council may choose to delegate review of a Type A or a Type B Essential Public Facility to the Hearings Examiner.

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(6) Local, regional, state, and federal essential public facilities - Determination process, notice, and appeal.

(a) Any public or private entity proposing to site an EPF in the City shall provide a written determination notice to the director of its intent to site the EPF at least 90 days prior to submittal of an application.

(b) An EPF pre-application conference fee as listed in the City's fee schedule.[DL2]

(c) The determination notice shall contain a detailed description of the proposal including:

(i) An explanation of the operations and the need for the proposed facility, why the facility is difficult to site and why it qualifies as a local, regional, state or federal EPF;

(ii) Documentation that affected jurisdictions and the public have been notified and given an opportunity to comment pursuant to chapter 18.20 DMMC;

(iii) Proof of a published notice regarding the proposed EPF in the City's official newspaper describing the proposal and soliciting comments, together with any written comments received on the proposed EPF;

(iv) An analysis of the facility siting criteria, including size, physical characteristics, support facilities, access, future expansion needs and analysis of alternative sites;

(v) A description of general environmental, traffic and social impacts and proposed mitigation measures;

(vi) The site's relationship to the projected service area and distribution of similar facilities within that service area;

(vii) An analysis of the proposal's consistency with the City's comprehensive plan and applicable development regulations, and an identification of any inconsistencies; and

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(viii) A proposed site plan and vicinity map with current zoning designations.

(d) The City Manager or the City Manager's designee shall issue a determination that the proposal is designated as a local, regional, state or federal EPF consistent with the definition of EPFs pursuant to RCW 36.70A.200 and WAC 365-196-550 or provide in writing why the proposal is not an EPF. The City Manager or designee shall provide written notice of his or her decision within 90 days from the filing of the determination notice to the applicant and City Council and publish notice of the decision in the official newspaper of record.

(e) The City Manager's or the City Manager's designee's decision shall be appealable to the City Council by the applicant or by any affected person. Appeals shall be filed pursuant to chapter 18.20 DMMC. The City Council shall hold a public hearing on the appeal within 30 days of the filing of the appeal. At the hearing, any interested person may provide oral or written comment on matters relevant to the appeal. The City Council shall issue a decision on the appeal within 14 days of the close of the hearing. The City Council's decision shall be a final decision subject to appeal under chapter 36.70C RCW.

(7) Exemptions. [DL3] Applicants must request and receive a written letter of exemption from the City Manager or the City Manager's designee before commencing with the exempted work. Exemption from the application and permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Code or any other laws or ordinances of the jurisdiction.

An Unclassified Use Permit (UUP) shall not be required by any essential public facility as required by 18.____.050 if an applicant can demonstrate the following:

(a) The public has been notified and given an opportunity to comment in a process as rigorous as that required by chapter 18.20;

(b) Proof of a published notice(s) regarding the proposed EPF in the City's official newspaper or equivalent media

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describing the proposal and soliciting comments, together with any written comments received on the proposed EPF;

(c) Proof that the applicant has had at least one neighborhood meeting consistent with the requirements of DMMC 18.____.070 to discuss the proposed EPF;

(d) An analysis of the facility siting criteria, including size, physical characteristics, support facilities, access, future expansion needs and analysis of alternative site;

(e) A description of general environmental, traffic and social impacts and proposed mitigation measures;

(f) The site's relationship to the projected service area and distribution of similar facilities within that service area;

(g) An analysis of the proposal's consistency with the City's comprehensive plan and applicable development regulations, and an identification of any inconsistencies; and

(h) A proposed site plan and vicinity map with current zoning designations.

The City Manager or designee shall issue a determination that the proposal is exempt from the UUP permitting requirements or provide in writing why the proposal is not an EPF exempt from a UUP. The City Manager shall provide written notice of his or her decision within 90 days from the filing of the applicant request and publish notice of the decision in the official newspaper of record. The determination may impose such reasonable conditions as necessary in order to ensure the proposed essential public facility satisfies, to the extent practicable, the applicable permit criteria therefor and does not unreasonably impact the public health, safety, environment and welfare as enumerated in 18.____.080 through 18.____.110.

The City Manager or designee's decision shall be appealable to the City Council by the applicant or by any affected person. Appeals shall be filed pursuant to chapter 18.20 DMMC. The City Council shall hold a public hearing on the appeal within 30 days of the filing of the appeal. At the hearing, any interested person

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may provide oral or written comment on matters relevant to the appeal. The City Council shall issue a decision on the appeal within 14 days of the close of the hearing. The City Council's decision shall be a final decision subject to appeal under chapter 36.70C RCW.

The provisions of this chapter do not apply to regional EPF's when the City and the project proponent agree to process the project with a development agreement consistent with 18.__.110.

(8) Affected agencies/neighborhood meeting.

(a) The applicant shall conduct at least one neighborhood meeting to discuss the proposed EPF development. The meeting shall be held at least 45 days before submitting the EPF determination application[DL4] pursuant to DMMC 18.__.020.

(b) The purpose of the neighborhood meeting is to:

(i) Ensure that an applicant pursues early public participation in conjunction with and prior to the application, giving the applicant an opportunity to understand and mitigate any impacts that the proposed development might have, and

(ii) Ensure that neighborhood residents, tribes, public service agencies and utility providers, federal, state and local governments, and business owners have an opportunity at an early stage to learn about how the proposed development might affect them and to work with the applicant to resolve concerns prior to submitting an application.

(iii) The applicant is responsible for notifying, facilitating and summarizing the neighborhood meeting pursuant to the following requirements:

(A) Public notice for the neighborhood meeting shall include:

(I) Date, start time, and location of the meeting;

(II) Proposed development name;

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(III) Map showing the location of the proposed development and the location of the meeting;

(IV) Description of proposed development; and

(V) Name, address and phone number of the applicant or representative of the applicant to contact for additional information.

(B) The public notice must be mailed to the City at least 14 days prior to the neighborhood meeting. The public notice also shall, at a minimum, be mailed to:

(I) Each taxpayer of record and each known site address within one-half mile (2,640 feet) [DL5] of any portion of the boundary of the property on which the EPF is proposed to be located and any contiguous property owned by the applicant;

(II) Any city or town whose boundaries are within one mile of the property on which the EPF is proposed to be located and any contiguous property owned by the applicant; and

(III) Any affected public service agencies and utility providers, federal, state and local governments, and school districts [DL6].

(C) The City, upon request, shall provide the applicant with necessary names and addresses or mailing labels. The applicant shall reimburse the City for any costs associated with this request consistent with City procedures.

(D) The neighborhood meeting shall be held at a location accessible to the public and within a reasonable distance from the boundary of the proposed development.

(E) At a minimum the applicant shall provide at the neighborhood meeting:

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(I) Conceptual graphic presentation depicting the layout and design of the proposed development;

(II) Size of the proposed development;

(III) The proposed uses including the square footage;

(IV) Project narrative and description;

(V) Site plan;

(VI) Potential expansion areas; and

(VII) Potential impacts and how those impacts will be addressed by the applicant.

(F) The applicant shall prepare a written summary of the neighborhood meeting to be included with the EPF determination notice required in chapter 18. __ DMMC, including:

(I) A copy of the notice of the neighborhood meeting along with a list of persons to whom it was mailed;

(II) A signed affidavit listing the persons who attended the meeting and their addresses if provided; and

(III) A signed affidavit providing a summary of concerns, issues, problems and mitigation expressed during the neighborhood meeting.

(9) Permit conditions - Siting and expansion of Type A local essential public facilities.

(a) An unclassified use permit shall be required as provided for in this section before any Type A local essential public facility may be located or expanded within the City of Des

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Moines, regardless of the zoning district in which such facility is or is proposed to be located.

(b) A complete application for an unclassified use permit for a Type A local essential public facility shall comply with chapter 18.20 and chapter 18.140 DMMC and this chapter. The City Manager or City Manager's designee shall develop a supplemental application form that addresses and provides sufficient information to determine the application's estimated compliance with each of the approval criteria set forth in this section.

(a) In issuing a permit under this chapter, the City Council, or the Hearing Examiner if so delegated by the City Council, may impose such reasonable conditions as necessary in order to ensure that a proposed essential public facility satisfies, to the extent practicable, the applicable permit criteria therefor and does not unreasonably impact the public health, safety, environment and welfare. Such conditions may include, but are not limited to, the following:

(i) Limiting the manner in which the proposed use is conducted, including restricting the time during which an activity may take place, and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor;

(ii) Requiring a special yard or other open space or lot area or dimension;

(iii) Limiting the height, size or location of a building or other structure;

(iv) Designating the size, number, location or nature of vehicle access points;

(v) Designating the amount of street dedication, roadway width or improvements within the street right-of-way;

(vi) Designating the size, location, screening, drainage, surfacing or other improvement of parking or vehicle loading areas;

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(vii) Limiting or otherwise designating the number, size, location, and height of lighting of signs;

(viii) Limiting the location and intensity of outdoor lighting, and/or requiring shielding thereof;

(ix) Requiring screening, landscaping or another facility to protect adjacent or nearby property, and designate standards for the installation or maintenance of such facility;

(x) Designating the size, height, location or constituent materials for on-site fencing;

(xi) Protecting existing trees, vegetation, water resources, wildlife habitat or other significant natural resources;

(xii) Requiring provisions for public access, both physical and visual, to natural, scenic and recreational resources;

(xiii) Requiring provisions for stormwater drainage, including designating the size, location, screening, or other improvements of detention ponds and related facilities;

(xiv) Imposing special conditions on the proposed use to reasonably ensure its conformance with the surrounding neighborhood and the intent and purpose of the underlying zoning district; and

(xv) Requiring financial guarantees regarding the installation of required infrastructure and landscaping improvements, as well as reasonable evidence or assurances that any permit conditions will be complied with.

(b) The list of conditions enumerated in subsection (a) of this section is nonexclusive. Nothing in this chapter is intended to diminish or otherwise abridge the City's authority to require mitigation measures or impose conditions pursuant to any other applicable State or local requirement, including but not limited to the SEPA regulations codified in chapter 16.05 DMMC.

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(10) Permit conditions - Siting and expansion of Type B state and regional essential public facilities.

(a) An unclassified use permit shall be required as provided in this section before any Type B state or regional essential public facility may be located or expanded within the City of Des Moines, regardless of the zoning district in which such facility is or is proposed to be located.

(b) A complete application for an unclassified use permit for a Type B state or regional essential public facility shall comply with chapter 18.20 and chapter 18.140 DMMC and this chapter. The City Manager or City Manager's designee shall develop a supplemental application form which addresses and provides sufficient information to determine the application's estimated compliance with each of the approval criteria set forth in this section.

(c) An unclassified use permit for a state or regional essential public facility shall be processed as a Type IV land use action pursuant to chapter 18.20 DMMC. Notice of the application and the required public hearing shall be given as provided in chapter 18.20 DMMC. Notices shall be posted on-site, posted at the City's designated posting places, advertised in the City's official newspaper, and mailed to property owners within one-half mile (2,640feet) [DL7] of the project site.

(d) Type B state and regional essential public facilities shall satisfy the provisions of this title for development within the zoning district in which they are proposed to be located, except as provided in this section.

(e) The City Council, or the hearings Examiner if so delegated by the City Council, shall not deny an unclassified use permit application for a Type B state or regional essential public facility, and shall accept the valid siting determination made by a State or regional sponsor with respect to any such facility. The City Council or the hearings examiner may, pursuant to chapter 18.20 and chapter 18.140 DMMC and this chapter, impose reasonable conditions upon the state or regional essential public facility in order to ensure that:

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(i) Necessary infrastructure is or will be made available to ensure safe transportation access and transportation concurrency;

(ii) Necessary infrastructure is or will be made available to ensure that public safety responders have sufficient capacity to handle increased calls or expenses that will occur as the result of the facility;

(iii) All capital costs associated with on-site and off-site improvements necessitated by the facility are borne by the project sponsor to the extent legally permissible;

(iv) The facility will not unreasonably increase noise levels in residential areas, especially at night;

(v) Visual screening will be provided that will mitigate the visual impacts from streets and adjoining properties;

(vi) Any and all probable significant adverse environmental impacts, including but not limited to impacts to wetlands, shorelines and wildlife habitat, are adequately mitigated;

(vii) Any other applicable criteria set forth in this title are satisfied; and

(viii) The public health, safety and welfare are adequately protected.

(f) In the event that a state or regional essential public facility cannot, by the imposition of reasonable conditions of approval, satisfy the criteria set forth in this section, the City Council shall approve the siting or expansion of the Type B state or regional essential public facility with such reasonable conditions of approval as may mitigate such impacts to the maximum extent practicable. The City Council shall not impose conditions in such a manner as to preclude the siting or expansion of any Type B state or regional essential public facility in the City of Des Moines.

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(11) Decision criteria for siting and expansion of Type A local essential public facilities.

(a) The City Council, or the Hearing Examiner if so delegate by the City Council, may impose reasonable conditions (including mitigation measures) on a proposal for a Type A local essential public facility. As a condition of approval the City Council or hearing examiner may:

(i) Increase requirements in the standards, criteria, or policies established by this title;

(ii) Stipulate the exact location of a local EPF as a means of minimizing hazards to life or limb, property damage, impacts to the environment, erosion, underground collapse, landslides, and transportation systems;

(iii) Impose reasonable conditions necessary to avoid, minimize or mitigate any adverse impacts identified as a result of the project; and

(iv) Require the posting of construction and maintenance bonds or other security as provided in chapter 14.20 DMMC sufficient to secure to the City the estimated cost of construction, installation and maintenance of required improvements.

(b) The City Council or Hearing Examiner may approve or approve with conditions, an unclassified use permit for a local EPF when the proposal complies with the applicable requirements of chapter 18.240 DMMC and this chapter. The City Council or Hearing Examiner also may consider whether the proposal is consistent with the following factors:

(i) The proposal is consistent with the objectives and policies of the Des Moines 2035 Comprehensive Plan

(ii) The project applicant has demonstrated a need for the project, as supported by an analysis of the projected service population, an inventory of existing and planned comparable facilities, and the projected demand for the type of facility proposed;

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(iii) If applicable, the project would serve a significant share of the City's population, and the proposed site will reasonably serve the project's overall service population;

(iv) The applicant has reasonably investigated alternative sites, as evidenced by a detailed explanation of site selection methodology;

(v) The project is consistent with the applicant's own long-range plans for facilities and operations;

(vi) The project will not result in a disproportionate burden on a particular geographic area;

(vii) The applicant has provided an opportunity for public participation in the siting decision and development of mitigation measures that is appropriate in light of the project's scope, applicable requirements of the City Code, and state or federal law;

(viii) The project site meets the facility's minimum physical site requirements, including projected expansion needs. Site requirements shall be determined by the minimum size of the facility, setbacks, access, support facilities, topography, geology, and on-site mitigation;

(ix) The proposal, as conditioned, adequately mitigates adverse impacts to life, limb, property, the environment, public health and safety, transportation systems, economic development and other identified impacts;

(x) The proposal incorporates specific features to ensure it responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property; and

(xi) The applicant has proposed mitigation measures that provide assistance to displaced or impacted businesses including assistance in relocating within the City.

(c) The unclassified use permit application for a proposed Type A EPF may be denied if the City Council or hearing

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examiner finds that the denial does not preclude the local EPF from being sited within the City, and either:

(i) The proposal does not comply with the requirements of chapter 18.240 DMMC or this chapter; or

(ii) The proposal is not consistent with the factors listed in subsection (b) of this section with the imposition of mitigation measures; or

(iii) The imposition of reasonable mitigation measures does not adequately mitigate detrimental effects on uses or properties within the immediate vicinity of the proposal site. (chapter 18.____ DMMC)

(12) Decision criteria for siting and expansion of Type B state and regional essential public facilities. The City Council, or the hearing examiner if so delegated, must approve or approve with conditions, a development agreement [DL8] for a Type B state or regional EPF after considering whether the proposal meets the following criteria:

(a) The applicant has provided opportunity for public participation in the siting decision and development of mitigation measures;

(b) The proposal complies with applicable requirements of this title and all other applicable provisions of the City Code except as modified pursuant to chapter 18.____ DMMC.

(c) The proposal, as conditioned, adequately mitigates adverse impacts to life, limb, property, the environment, public health and safety, transportation systems, economic development and other identified impacts;

(d) The proposal incorporates specific features to ensure it responds to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property;

(e) If applicable, the applicant agrees to posting of construction and maintenance bonds or other security as provided in chapter 18.____ DMMC sufficient to secure to the City the

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estimated cost of construction, installation and maintenance of required improvements;

(f) If applicable, the applicant has proposed mitigation measures that provide assistance to displaced or impacted businesses, including assistance in relocating within Des Moines; and

(13) Independent consultant review and environmental review.

(a) The City may require independent consultant review of an EPF proposal to assess its compliance with the criteria contained in this chapter.

(b) If independent consultant review is required, the applicant shall bear and secure all consultant and City costs incurred in the preparation of studies or review as determined by the City. The applicant shall make a deposit with the City sufficient to defray the cost of such review. The applicant shall pay all costs prior to issuance of permits. Unexpended funds will be returned to the applicant following the final decision on the application.

(c) The applicant may, at its expense and to the extent determined by the City, provide additional studies or other information.

(d) Any applicant submitting an application for an EPF shall pay the cost of environmental review and studies necessary under SEPA, pursuant to chapter 16.05 DMMC. The applicant may, at its expense and to the extent determined by the responsible official, provide additional studies or other information.

(14) Decision timing. The review, reconsideration and appeal process set forth in this chapter shall not be used to preclude an EPF. The Hearing Examiner/City Council shall render a final, appealable decision with respect to an EPF within 240 days of the City's notice of completion regarding the permit application. [DL9]

(15) Building permit application.

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(a) Any building permit issued for an EPF approved under this chapter shall be consistent with all conditions of approval in the unclassified use permit.

(b) In the event a building permit for an EPF is denied because the building permit application does not comply with construction codes, the City shall submit in writing the reasons for denial to the project applicant.

(c) No construction permits may be applied for prior to approval of an unclassified use permit for an EPF unless the applicant signs a written release acknowledging that such approval is neither guaranteed nor implied by the City's acceptance of the construction permit applications.

(d) The applicant shall expressly hold the City harmless and accept all financial risk associated with preparing and submitting construction plans before a final decision is made under this chapter.

(16) Suspension or revocation of permit.

(a) Any building permit for an EPF approved under this chapter shall comply with all conditions of approval in the unclassified use permit. In the event a building permit for an EPF is denied, suspended or revoked due to a failure to comply, the City Manager or City Manager's designee shall submit in writing the reasons for denial to the project sponsor.

(b) No building or construction permits may be applied for prior to an unclassified use permit approval of an EPF unless the applicant signs a written release acknowledging that such approval is neither guaranteed nor implied by the Director's acceptance of the building or construction permit applications. The applicant shall expressly accept all financial risk associated with preparing and submitting construction plans before the final decision is made under this chapter.

Sec. 9. Codification. Section 8 of this Ordinance shall be codified as a new chapter in Title 18 DMMC entitled "*Essential Public Facilities.*"

Sec. 10. Severability - Construction.

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(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

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

Sec. 11. Effective date. This Ordinance shall take effect and be in full force five (5) days after its final passage by the Des Moines City Council in accordance to law.

PASSED BY the City Council of the City of Des Moines this _____ day of _____, 2016 and signed in authentication thereof this _____ day of _____, 2016.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

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ATTACHMENT 2

WAC 365-196-550**Essential public facilities.**

(1) Determining what facilities are essential public facilities.

(a) The term "essential public facilities" refers to public facilities that are typically difficult to site. Consistent with county-wide planning policies, counties and cities should create their own lists of "essential public facilities," to include at a minimum those set forth in RCW 36.70A.200.

(b) For the purposes of identifying facilities subject to the "essential public facilities" siting process, it is not necessary that the facilities be publicly owned.

(c) Essential public facilities include both new and existing facilities. It may include the expansion of existing essential public facilities or support activities and facilities necessary for an essential public facility.

(d) The following facilities and types of facilities are identified in RCW 36.70A.200 as essential public facilities:

(i) Airports;

(ii) State education facilities;

(iii) State or regional transportation facilities;

(iv) Transportation facilities of statewide significance as defined in RCW 47.06.140. These include:

(A) The interstate highway system;

(B) Interregional state principal arterials including ferry connections that serve statewide travel;

(C) Intercity passenger rail services;

(D) Intercity high-speed ground transportation;

(E) Major passenger intermodal terminals excluding all airport facilities and services;

(F) The freight railroad system;

(G) The Columbia/Snake navigable river system;

(H) Marine port facilities and services that are related solely to marine activities affecting international and interstate trade;

(I) High capacity transportation systems.

(v) Regional transit authority facilities as defined under RCW 81.112.020;

(vi) State and local correctional facilities;

(vii) Solid waste handling facilities;

(viii) In-patient facilities, including substance abuse facilities;

(ix) Mental health facilities;

(x) Group homes;

(xi) Secure community transition facilities;

(xii) Any facility on the state ten-year capital plan maintained by the office of financial management.

(e) Essential public facility criteria apply to the facilities and not the operator. Cities and counties may not require applicants who operate essential public facilities to use an essential public facility siting process for projects that would otherwise be allowed by the development regulations. Applicants who operate essential public facilities may not use an essential public facility siting process to obtain approval for projects that are not essential public facilities.

(f) Regardless of whether it is a new, existing or an expansion or modification of an existing public facility, the major component in the identification of an essential public facility is whether it provides or is necessary to provide a public service and whether it is difficult to site.

(2) Criteria to determine if the facility is difficult to site. Any one or more of the following conditions is sufficient to make a facility difficult to site.

(a) The public facility needs a specific type of site of such as size, location, available public services, which there are few choices.

(b) The public facility needs to be located near another public facility or is an expansion of an essential public facility at an existing location.

(c) The public facility has, or is generally perceived by the public to have, significant adverse impacts that make it difficult to site.

(d) Use of the normal development review process would effectively preclude the siting of an essential public facility.

(e) Development regulations require the proposed facility to use an essential public facility siting process.

(3) Preclusion of essential public facilities.

(a) Cities and counties may not use their comprehensive plan or development regulations to preclude the siting of essential public facilities. Comprehensive plan provisions or development regulations preclude the siting of an essential public facility if their combined effects would make the siting of an essential public facility impossible or impracticable.

(i) Siting of an essential public facility is "impracticable" if it is incapable of being performed or accomplished by the means employed or at command.

(ii) Impracticability may also include restrictive zoning; comprehensive plan policies directing opposition to a regional decision; or the imposition of unreasonable conditions or requirements.

(iii) Limitations on essential public facilities such as capacity limits; internal staffing requirements; resident eligibility restrictions; internal security plan requirements; and provisions to demonstrate need may be considered preclusive in some circumstances.

(b) A local jurisdiction may not include criteria in its land use approval process which would allow the essential public facility to be denied, but may impose reasonable permitting requirements and require mitigation of the essential public facility's adverse effects.

(c) An essential public facility is not precluded simply because the comprehensive plan provisions would be too costly or time consuming to comply with.

(d) If the essential public facility and its location have been evaluated through a state or regional siting process, the county or city may not require the facility to go through the local siting process.

(e) Essential public facilities that are sited through a regional or state agency are distinct from those that are "sited by" a city or county or a private organization or individual. When a city or county is siting its own essential public facility, public or private, it is free to establish a nonpreclusive siting process with reasonable criteria.

(4) Comprehensive plan.

(a) Requirements:

(i) Each comprehensive plan shall include a process for identifying and siting essential public facilities. This process must be consistent with and implement applicable county-wide planning policies.

(ii) No local comprehensive plan may preclude the siting of essential public facilities.

(b) Recommendations for meeting requirements:

(i) Identification of essential public facilities. When identifying essential public facilities, counties and cities should take a broad view of what constitutes a public facility, involving the full range of services to the public provided by the government, substantially funded by the government, contracted for by the government, or provided by private entities subject to public service obligations.

(ii) Agreements among jurisdictions should be sought to mitigate any disproportionate financial burden which may fall on the county or city which becomes the site of a facility of a statewide, regional, or county-wide nature.

(iii) Where essential public facilities may be provided by special districts, the plans under which those districts operate must be consistent with the comprehensive plan of the city or county. Counties and cities should adopt provisions for consultation to ensure that such districts exercise their powers in a way that does not conflict with the relevant comprehensive plan.

(c) The siting process should take into consideration the need for county-wide, regional, or statewide uniformity in connection with the kind of facility under review.

(5) Development regulations governing essential public facilities.

(a) Development regulations governing the siting of essential public facilities must be consistent with and implement the process set forth in the comprehensive plan.

(b) Except where county-wide planning policies have otherwise dictated siting choices, provision should be made for the possibility of siting each of the listed essential public facilities somewhere within each county's or city's planning area.

(c) Counties and cities should consider the criteria established in their comprehensive plan, in consultation with this section to determine if a project is an essential public facility. Counties and cities may also adopt criteria for identifying an essential public facility.

(d) If an essential public facility does not present siting difficulties and can be permitted through the normal development review process, project review should be through the normal development review process otherwise applicable to facilities of its type.

(e) If an essential public facility presents siting difficulties, the application should be reviewed using the essential public facility siting process.

(6) The essential public facility siting process.

(a) The siting process may not be used to deny the approval of the essential public facility. The purpose of the essential public facility siting process is to allow a county or city to impose reasonable conditions on an essential public facility necessary to mitigate the impacts of the project while ensuring that its development regulations do not preclude the siting of an essential public facility.

(b) The review process for siting essential public facilities should include a requirement for notice and an opportunity to comment to other interested counties and cities and the public.

(c) The permit process may include reasonable requirements such as a conditional use permit, but the process used must ensure a decision on the essential public facility is completed without unreasonable delay.

(d) The essential public facility siting process should identify what conditions are necessary to mitigate the impacts associated with the essential public facility. The combination of any existing development regulations and any new conditions may not render impossible or impracticable, the siting, development or operation of the essential public facility.

(e) Counties and cities should consider the extent to which design conditions can be used to make a facility compatible with its surroundings. Counties and cities may also consider

provisions for amenities or incentives for neighborhoods in which facilities are sited. Any conditions imposed must be necessary to mitigate an identified impact of the essential public facility.

[Statutory Authority: RCW **36.70A.050**, **36.70A.190**. WSR 10-22-103, § 365-196-550, filed 11/2/10, effective 12/3/10; WSR 10-03-085, § 365-196-550, filed 1/19/10, effective 2/19/10.]

RCW 36.70A.200**Siting of essential public facilities—Limitation on liability.**

(1) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

(2) Each county and city planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community transition facilities consistent with statutory requirements applicable to these facilities.

(3) Any city or county not planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process for siting secure community transition facilities and adopt or amend its development regulations as necessary to provide for the siting of such facilities consistent with statutory requirements applicable to these facilities.

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list.

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in RCW 42.17A.005, corporation, partnership, association, and limited liability entity.

(7) Counties or cities siting facilities pursuant to subsection (2) or (3) of this section shall comply with RCW 71.09.341.

(8) The failure of a county or city to act by the deadlines established in subsections (2) and (3) of this section is not:

(a) A condition that would disqualify the county or city for grants, loans, or pledges under RCW 43.155.070 or 70.146.070;

(b) A consideration for grants or loans provided under RCW 43.17.250(3); or

(c) A basis for any petition under RCW 36.70A.280 or for any private cause of action.

[2013 c 275 § 5; 2011 c 60 § 17; 2010 c 62 § 1; 2002 c 68 § 2; 2001 2nd sp.s. c 12 § 205; 1998 c 171 § 3; 1991 sp.s. c 32 § 1.]

NOTES:

Effective date—2011 c 60: See RCW 42.17A.919.

Purpose—2002 c 68: "The purpose of this act is to:

(1) Enable the legislature to act upon the recommendations of the joint select committee on the equitable distribution of secure community transition facilities established in section 225, chapter 12, Laws of 2001 2nd sp. sess.; and

(2) Harmonize the preemption provisions in RCW 71.09.250 with the preemption provisions applying to future secure community transition facilities to reflect the joint select committee's recommendation that the preemption granted for future secure community transition facilities be the same throughout the state." [2002 c 68 § 1.]

Severability—2002 c 68: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2002 c 68 § 19.]

Effective date—2002 c 68: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 21, 2002]." [2002 c 68 § 20.]

Intent—Severability—Effective dates—2001 2nd sp.s. c 12: See notes following RCW 71.09.250.

Attachment 3
Excerpts from the Des Moines 2035 Comprehensive Plan
Establishing the Policy Framework for Siting EPFs

Goal LU 5 *Maintain regulations and procedures that allow for siting of essential public facilities.*

LU 5.1 Ensure land use decisions on essential public facilities meet the following criteria to be made consistent with the process and criteria set forth in the DMMC:

1. The facility meets the Growth Management Act definition of an essential public facility, as defined in RCW 36.70A.200(1) and as amended; or
2. The facility is on the statewide list maintained by the Office of Financial Management, ref. RCW 36.70A.200(4) or on the countywide list of essential public facilities; and
3. The facility is not otherwise regulated by the Des Moines Municipal Code (DMMC).

LU 5.1.1 Recognize and use the Conditional Use Permit process and criteria to site essential public facilities as regulated by the DMMC.

LU 5.1.2 Consider social equity and health issues when siting essential public facilities, to provide protection from exposure to harmful substances and environments.

CF 1.3 Ensure essential capital facilities/utilities (i.e., domestic water, fire protection, sanitary and storm sewer, transportation, etc.) are available at the time of development.

CF 1.3.1 Adopt procedures that encourage mutual review of, and comment on, proposed actions and policies between Des Moines and other providers of public services. Review of development proposals by providers of public facilities and utilities should ensure that there will be sufficient capacity at the time of development.

CF 1.4 City plans and development regulations should identify, and provide a process for consideration of the siting of essential public facilities. Essential public facilities should include: A) domestic water, sanitary sewer, public schools, and fire protection; B) difficult-to-site facilities such as those identified by RCW 36.70A.200 and County-wide Planning Policies; and C) essential state facilities specified by the office of financial management. Des Moines should not accept a disproportionate share of the adverse impacts resulting from the siting of essential public facilities.

CF 1.4.1 Utilize the plans of public facility and utility providers, and the Des Moines Capital Improvement Plan, to identify lands useful for public facility or utility purposes. Essential Public Facilities as defined by RCW36.70A.200 are processed as Unclassified Use Permits (UUP) unless the use is permitted outright in a given zoning classification.

CF 1.4.2 Work cooperatively with surrounding municipalities and King County during the siting and development of facilities of regional significance.

CF 1.4.3 As permitted by state and federal law, including the lawful exercise by the City of its SEPA authority pursuant to RCW 43.21C.060, City approvals related to essential public facilities, operations and activities within the City of Des Moines, including but not limited to, necessary support activities, connected-actions and projects, require a Conditional Use Permit and may include conditions that are necessary to mitigate specific adverse environmental impacts on the City of Des Moines identified in environmental documents prepared pursuant to SEPA.

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Denise Lathrop

From: Doreen Harper <crfancygirl@yahoo.com>
Sent: Thursday, April 28, 2016 3:07 PM
To: Denise Lathrop
Cc: CityCouncil
Subject: LUA2015-0065 SEPA Checklist-Essential Public Facilities Development Regulations

This message is in response to the NDNS and Public Hearing regarding the addition of a new chapter to Title 18 of the DMMC regarding the siting of Essential Public Facilities (EPF).

Given the recent controversy of an EPF that was to be sited in the Woodmont neighborhood near an elementary school and public library, it would be the correct and proper time to establish 1000' boundaries in order to protect the children and families in our community. Granted, there are several classifications of EPF's, however those that could potentially cause safety concerns to children, families and the elderly, should be highly scrutinized and certainly not allowed to be built in an area where there is a concentration of a population that could be at risk of harm. A 1000 foot buffer, much like the marijuana dispensaries and homeless encampments, should be used as a guideline when determining the potential siting of an EPF with respect to WAC 365-196-550 (1 vi, viii, ix, x, xi, xii)

- (vi) State and local correctional facilities;
- (viii) In-patient facilities, including substance abuse facilities;
- (ix) Mental health facilities;
- (x) Group homes;
- (xi) Secure community transition facilities
- (xii) Any facility on the state ten-year capital plan maintained by the office of financial management.

WAC 365-196-550: Essential public facilities.



**WAC 365-196-550: Essential
public facilities.**

Facilities such as these should be limited to business districts and if there is an overlap in allowed zoning, then the 1000' buffer should prevail over the siting decision in order to protect the health, safety and welfare of families with children and/or the elderly.

In addition, siting EPF's and factoring in it's environmental impact needs to be more thoroughly evaluated. The Woodmont Recovery Center NDS and environmental review was amateurish at best. The fact that a facility dispensing methadone and treating drug addicts who would eliminate and dispose of toxins on a daily basis into our sewer system, wasn't considered an environmental issue with our ground water, waste treatment or management. Concerns such as these should be addressed early on in the process when deciding if there is a Determination of Non-significance with the environment. If I misunderstand the purpose and procedure of this whole process, please accept my apology for not catching up to speed fast enough. However, for an EPF like the WRC to pass all the way into the building permit stage without acknowledgment of it's toxic impact, it seems that not every aspect is being thoroughly evaluated when decisions are being made. Siting EPF's should be held to higher scrutiny because of their potential impact on the community. The state should consider adopting the 1000' buffers around schools (and the like) along with having a more thorough environmental review process. Hopefully they will follow your lead if you choose to implement them.

Thank you for your time and consideration.

Sincerely,

Doreen Harper

26625 16th Ave. South
Des Moines, WA 98198