

AGENDA
REGULAR MEETING
DES MOINES CITY COUNCIL

March 8, 2012 - 7:30 p.m.

CALL TO ORDER - Mayor

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC:

At this time the audience is invited to comment on any topic to bring it to Council's attention. Please sign in prior to the meeting and limit comments to three minutes or less.

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORTS

CONSENT CALENDAR

Item 1: APPROVAL OF MINUTES

Motion is to approve the minutes of February 23 and March 1, 2012 City Council meetings

Item 2: Approval of Vouchers

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

Claim checks **\$504,746.97**

Payroll fund transfers in the total amount of **\$415,746.62**

Total certified Wire Transfers, Voids, A/P & Payroll vouchers are **\$920,493.59**

Item 3: Mayoral Appointment to the Human Services Advisory Committee

Motion is to confirm the Mayoral appointment of Nadine Byers to a two year term on the Human Services Advisory Committee, effective immediately and expiring on December 31, 2013.

Item 4: Proclamation – Washington State Future City Regional Competition

Motion is to approve the Proclamation recognizing the achievements of the Pacific Middle School 'New Earth' team in the Washington State Future City Regional Competition

PUBLIC HEARING

1. Neighborhood Commercial Permitted Uses Draft Ordinance No. 12-013 – 1st Reading
Staff Presentation: Development Services Manager Robert Ruth

OLD BUSINESS

1. SWM Fees - Huntington Park
Staff Presentation: Planning Building Public Works Director Grant Fredricks

NEXT MEETING DATE – March 22, 2012, Regular City Council meeting

ADJOURNMENT

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DES MOINES CITY COUNCIL

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7 minutes res #4, consent

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ADJOURNMENT

MINUTES

**REGULAR MEETING
DES MOINES CITY COUNCIL**

February 23, 2012 - 7:30 p.m.

CALL TO ORDER - Mayor Kaplan called the meeting to order at 7:30 p.m.

PLEDGE OF ALLEGIANCE – The flag salute was led by Councilmember Caldwell.

ROLL CALL

Present were Mayor Dave Kaplan; Mayor Pro-Tem Matt Pina; Councilmembers Dan Caldwell, Melissa Musser, Jeanette Burrage, and Carmen Scott.

Councilmember Bob Sheckler was absent. Mayor Pro-Tem Pina moved to excuse Councilmember Sheckler; Councilmember Musser, second; all the votes were ayes.

Staff present were City Manager Tony Piasecki; City Attorney Pat Bosmans; Assistant City Attorney Tim George; Planning Building and Public Works Director Grant Fredricks; Parks Recreation and Senior Services Director Patrice Thorell; Assistant Director of Transportation and Engineering Dan Brewer; Development Services Manager Robert Ruth; Senior Planner Jason Sullivan; Associate Transportation Engineer Brandon Carver; CIP Project Manager Scott Romano; Humans Services Manager Sue Padden; Contract Engineer Len Madsen; Policy Analyst Sue Anderson; City Clerk Sandy Paul

COMMENTS FROM THE PUBLIC:

Rose Clark, City of Burien Deputy Mayor and Shaun McEvoy, City of Normandy Park Councilmember, spoke about the Highline Community Coalition (Des Moines, Burien, SeaTac, Normandy Park, and the Highline School District) and the Summit scheduled for March 15, 2012 6:00-8:00 p.m. at Mt. Rainier High School.

Joshua Masterson, 4805 13th Avenue South, Seattle, asked the City Council to make a change to the DMMC to allow the non-conforming single family home at 21912 Marine View Drive South, a commercially zoned property, to be modified.

BOARD & COMMITTEE REPORTS/ COUNCILMEMBER COMMENTS

Councilmember Scott

- Spoke about the Master Builder's breakfast held at Anthony's and hosted by the City of Des Moines

Councilmember Burrage

- Reminded the Council and audience about the Poverty Bay Wine Festival March 2-4, 2012, and added that one of the musicians would be Mayor Pro-Tem Pina.

Mayor Pro-Tem Pina

- Mentioned two Finance and Economic Development Committee meetings that had been held in the past two weeks
- Reported on the Transportation Benefit District meeting
- Thanked Rose Clark, City of Burien Deputy Mayor and Shaun McEvoy, City of Normandy Park Councilmember for speaking about the Highline Community Coalition Summit
- Expressed concern about some SCORE budget issues that have surfaced

Councilmember Musser

- Thanked Rose Clark, City of Burien Deputy Mayor and Shaun McEvoy, City of Normandy Park Councilmember for speaking
- Reported on the Municipal Facilities Committee meeting and issues discussed
- Announced the first meeting of the Marina Beach Park Advisory Committee will be March 6, 2012
- Provided the Council and audience with the latest sports report from Mt. Rainier High School. This was the first year for competition with Class 4A schools.

Councilmember Caldwell

- Commented on the need for seniors to receive the shingles vaccine
- Mentioned he was having trouble with CleanScapes
- Went to AWC training for Newly Elected Officials in Tacoma

PRESIDING OFFICER'S REPORT

- Commented on the Master Builder's breakfast at Anthony's where the turnout was the best in many months
- Spoke about the House version of the state budget which translates to a loss to Des Moines of \$700,000 before property tax assessments are announced. He urged the public to contact legislative representatives to share their thoughts on these issues

ADMINISTRATION REPORTS

- Highline School District is interviewing candidates for Superintendant, one of which is Susan Enfield, current Interim Superintendant of the Seattle School District
- The Des Moines Police Chief recruitment closed and over 50 applications were received. The top 15 will begin a second level of the process
- Ken Taylor and Neal Sanchez of Valley Cities Counseling & Consultation spoke about a grant received from Bristol Myers Squibb Foundation for dealing with mental illness through counseling and medical treatment rather than misdemeanor incarceration

CONSENT CALENDAR

Item 1: APPROVAL OF MINUTES

Motion is to approve minutes from the regular meetings of February 2 and 9, 2012

Item 2: APPROVAL OF VOUCHERS

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

Claim checks \$811,787.49

Payroll fund transfers in the total amount of \$423,339.86

Total certified Wire Transfers, Voids, A/P & Payroll vouchers are \$1,235,127.35

Item 3: INTERLOCAL AGREEMENT BETWEEN THE CITIES OF SEATAC, DES MOINES, COVINGTON, PACIFIC AND TUKWILA FOR PLANNING, FUNDING AND IMPLEMENTATION OF A JOINT MINOR HOME REPAIR PROGRAM

Motion is to authorize the City Manager to sign the Interlocal agreement between the Cities of SeaTac Des Moines, Covington, Pacific and Tukwila for the *Minor Home Repair Program*.

Item 4: HUMAN SERVICES ANNUAL INTERLOCAL AGREEMENT (ILA)

Motion is to authorize the 2012 Joint Human Services Funding Program Agreement between the Cities of Auburn, Burien, Covington, Des Moines, Renton, SeaTac, and Tukwila for planning, funding and continuation of a Joint Human Services Application and Funding Program.

Item 5: PROCLAMATION - MARCH 12, 2012 MARKS THE 100TH ANNIVERSARY OF THE GIRL SCOUTS OF THE UNITED STATES OF AMERICA

Motion is to approve the Proclamation recognizing the 100th anniversary of the Girl Scouts of the United States of America and proclaim 2012 as the *Year of the Girl*.

Item 6. TRANSPORTATION GATEWAY PROJECT: 24TH AVE S RIGHT-OF-WAY ACQUISITION: DAVIS – PARCEL #69

Motion is to approve the purchase 721 square feet of land from Ronald Davis in the amount of \$6,344.80, a 300 square foot Slope Easement in the amount of \$660; compensation for improvements of \$2,035, and an administrative settlement of \$1,390.18 for a grand total of \$10,430.18 plus closing costs, and further to authorize the City Manager to sign the Statutory Warranty Deed, Slope Easement, Construction Easement & Right of Entry and Real Voucher Property Agreement substantially in the form as submitted and accept the right of way on behalf of the City of Des Moines

Item 7. MAYORAL APPOINTMENT OT THE CITY OF DES MIONES ARTS COMMISSION

Motion is to confirm the Mayoral appointment of Kristy Dun to the Des Moines Arts Commission effective immediately, to fill a vacant three-year term which will expire on December 31, 2014.

Item 8. MAYORAL APPOINTMENT TO THE HUMAN SERVICES ADVISORY COMMITTEE OF DEANA RADER AND EILEEN SERVERNS

Motion is to confirm the Mayoral appointment of Deana Rader and Eileen Severns to two year terms on the Human Services Advisory Committee, effective immediately and expiring on December 31, 2013.

ACTION/DIRECTION

Items 4 and 5 were pulled by Councilmember Burrage.

Councilmember Caldwell moved to approve the remaining Consent Agenda; Mayor Pro-Tem Pina, second. The motion passed 6-0

Councilmember Musser moved to authorize the 2012 Joint Human Services Funding Program Agreement between the Cities of Auburn, Burien, Covington, Des Moines, Renton, SeaTac, and Tukwila for planning, funding and continuation of a Joint Human Services Application and Funding Program; Mayor Pro-Tem Pina, second. The vote was 5-1. Councilmember Burrage voted against the motion.

Mayor Pro-Tem Pina moved to approve the Proclamation recognizing the 100th anniversary of the Girl Scouts of the United States of America and proclaim 2012 as the *Year of the Girl*; Councilmember Caldwell, second.

Councilmember Burrage moved to amend Item 5 by removing the words *proclaim 2012 as the year of the girl* and replace them with *and commend the Girl Scouts of Des Moines for their courage, confidence, and character to make Des Moines a better place*; Councilmember Caldwell, second.

The motion failed. Councilmembers Burrage and Caldwell voted yes. Mayor Kaplan, Mayor Pro-Tem Pina, and Councilmembers Musser and Scott voted *no*.

The motion to approve the original main motion passed 5-1. Councilmember Burrage abstained.

PUBLIC HEARING

Draft Ordinance No. 12-002, Park-In-Lieu Fee

Mayor Kaplan opened the public hearing at 8:24 p.m.

Mayor Kaplan asked those wishing to speak please do so at this time. No one signed up to speak.

Mayor Kaplan called three times for anyone else wishing to speak.

Mayor Kaplan called on Senior Planner Jason Sullivan to present information about the City's Park in Lieu fees.

Mayor Kaplan closed the public hearing at 8:35 p.m.

Discussion followed.

ACTION/DIRECTION

Councilmember Musser moved to pass Draft Ordinance 12-002 amending the City park requirements for land divisions established by DMMC 17.36.150 to a second reading on April 12, 2012; Mayor Pro-Tem Pina, second. The motion passed 6-0.

Councilmember Burrage moved to direct staff to research development of private parks, level of service changes, and large yards in lieu of park fees to the work plan for 2013; second by Councilmember Caldwell.

Mayor Kaplan offered a friendly amendment *to include all options including park impact fees*. The friendly amendment was agreeable by both maker and seconder, creating the following motion by Councilmember Burrage: *to direct staff to research all options including development of private parks, level of service changes, large yards and park impact fees instead of park-in-lieu fees to the work plan for 2013*; Mayor Pro-Tem Pina, second. The motion passed 5-1. Councilmember Musser voted *no*.

BREAK

The City Council meeting was recessed at 9:00 p.m. for a 10 minute break. The meeting resumed at 9:10 p.m.

OLD BUSINESS

1. Transportation Gateway Project update, approval of Supplement #6 to Consultant Agreement, and approval of Utility Agreement with PSE

Assistant Director of Transportation Dan Brewer provided a status report on the Transportation Gateway Project.

ACTION/DIRECTION

Mayor Pro-Tem Pina moved to approve Supplemental Agreement #6 with KPG Inc., in the amount of \$49,843.01 bringing the total for the Consultant Agreement on the Transportation Gateway Project of \$2,240,820.94, and authorize the City Manager to sign the Supplement substantially in the form as submitted; Councilmember Musser, second. The motion passed, 6-0.

Mayor Pro-Tem Pina moved to approve the Utility Agreement with Puget Sound Energy for the Transportation Gateway Project to address a utility conflict on 24th Avenue South, and to authorize the City Manager to sign the Agreement substantially in the form as submitted; Councilmember Musser, second. The motion passed 6-0.

NEW BUSINESS

1. Auditorium Roof Contract

Planning Building Public Works Director Grant Fredricks explained Motion 1, the reroof project, and the contract to reroof the Auditorium.

ACTION/DIRECTION

Councilmember Musser moved to approve the list of staff recommended reprioritized 2012 Fund 506 projects in the amounts shown in Attachment 1 and further authorize the City Manager to adjust these priorities or approved amounts within the overall appropriations authority to respond to other critical facilities issues that cannot wait for 2013 budget authority; Councilmember Scott, second. The motion passed, 6-0.

Councilmember Musser moved to approve the Public Works Contract with Stevenson Roofing, Inc., for the reroof of the Beach Park Auditorium in the amount of \$56,545.80, authorize the City Manager to approve a 15% project contingency, authorize the expenditure of \$68,000 for the entire project, and authorize the City Manager to sign said contract substantially in the form as submitted; Councilmember Scott, second. The motion passed, 5-1. Councilmember Caldwell voted *no*.

2. National League of Cities (NLC) Discount Prescription Program

Senior Services Manager Sue Padden introduced the National League of Cities (NLC) Discount Prescription Drug Program and discussed some frequently asked questions. There is no cost to the City of Des Moines.

ACTION/DIRECTION

Mayor Pro-Tem Pina moved to pass Draft Resolution No. 12-020, directing the City Manager to inform National League of Cities (NLC) of its intent to participate in the NLC Prescription Discount Card Program and to work with NLC and CVS Caremark to implement the program to the benefit of the residents of Des Moines; Councilmember Musser, second. The motion passed. Councilmember Burrage voted *no*.

ADJOURNMENT

There being no further business to come before the City Council, Councilmember Burrage moved to adjourn; Councilmember Musser, second; the motion passed 6-0.

NEXT MEETING DATE – March 1, 2012, City Council Study Session

Respectfully submitted,

Sandy Paul CMC
City Clerk

Consent Agenda Item #2

Voucher numbers were not complete and ready to
publish at the time the agenda packet was
produced. Those numbers will be available
the week of March 5, 2012

A G E N D A I T E M

SUBJECT:

Mayoral Appointment to the Human Services Advisory Committee

ATTACHMENTS:

Human Services Advisory Committee Application

FOR AGENDA OF: March 8, 2012

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

DATE SUBMITTED: February 24, 2012

CLEARANCES:

☒ Legal 

☐ Finance _____

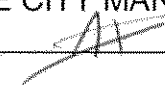
☐ Marina _____

☒ Parks, Recreation & Senior Services 

☐ Planning, Building & Public Works _____

☐ Police _____

☐ Courts _____

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is to recommend City Council confirmation of one Mayoral appointment to the City of Des Moines Human Services Advisory Committee.

Suggested Motion

Motion: "I move to confirm the Mayoral appointment of Nadine Byers to a two year term on the Human Services Advisory Committee, effective immediately and expiring on December 31, 2013.

Background

The City Council adopted Ordinance No. 1047 establishing the Human Services Advisory Committee in February 1993. The ordinance details the powers, duties, membership, and meeting requirements for the Human Services Advisory Committee. The Committee is chartered with evaluating and recommending annual funding for human services agency requests submitted to the City. The Committee consists of seven members. Two of the members of the Committee need not be residents of the City. The Committee terms are for two years and members may be appointed for up to two terms.

Discussion

Nadine Byers is seeking re-appointment on the committee to fill one of two vacancies by members whose terms expired on December 31, 2011. Nadine previously served on the human services advisory committee two full terms from 2006 through 2009.

Alternatives

City Council can choose not to appoint the applicant to the Human Services Advisory Committee.

Financial Impact

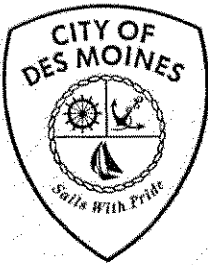
No financial impact.

Recommendation/Conclusion

It is recommended that the City Council confirm the Mayoral appointment of Nadine Byers to a two year term on the Human Services Advisory Committee.

Concurrence

City Administration.



CITY OF DES MOINES
APPLICATION FOR APPOINTIVE OFFICE
21630 11th Avenue South
Des Moines, WA 98198

Recvd. RECEIVED

FEB 23 2012

CITY OF DES MOINES
Please Check

NAME: Nadine Byers
ADDRESS: 26241 -13 Pl South
CITY, ZIP: Des Moines 98198
PHONE: Home 253 839 2332 Work —
LENGTH OF RESIDENCE AT THE ABOVE ADDRESS 44 years
Email address: babyers@comcast.net
REGISTERED VOTER? yes
EMPLOYMENT SUMMARY LAST FIVE YEARS: Retired

- ☐ Civil Service Commission
☐ Planning Agency
☐ Library Board
☒ Human Services
☐ Senior Services

Are you related to anyone presently employed by the City or a member of a City Board? No
If yes, explain: _____

Do you currently have an owning interest in either real property (other than your primary residence or a business) in the Des Moines planning area? No If so, please describe: _____

IN ORDER FOR THE APPOINTING AUTHORITY TO FULLY EVALUATE YOUR QUALIFICATIONS FOR THIS POSITION, PLEASE ANSWER THE FOLLOWING QUESTIONS USING A SEPARATE PAPER IF NECESSARY.

1. Why do you wish to serve in this capacity and what can you contribute?

I am interested in addressing issues of need in the community. I am retired and am available for meetings and visitations to agencies. I worked in the area of health and social services and feel my experience would contribute the decision-making role of the committee.

2. What problems, programs or improvements are you most interest in?

Health and prevention of homeless.

3. Please list any Des Moines elective/appointive offices you have run/applied for previously.

*Human Services Committee from 2006-2009
Des Moines Library Board in the mid 2000's.
City of des Moines Parks Study Committee 2009*

Attachment 1

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Proclamation

ATTACHMENTS: Article by Pacific Middle School Design and Engineering teacher Sandy Gady

FOR AGENDA OF: March 8, 2012

DEPT. OF ORIGIN: Economic Development

DATE SUBMITTED: February 28, 2012

CLEARANCES:

[X] Economic Development *MG*

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *AR*

Purpose and Recommendation

The purpose of this agenda item is request that the City Council recognize the achievements of the Pacific Middle School 'New Earth' team in the Washington State **Future City** Regional Competition.

Suggested Motion

"I move to approve the Proclamation recognizing the achievements of the Pacific Middle School 'New Earth' team in the Washington State **Future City** Regional Competition.

Background and Discussion

Sandy Gady, a Design and Engineering teacher at Pacific Middle School, was the proud coach of fourth place team this year in the Washington State **Future City** Regional Competition. Attached is an article that Sandy wrote regarding the great accomplishments of her students.

Sandy commented, "What is not known by most, is Design and Engineering is in its fourth year here at Pacific. Initially we only had two classes of about 50 students, only three of which were girls. I now teach a full five sections with close to 140 students, with about 20% being girls. 10% of the incoming freshman to Aviation High School this year came from my DE classes.

We are the only public school that competes in the Future City Competition in Washington State. Everyone else is either a private or Montessori School or homeschooled students. Of these, many have 'super teams' where one group plays the game, one group does the research, one group creates the

model and one group presents. These teams also work on their project all year long, while we are limited to early November to December 16th.

Each of our teams of three are required to do all of the project within their group. This year I had 40 teams, with only 6 actually being able to compete at the competition. I am asking all of the competing teams to attend the council meeting night to acknowledge their hard work as well. It's like I told the team that actually made the finals, standing on the stage with them were all of the other students that preceded them and those that were in the audience with them that day.

We are very proud of all of the students in the DE classes, as they all put in a huge amount of work."

Saturday, February 4, 2012, six teams from Pacific Middle School participated in the Washington State Future City Regional Competition. The team of "New Earth", comprised of Nathan Schulz, Charlie Brandt and Kyle Evanger placed 4th in Washington State from nineteen teams. The competition is a national competition which is part of National Engineering Week held in February each year. Winners of the regional competition receive a trip to Washington, DC, where they compete for the national title.

Other teams from Pacific included:

"AstroNexus", with Peyton Gural, Vivian Campbell, Alex Wilhite and Maddie Johnsen.

"Hitachi", with Colin Meyers, Nick Hanley and Kepe Bonner.

"La Rance", with Kasey Baker, Mariah Peterson and Stephen Baklund.

"New Eden", with Tiarnan Marsten, Alex Kanemasu, and Austin McGlothorn.

"Sedaris", with Alec Burke, Jack Hohimer and Sam Johnson.

The Future City Competition is a component of the Design and Engineering class at Pacific. The purpose of the project is to introduce students to Science, Technology, Engineering and Math, STEM concepts as well as the Career and Technical Education aspect of working successfully in groups, time management and communication skills. Within the project, students have an opportunity to do what engineers do, identify problems; brainstorm ideas; design solutions; test, retest and build; and share their results. Throughout the process there are extensive rubrics available online at www.futurecity.org students use to evaluate their work.

This is the fourth year Pacific has competed in the competition, but the first time we have made it to the finals. "We are very proud of Nathan, Charlie and Kyle and their accomplishments. They did an excellent job in their presentation. One of the last things I told them before they presented was they were not alone. Alongside them on the stage were the members of every other team that has ever been here before them as well as their peers sitting in the audience today." A really big thank you also to the parents who were there supporting us throughout the day as well as the project. Models will be on display for all to see on May 17th at the Science Night being hosted by the Science Department.

Future City is a national competition is where teams of middle school students form teams of three to build cities set in the future. The teams are chosen by the students. There are four distinct phases the students go through.

Students begin the competition by using SimCity™4 Deluxe software to create their futuristic city. Within the program, students have to make choices for their virtual city. They identify basic services and features, zoning and city infrastructures and the city location.

Each team member is required to write two written components; one is a 1,000 word research essay on a given topic, the second is to write a narrative essay of 500 words identifying and highlighting the features of their city. The topic for this year was, "Choose one alternative energy source and design a way to generate electric power for your city that does not deplete natural resources and has limited impact on the environment." The teams then take the best components of each individual essay and combine them to create the team essays that are submitted to the competition.

Students then work on their model as teams. These models are constructed at home, using predominantly recycled materials. The physical model should be no larger than 25" x 50" x 20", and must have at least one moving part. The model should be representative of their virtual design they created in SimCity™4. The model is 3-dimensional and should creatively represent their city in a futuristic manner at least 150 years into the future.

The final phase is the actual team presentation. Students create scripts where they incorporate the highlights of their city, its infrastructure, and the alternative energy sources. This is where the research the students did comes into play. Students have 7 minutes to present to a panel of 3 to 5 judges, outlining their city and its energy, transportation and community aspects. Judges then ask students questions for 12 minutes. These questions range from the types of engineering used in the city, to clarifications on how their waste disposal systems work, transportation to and from the city, innovations and futuristic components, to where in the city would you most like to live and why.

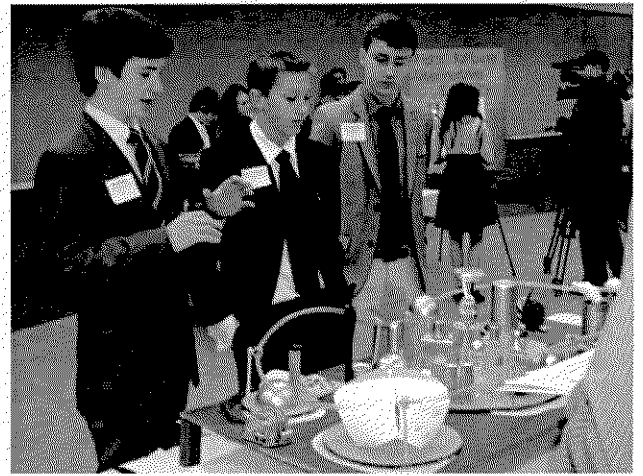
"This competition is a wonderful way for our students to showcase all they are capable of doing. There are so many cross-curricular aspects to the project. Technology for building their cities; city planning and geographical location for Social Studies; budgeting and scale for Math; model building for Technology, Art and Math; research, writing, and presentation for Language Arts; time management, public speaking, and communication for Career and Technical Education. Each year our teams get better and better. For many, this is the first time they have ever had a chance to stand in front of a group with a microphone and present. "



Fourth Place, "New Earth", (l to r) Kyle Evanger, Charlie Brandt, Nathan Schulz



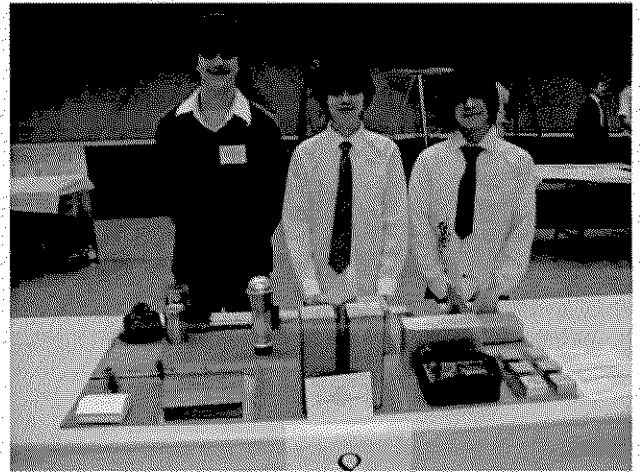
"New Earth", Charlie Brandt, Kyle Evanger, Nathan Schulz



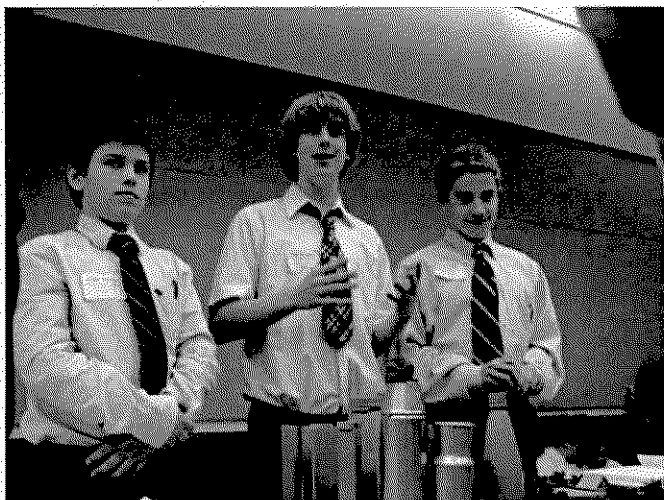
"Sedaris", Alec Burke, Jack Hohimer, Sam Johnson



Peterson "New Eden", Austin McGlothorn, Alex Kanemasu,



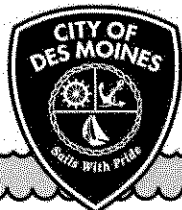
"La Rance", Stephen Baklund, Kasey Baker, Mariah Tiarnan Marsten



"Hitachi", Colin Meyer, Kepe Bonner, Nick Hanley

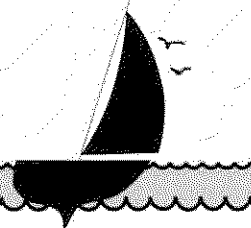


"Astronexus", Maddie Johnsen, Alex Wilhite, Vivan Campbell, Peyton Gural



City of Des Moines

ADMINISTRATION
21630 11TH AVENUE SOUTH, SUITE A
DES MOINES, WASHINGTON 98198-6398
(206) 878-4595 T.D.D.: (206) 824-6024 FAX: (206) 870-6540



Proclamation

WHEREAS, Future City is a national competition, held as a part of National Engineering week in February of each year, in which teams of middle school students design and build models of cities set at least 150 years in the future; and

WHEREAS, the City of Des Moines recognizes that this competition introduces students to Science, Engineering, and Math (STEM) concepts that build essential future job skills for our community and our nation; and

WHEREAS, the City of Des Moines is pleased to observe that the students must plan for and model the basic services and features of a city, such as zoning, infrastructure, and city location, thus preparing them for the duties of future citizenship; and

WHEREAS, the City of Des Moines applauds the "New Earth" team of students from Pacific Middle School for the award of fourth place at the Washington State Future City Regional Competition.

NOW, THEREFORE, the City of Des Moines hereby proclaims:

Charlie Brandt, Student;

Kyle Evanger, Student;

Nathan Schulz, Student; and

Sandy Gady, Teacher

To have demonstrated excellence in the **Washington State Future City Regional Competition**, and invites all citizens to join in congratulating them.

Signed this 8th day of March, 2012

DAVID KAPLAN, MAYOR

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Community Commercial (NC)
Zone Permitted Uses

FOR AGENDA OF: March 8, 2012

DEPT. OF ORIGIN: Planning, Building &
Public Works

ATTACHMENTS:

1. Draft Ordinance No. 12-013
2. Resolution No. 992
3. June 3, 2005 Settlement Agreement and Release
4. Maps showing NC zoned properties
5. Dept. of Commerce 60 day letter

DATE SUBMITTED: February 23, 2012

CLEARANCES:

[X] Planning, Building & Public Works *MS*

[X] Legal *JB*

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL *SA*

PURPOSE AND RECOMMENDATION:

The purpose of this Agenda Item is to provide the City Council with information for a public hearing and to consider 1st reading of Draft Ordinance No. 12-013. Staff recommends that the City Council conduct the public hearing and pass Draft Ordinance No. 12-013 to a second reading on March 29, 2012. Council passage of the following motion would advance Draft Ordinance No. 12-013 to a second reading as recommended.

Suggested Motions:

First Motion: "I move to pass Draft Ordinance No. 12-013 amending Section 18.20.020 DMMC of the NC (Neighborhood Commercial) Zone allowing multiple dwelling units as a permitted use to a second reading on March 29, 2012."

Second Motion: "I move to direct staff to prepare an amendment to the June 3, 2005 Settlement Agreement and Release for Council approval on March 29, 2012."

BACKGROUND

Mr. Alex White attended the January 12, 2012 regular meeting of the Des Moines City Council and provided comments regarding certain zoning restrictions and the impact it was having on his construction project "Zenith Viewpoint." He specifically stated that the residential component of his mixed use development was successful as all four of the residential units have been sold

despite tough market conditions and problems with the economy. On the other hand, there has been no interest in the commercial space within his project. It has been about seven years since Mr. White's project was first approved by the City and staff has received no third party requests for tenant improvements or other permits to use this space for commercial purposes. Consequently, Mr. White asked the Council to amend zoning restrictions so that this existing commercial space can be used for residential purposes instead.

The City Council directed staff to work with Mr. White and determine if it was possible to allow the existing commercial space to be converted for residential purposes. This subject was discussed before the Council Finance and Economic Development Committee on January 31, 2012. Staff had prepared a Draft Ordinance illustrating that the text of the NC Zone could be amended to add multiple dwelling units as a permitted use enabling Mr. White to switch the use of commercial space to residential as requested. After questioning, the Committee determined that this was preferable to rezoning Mr. White's site given the history of the project review and how a rezone might be perceived by the surrounding residents. The Committee directed staff to finalize the Draft Ordinance and bring it to full Council for the required public hearing. The Committee also requested that public notice be expanded to include the neighboring property owners in this instance.

DISCUSSION:

The Zenith Viewpointe development proposal first came before the City Council as a request for approval of an Unclassified Use Permit and a Development Exception (due to previously disturbed steep slopes) to allow a new mixed use development. The hearing process for the original project review was contentious. It was extremely difficult for all parties involved. Over the years, staff has witnessed first-hand how the relationship between the developer, Mr. White, and neighboring property owners has improved. With construction now completed, it appears that previous neighbor concerns about the scale of the project have largely dissipated and people are getting along. Also, the City and Mr. White were able to negotiate their differences and a Settlement Agreement and Release (Attachment 3) was achieved which approved a limited version of the proposed development. This Settlement Agreement and Release will have to be updated since it contractually obligates the City and Mr. White beyond the NC zoning. The revision to the Settlement Agreement should occur before final action is taken on Draft Ordinance No. 12-013 at the March 29, 2012 meeting.

Draft Ordinance No. 12-013 would address Mr. White's concern about not being able to market one of his units for residential purposes. This is achieved by simply adding multiple dwelling units as a permitted use in the NC Zone. The Draft Ordinance also removes mixed uses among the uses that are listed as outright permitted uses. Although the existing code language qualifies that mixed uses are allowed in this section "subject to an unclassified use permit," it is improper code construction and confusing to list an unclassified use within a list of uses that are outright permitted. Additionally, mixed uses are already listed in Chapter 18.32 as "Unclassified Uses" so there is no need for this language.

An amendment such as the one anticipated with Draft Ordinance No. 12-013 affects all properties that are zoned for that purpose. In this case, a change to the NC Zone affects not only Mr. White's property, but also any other properties zoned NC located in the City. Fortunately, there are only three other properties in the City that are zoned NC (Attachment 4). Two of these properties are owned by the City. They are the properties where City Hall and the Police Station are located. The third site is a property located next to Wooten Park and is where the former Cliff's Market used to operate. This site is extremely constrained due to its shape and because wetlands and steep slopes impact the eastern-most portion of the lot. Overall, the additional properties affected by the proposed text amendment do not pose a land use concern for staff as controls by virtue of city ownership and or critical area limitations exist that would preclude significant, if any, unintended consequences from occurring.

ALTERNATIVES:

Council has four primary options:

1. Maintain the permitted uses that currently exist in the NC Zone.
2. Change the permitted uses in the NC Zone as reflected in Draft Ordinance No. 12-013.
3. Change the permitted uses in the NC Zone as reflected in Draft Ordinance No. 12-013, but with additional modifications as Council deems necessary.
4. Do not change the NC Zone text, but instead direct staff to initiate a rezone and any associated comprehensive plan amendment supporting the rezone.

FINANCIAL IMPACT:

There are limited potential financial ramifications associated with this request. Changing the uses that are currently allowed in the NC Zone may result in switching the use of a single 1,500 square foot condominium space assigned for commercial use to residential use. While commercial evaluations generally are assessed at higher rates, it is not so pronounced within a mixed use development, because it is recognized that there are limitations to the commercial application in this context as compared to a stand-alone commercial space.

RECOMMENDATION/CONCLUSION:

Administration recommends that the City Council select Alternative 2 and change the permitted uses in the NC Zone as reflected in Draft Ordinance No. 12-013.

CONCURRENCE:

- Finance and Economic Development Committee
- Planning, Building, and Public Works
- Legal

PLANNING, BUILDING, AND PUBLIC WORK'S SECOND DRAFT 02/27/2012

DRAFT ORDINANCE NO. 12-013

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, relating to the Zoning Code and uses allowed as permitted uses in the Neighborhood Commercial (NC) zone, amending DMMC 18.20.020.

WHEREAS, Mr. Alex White owns property located at 23659 Marine View Drive South (site), and

WHEREAS, on June 14, 2001 Mr. White filed an application with the City of Des Moines requesting approval of an unclassified use permit to allow mixed use on the site, and

WHEREAS, on June 3, 2005 the City Council adopted Resolution No. 932 approving a settlement agreement and the proposed unclassified use permit application, and

WHEREAS, terms of the settlement agreement and approved unclassified use permit limited the mixed use development to 4 residential units and 1 commercial unit, and

WHEREAS, Mr. White has since developed the site and built all buildings on the subject property consistent with terms of the settlement agreement and the approved unclassified use permit, and

WHEREAS, Mr. White made comments to the City Council at its regular meeting on January 12, 2012 that he has been successful in selling all residential units within the development, but has had great difficulty selling the commercial space and requests that the Council consider allowing him to change the use of the already constructed commercial space for use as a residential dwelling unit instead, and

WHEREAS, conversion of Mr. White's commercial space to residential will change the use of the site from mixed use to multiple dwelling use, and

WHEREAS, the site is zoned NC, Neighborhood Commercial, which allows mixed uses with approval of an unclassified use permit, but does not allow use for multiple dwelling units only, and

WHEREAS, allowing Mr. White to convert his existing commercial space to multiple dwelling use will require the City to either change the uses allowed in the code text of the current NC zone to include multiple dwelling use only or to rezone the subject site to a different zone classification which already allows multiple dwellings as a permitted use, and

WHEREAS, the option of changing the zoning text is the preferred process option to fulfill Mr. White's request, because rezoning the subject site is believed to be more complex, time consuming, and potentially objectionable to neighboring single family residential property owners than a code text change to the existing zoning, and

WHEREAS, there are only three properties (the subject site, City Hall, and former lower Redondo Grocery property) that are zoned NC in the City of Des Moines and therefore would be affected by a code text change to allow multiple dwelling units as a permitted use, and

WHEREAS, all three NC zoned properties and their surroundings are situated such that they could accommodate multiple dwelling use if the individual property owner's chose to develop these properties for that purpose, and

WHEREAS, pursuant to DMMC 18.56.080, amendment of the zoning code (Title 18 DMMC) is a legislative (Type VI) land use decision, and

WHEREAS, Type VI legislative decisions require Council action at a public hearing, and

WHEREAS, notice of the public hearing was given to the public in accordance with law and a public hearing was held on March 8, 2012, and all persons wishing to be heard were heard, and

WHEREAS, the textual code amendments proposed by this Ordinance are exempt from the requirements of SEPA pursuant to WAC 197-11-800(19), and

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

WHEREAS, the City Council finds that the amendments contained in this ordinance are appropriate and necessary; now therefore,

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

Sec. 1. DMMC 18.20.020 and section 1 of Ordinance No. 175 as amended by section 3 of Ordinance No. 445 as amended by section 5 of Ordinance No. 617 as amended by section 3 of Ordinance No. 1237 are each amended to read as follows:

18.20.020 Permitted uses.

Any of the following types of uses which can meet the following standards are permitted and allowed by this zone, subject to the limitations set forth in this chapter:

(1) Any on-premises retail enterprise dispensing food or commodities (but not including automobiles, boats, trailers, and heavy-duty equipment) and which may involve only incidental and limited fabrication or assembly of commodities;

(2) Business offices and any type of use rendering professional services or personal services to the individual; provided:

(a) The service does not involve keeping the person receiving the service overnight on the premises;

(b) The service does not include selling alcoholic beverages for on-premises consumption unless accessory to restaurant;

(c) The service does not involve in whole or in part the providing of recreation, recreational

facilities, or entertainment other than moorage for private pleasure craft;

(d) The professional service does not include kennels or small animal hospitals or clinics;

(3) Any public utility installation relating directly to local distribution of services including switching and transmission stations but not including warehouses, service yards, or the like unless otherwise permitted by this title;

(4) Public off-street parking facilities, whether publicly or privately owned and operated; provided, any area so used shall not be used for a vehicle, trailer, or boat sales area or for the accessory storage of such vehicles;

(5) Churches;

(6) Planned unit development as provided in chapter 18.52 DMMC;

(7) Public office buildings, art galleries, museums, libraries, police and fire stations;

(8) One antenna system which exceeds the maximum building height specified for the commercial zone and which:

(a) Does not exceed 15 feet in height above the building height limitation for the applicable zone;

(b) Is set back at least the vertical height of the antenna system measured from the center point of the base of the mast horizontally to the nearest property line;

(c) Has a maximum horizontal cross-sectional area for that part of the mast which is above building height limitation for the zone such

that an imaginary four-inch diameter circle would encompass all points of the horizontal cross-section;

(d) Has a maximum allowable three-dimensional space intrusion of 1,200 cubic feet for single ground plane antennas with a single driven element, and 200 cubic feet for beams, quads, and other multi-element antennas; provided, that these limitations on three-dimensional space intrusion shall not be applicable to single long-wire antennas, single whip antennas, and single coaxial antennas. In this paragraph, "three-dimensional space intrusion" means the space within an imaginary rectangular prism which contains all extremities of an antenna;

(e) Does not encroach into any required setback for the zone; a guy wire and anchor point for an antenna system is prohibited in any required setback or within three feet of the side or rear property lines; provided, if any alley abuts a rear property line, a guy wire and anchor point may extend to the rear property line;

(f) Provided, that a variation from the above limitations not to exceed 10 percent may be granted by city administrative officials; such variation shall be granted when it will not significantly increase the hazard factor, the aesthetic impact, or the economic consequences of such antenna system;

(g) Further provided, that all antenna systems exceeding the above limitations and legally in place on November 5, 1978, the effective date of the ordinance codified in this subsection (8), shall have one year within which to satisfy the requirements for and receive a conditional use permit which authorizes the continued placement of such antenna system;

(h) Further provided, that all antenna systems constructed, enlarged, or moved after November 5, 1978, shall comply with the provisions of chapter 14.06 DMMC on the antenna system review permit process;

(9) ~~Mixed uses, subject to an unclassified use permit~~ Multiple dwelling units.

NEW SECTION. Sec. 2. Severability - Construction.

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

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

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

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2012 and signed in authentication thereof this ____ day of _____, 2012.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

Draft Ordinance No. 12-013
Page 7 of 7

City Clerk

Published: _____

RESOLUTION NO. 992

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON approving a SETTLEMENT AGREEMENT AND RELEASE between the CITY OF DES MOINES and ALEX WHITE & CO, Inc.

WHEREAS, Alex White & Co., Inc., a Washington corporation ("Alex White"), as the owner of real property within the City of Des Moines, applied for an unclassified use permit ("UUP") and an environmental development exception ("Development Exception"; and

WHEREAS, on April 8, 2004, the City Council voted to deny Alex White's UUP and Development Exception as set forth in City of Des Moines Resolution No. 973; and

WHEREAS, Alex White thereafter filed a lawsuit under the Land Use Petition Act ("LUPA"), RCW Chapter 36.70C, against the City and its Councilmembers Thomasson and Benjamin, appealing the decision by the City Council and alleging that it has incurred damages under RCW Chapter 64.40 as a result of that decision; and

WHEREAS, Alex White has also made claims against the City and its Councilmembers Thomasson and Benjamin alleging that it has incurred damages under constitutional and federal law as a result of that decision; and

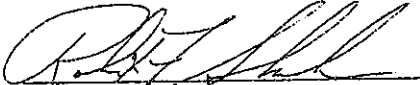
WHEREAS, Alex White and the City both dispute their liability and claimed damages but desire to avoid the expense, time, inconvenience and uncertainty associated with continuation of the litigation, and without admitting responsibility or liability of any kind, wish to amicably resolve their differences; now therefore,

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

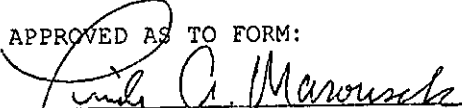
Sec. 1. The City Manager is authorized and directed to enter into and sign, on behalf of the City, the SETTLEMENT AGREEMENT AND RELEASE between Alex White & Co., Inc. and the City of Des Moines, a copy of which is attached hereto and incorporated herein by this reference.

Sec. 2. The City Council approves the UUP and the Development Exception for Alex White as recited in the attached SETTLEMENT AGREEMENT AND RELEASE.

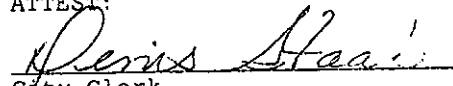
ADOPTED BY the City Council of the City of Des Moines on the 3rd day of June, 2005 and signed in authentication thereof this 3rd day of June, 2005.


MAYOR

APPROVED AS TO FORM:


City Attorney

ATTEST:


City Clerk

SETTLEMENT AGREEMENT AND RELEASE

WHEREAS, Alex White & Co., Inc., a Washington corporation ("Alex White"), is the owner of real property located at 23659 Marine View Drive in the City of Des Moines, King County, Washington (the "Property"); and the City of Des Moines, Washington is a municipal corporation of the State of Washington, and Scott Thomasson and Richard Benjamin are members of the Des Moines City Council and have been sued in their individual capacities as City decision-makers (collectively, the "City"); and

WHEREAS, Alex White, as the owner of real property within the city limits of the City of Des Moines, has filed a lawsuit under the Land Use Petition Act ("LUPA"), RCW Chapter 36.70C, against the City and its Councilmembers Thomasson and Benjamin, in the Superior Court of State of Washington, under King County Superior Court Case No. 04-2-093956-3 KNT appealing a land use decision by the City Council of the City of Des Moines issued on April 8, 2004, and alleging that it has incurred damages under RCW Chapter 64.40 as a result of that land use decision; and

WHEREAS, Alex White, as the owner of real property within the city limits of the City of Des Moines, has also made claims against the City and its Councilmembers Thomasson and Benjamin alleging that it has incurred damages under constitutional and federal law as result of that land use decision, which claims have been removed to the United States District Court for the Western District of Washington at Seattle, under Case No. C04-2506L; and

WHEREAS, Alex White and the City both dispute their liability and the nature and extent of the claimed damages; nevertheless, Alex White and the City have entered into settlement discussions in an attempt to resolve their differences; and

WHEREAS, Alex White and the City desire to avoid the expense, time, inconvenience and uncertainty associated with continuation of the litigation referenced above, and these parties desire to resolve all claims, causes of action and related claims or causes of action which could have been asserted by Alex White arising out of the actions or inactions as set forth in the complaint and claims referenced above; and

WHEREAS, both parties propose to dismiss their remaining claims on terms as set forth in this Agreement, and each party, believing its position to be correct and appropriate, and without admitting responsibility or liability of any kind, wish to enter into this Settlement Agreement and Release in order to amicably resolve their differences in accordance with these terms,

NOW, THEREFORE, Alex White, and the City and its Councilmembers Thomasson and Benjamin including the City's officers, agents, employees, elected officials, and representatives, now enter into this Settlement Agreement and Release under the terms and conditions set forth herein.

WITNESSETH:

Alex White and the City and its Councilmembers Thomasson and Benjamin desire to reach a full and complete final settlement of any and all past and present disputes and differences between them which arise out of and are related to the City Council land decision of the City of Des Moines issued on April 8, 2004 and the claims made under King County Superior Court Case No. 04-2-093956-3 KNT and under United States District Court for the Western District of Washington Case No. C04-2506L.

Accordingly, in consideration of the reciprocal promises contained in this agreement, it is hereby agreed as follows:

1. Alex White shall prepare and file all documents necessary to obtain dismissal with prejudice of all of its claims under King County Superior Court Case No. 04-2-093956-3 KNT and under United States District Court for the Western District of Washington Case No. C04-2506L (collectively, the "Lawsuits") within thirty (30) days after its receipt of this fully executed original Settlement Agreement and Release (the "Agreement"). The City shall promptly execute any documents necessary to effectuate such dismissals. Alex White shall have no obligation to file such dismissal documents if the City decisions set forth in Section 3 below are appealed by a third party within the statutory deadlines set forth by LUPA, in which case, Alex White reserves all rights to pursue its original application that is the subject of the Lawsuits and to prosecute all claims it has asserted in the Lawsuits. Such an appeal shall not diminish or eliminate the City's obligation to expeditiously process the development applications set forth in Section 3 below unless Alex White re-files or otherwise pursues the Lawsuits and/or its claims in the Lawsuits, in which case the City shall have no obligation to continue to process the development applications set forth in Section 3 below.
2. Alex White shall prepare and file all documents necessary to stay the proceedings in King County Superior Court Case No. 04-2-093956-3 KNT within five (5) days after its receipt of this fully executed Agreement. The City shall promptly execute any documents necessary to effectuate such stay. The stay shall be of no less than thirty (30) days.
3. The City through its City Council hereby finds and decides as follows:
 - a. Alex White has filed applications and other related documents with the City requesting approval of an unclassified use permit ("UUP") and an environmental development exception ("Development Exception") for a mixed use residential and commercial development at the Property, which applications have been reviewed by the City Community Development Department (the "Department") and the City Council. Alex White also petitioned the Department to issue a code interpretation of DMMC 18.20.040 to clarify its application to the proposed project. The Department issued such an interpretation on October 29, 2002 (the "Code Interpretation"). The Department recommended approval of both applications. The City Planning Agency also reviewed the UUP application and recommended approval of the UUP to the City Council. The City Council, after a series of public hearings in 2003, voted to deny Alex White's UUP and Development Exception applications. The City Council's decision is set forth in City Resolution No. 973, which was adopted by the City Council on April 8, 2004.
 - b. Alex White has submitted to the City an environmental checklist and other documents relating to perceived environmental impacts of the proposed project, which documents have been reviewed by the Department and the City Council in accordance with the State Environmental Policy Act ("SEPA"), RCW Chapter 43.21C. In the course of its SEPA review, the City identified various potentially adverse environmental impacts of the proposed project. In order to mitigate those anticipated impacts, Alex White and the City entered an Environmental Mitigation Agreement (the "Mitigation Agreement") limiting and restricting future development of the Property. Based on the

terms and conditions of the Mitigation Agreement, the Department issued a Mitigated Determination of Non-Significance under SEPA for the proposed project. The City Council upheld the Department's SEPA determination subject to certain conditions set forth in City Resolution No. 972, which was adopted by the City Council on April 8, 2004 (the "SEPA Decision"). A copy of the SEPA Decision is attached hereto as Exhibit 1 and is hereby incorporated by reference.

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- c. Alex White is willing, under the terms of this Agreement, to reduce the size and scope of the proposed project as described in Section 3(d) below (the "Revised Project"). The City Council finds that the Revised Project satisfies the UUP decision criteria set forth in DMMC 18.32.010 and the Development Exception decision criteria set forth in DMMC 18.86.094(6)(b). Accordingly, the City Council hereby grants Alex White a UUP for the Revised Project and a Development Exception for the Revised Project. The City Council further finds and determines that no further environmental review is necessary under SEPA for the Revised Project and the Revised Project may proceed in compliance with the SEPA Decision. To the extent there is a conflict between this Agreement and the SEPA Decision, this Agreement shall control.
 - d. The Revised Project shall comply with the following terms and conditions:
 - i. The maximum permitted floor area for the new building shall not exceed 9,737 square feet (the square footage of the Property) as prescribed by DMMC 18.20.040.
 - ii. The residential portion of the new building shall not exceed four (4) residential units, with a total square footage not to exceed 7,000 square feet. This maximum square footage shall include only the livable area of each unit, not any decks, pedestrian walkways, elevators, utility rooms, parking stalls, or other such areas within the building.
 - iii. The commercial portion of the new building shall not exceed 1,500 square feet. This maximum square footage shall include only the rentable area of the commercial space, not any elevators, utility rooms, parking stalls, or other such areas within the building.
 - iv. The Revised Project shall comply with all applicable development requirements of the Des Moines Municipal Code, such as those set forth under DMMC Title 18 governing landscaping and parking, and specifically including the requirements of the Neighborhood Commercial Zone under DMMC Chapter 18.20.
 - v. Access to the new building shall be governed by applicable City Street Standards as administratively determined by the City Transportation Engineer.
 - vi. Alex White shall submit applications for all necessary administrative permits related to construction of the Revised Project. The required administrative processes are demolition permit application, grading permit application, building permit application, design review, and civil plan review.
4. The City shall promptly and expeditiously process all applications submitted by Alex White for the Revised Project and shall issue its decisions on each submitted

application within sixty (60) days after the City determines that each application is complete unless the City and Alex White mutually agree to a longer period. The 60-day decision period shall not include any delays caused by failure by Alex White to provide documents or information, or any administrative appeals or third party challenges.

5. The City agrees that any application, permit, development, mitigation, or other fees applicable to the Revised Project shall be assessed in accordance with the fee schedule in effect on October 18, 2001, the date that the City notified Alex White that his original UUP application was complete for vesting purposes. The City further agrees to waive all application and permit fees for the Revised Project in an amount equal to the fees that Alex White has already paid to the City for its originally proposed project. Alex White will be required to pay all fees in excess of this amount, including but not limited to bond requirements, land clearing and grading permit fees, building permit fees, and plan review fees.
6. In consideration of this Agreement, Alex White, for its heirs, administrators, successors, and assigns, does fully, finally and forever release and discharge the City of Des Moines and its Councilmembers Thomasson and Benjamin and their officers, agents, employees, elected officials, representatives, and officials, from all claims, damages, liabilities, and equities, by virtue of any federal or state statute, constitutional provision, local ordinance or common law, and all causes of action of whatever kind or character, both known and unknown, disclosed or undisclosed, suspected or unsuspected, actual and consequential, arising out of or in any way connected with the City Council land decision of the City of Des Moines issued on April 8, 2004, as more fully set forth in Alex White's claims asserted in the Lawsuits. This release specifically includes, but is not limited to, any claim for attorneys' fees, expert, or consulting fees, or any other costs incurred by Alex White in pursuing this matter. This Section shall become effective on the date that Alex White files the dismissal documents with the appropriate courts in accordance with Section 1 above.
7. In consideration of this Agreement, the City and its officers, agents, employees, elected officials, representatives, and officials do fully, finally and forever release and discharge Alex White, its heirs, administrators, successors, and assigns, from all claims, damages, liabilities, and equities, by virtue of any federal or state statute, constitutional provision, local ordinance or common law, and all causes of action of whatever kind or character, both known and unknown, disclosed or undisclosed, suspected or unsuspected, actual and consequential, arising out of or in any way connected with the City Council land decision of the City of Des Moines issued on April 8, 2004, as more fully set forth in Alex White's claims asserted in the Lawsuits. This release specifically includes, but is not limited to, any claim for attorneys' fees, expert, or consulting fees, or any other costs incurred by the City in pursuing this matter. This Section shall become effective on the date that Alex White files the dismissal documents with the appropriate courts in accordance with Section 1 above.
8. It is understood and agreed that this Agreement is a compromise of disputed facts and claims, and that this Agreement by Alex White and the City is not to be construed as an admission of liability on behalf of Alex White or the City. Both

parties contest liability, but intend to resolve this matter through settlement in order to avoid litigation. It is further understood and agreed that the action described in this Agreement is in complete accord and satisfaction of any and all disputed claims, stated or unstated, arising out of the City Council land decision of the City of Des Moines issued on April 8, 2004, as more fully set forth in Alex White's claims asserted in the Lawsuits.

9. The person signing this Agreement on behalf of each party represents, covenants and warrants that such person has full right and authority to enter into this Agreement and to bind the party for whom such person signs this Agreement to the terms and provisions of this Agreement.

10. The parties acknowledge and confirm that the only consideration for the signing of this Agreement is under the terms and conditions stated herein. No other promise or agreement of any kind, except for those expressly set forth in this Agreement have been made to any party by any person to cause them to sign this Agreement and all parties fully understand the meaning and content of this Agreement.
11. The provisions of this Agreement are severable. If a court of competent jurisdiction rules that any provision of this Agreement is invalid or unenforceable, the court ruling shall not affect the validity or enforceability of other provisions of this Agreement.
12. This Agreement shall be governed and construed in accordance with the laws of the State of Washington.
13. This Agreement shall be final and binding upon the parties and their representatives, successors and assigns, and this Agreement has been made and is effective as of the date of the signatures set forth below.
14. This Agreement constitutes the City's approval of the UUP and Development Exception for the Revised Project described herein, and the date of these approvals shall be the date this Agreement is signed by the City Manager at the direction of the Des Moines City Council, as indicated below.

By their signatures below, the parties agree that they have read the foregoing Settlement Agreement and Release and fully understand the same.

IN WITNESS WHEREOF, the parties have signed this Agreement on the 3 day of June 2005.

Signed at the direction
of the Des Moines City Council
in open public meeting on

June 2, 2005.

CITY OF DES MOINES

By: [Signature]
Anthony A. Plasecki
Its City Manager

ALEX WHITE & CO., INC.

[Signature]
Alex White, President

Approved as to form:

Linda A. Marousek
Linda A. Marousek, City Attorney
City of Des Moines

Approved as to form:

Howard F. Jensen
Howard F. Jensen, WSBA No. 25144
Counsel for Alex White & Co., Inc.

WASHINGTON)
COUNTY OF KING)ss

I certify that I know or have satisfactory evidence that ALEX WHITE is the person who appeared before me, and said person acknowledged that he signed the instrument and acknowledged it to be of his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 6-3 - 2005.

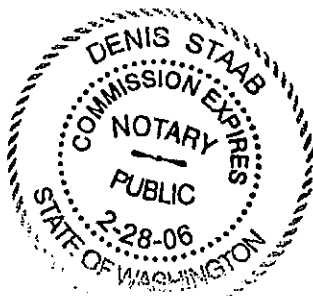
David C. Steen
Printed Name: David C. Steen
Notary Public in and for the State of
Washington, residing at King County
My Appointment expires 4-29-2008

WASHINGTON)
COUNTY OF King)ss

I certify that I know or have satisfactory evidence that ANTHONY A. PIASECKI is the person who appeared before me, and said person acknowledged that he signed the instrument and acknowledged it to be of his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: 6-2, 2005.

Denis Staab
Printed Name: Denis Staab
Notary Public in and for the State of
Washington, residing at King County
My Appointment expires 2-28-06



RESOLUTION NO. 972

A RESOLUTION OF THE CITY OF DES MOINES, WASHINGTON denying an appeal, subject to conditions specified herein, and upholding the City of Des Moines SEPA Official's Mitigated Determination of Nonsignificance for "Zenith Viewpointe."

WHEREAS, Alex White and Company, Inc., an owner of real property located at 23659 Marine View Drive in the City of Des Moines, ~~filed an application requesting approval of an~~ unclassified use permit and an environmental development exception, and

WHEREAS, Alex White and Company, Inc., requested approvals for an unclassified use permit to allow for future development of real property for mixed use and for an environmental development exception to allow future development to alter more than 60% of a previously disturbed steep slope, and

WHEREAS, an environmental checklist for the Zenith Viewpointe project was submitted to the city of Des Moines and was reviewed by the SEPA responsible official of the city of Des Moines, and a Mitigated Determination of Non-Significance was issued under the State Environmental Policy Act, RCW 43.21C, (SEPA), the Administrative Guidelines, and local ordinance adopted to implement SEPA, and

WHEREAS, the city of Des Moines acting as SEPA lead agency identified elements of the Zenith Viewpointe proposal that potentially created significant adverse impacts and prepared a mitigation agreement to reduce, minimize, and eliminate those impacts, and

WHEREAS, Alex White and Company, Inc. agreed to all mitigation terms presented by the City SEPA Official and signed an environmental mitigation agreement limiting and restricting future development of the subject real property, and

WHEREAS, environmental documents were made available for the Zenith Viewpointe proposal during the application review process, and

WHEREAS, a timely appeal was filed with the City of Des Moines on behalf of certain residents of the Zenith neighborhood challenging the City SEPA Official's decision to issue a Mitigated Determination of Nonsignificance, and

WHEREAS, under consolidated hearing process requirements contained in the Des Moines Municipal code, the appeal of the City of Des Moines SEPA Official decision was required to be reviewed at a public hearing by the Des Moines City Council whom also was required to conduct a public hearing on the underlying land use (Unclassified Use Permit) application, and

WHEREAS, the Des Moines City Council, in meetings on August 14, 2003, September 4, 2003, September 11, 2003, October 9, 2003, October 30, 2003, November 20, 2003, and December 4, 2003 considered the appeal of the City SEPA Official's decision, all environmental documents, and recommendations from administration at a public hearing; now therefore,

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

Sec. 1. Findings of fact. The findings of fact set forth in Exhibit 1, attached hereto and incorporated by this reference,

are adopted in full by the City Council in support of its decision to deny the appeal of the City of Des Moines SEPA Official's Mitigated Determination of Nonsignificance decision for the Zenith Viewpointe proposal subject to specific conditions.

~~Sec. 2. Procedure.~~ The procedure used by the City Council in making the decisions reached in this resolution are contained in DMMC 16.04.210, WAC 197-11-680, and RCW 43.21C.075. The City Council finds that the appeal of the City of Des Moines SEPA Official's Mitigated Determination of Nonsignificance for the Zenith Viewpointe proposal is in compliance with these adopted procedures.

Sec 3. Denial of appeal, subject to conditions and modifications. The appeal of the City SEPA Official's decision of Mitigated Determination of Nonsignificance for the Zenith Viewpointe proposal is denied subject to the following conditions and modifications:

(1) The subject property shall be subject to all applicable impact fees at time of building permit submittal.

(2) All street improvements shall be designed to a 40 foot right-of-way cross section as required by City of Des Moines adopted street standards; except the cross section width may be reduced to a 22 foot paved cross section upon approval of the Public Works Director.

(3) The road grade for South 239th Street shall be established by the Public Works Director to minimize impacts to the existing slope.

(4) The Public Works and Parks and Recreation Departments shall review and approve the pedestrian walkway and associated vista overlook prior to the approval by the Community Development Department.

(5) The following mitigation items contained in the June 10, 2002 environmental mitigation agreement are voided by the City Council because they are specific to the Zenith Viewpointe mixed use proposal which the Council has directed staff to prepare a separate resolution and findings for denial:

- (a) Mitigation Item Number 8
- (b) Mitigation Item Number 12
- (c) Mitigation Item Number 13
- (d) Mitigation Item Number 15

(6) The preceding conditions and modifications shall direct any future development by this applicant for this project on this site. Where there is a conflict between these conditions and modifications with the existing SEPA mitigation agreement, these conditions and modifications shall prevail. These conditions and modifications shall not limit the SEPA Official from requiring additional study and more stringent mitigation if necessary.

Sec. 4. Compliance with other law. Nothing in this resolution shall be construed as excusing the applicant or appellant from compliance with all federal, state, or local statutes, ordinances, or regulations applicable to this appeal other than as expressly set forth herein.

Sec. 5. Resolution attached to approval documents. A certified copy of this resolution, along with the herein referenced findings of fact, shall be attached to and become a part of the evidence of the denial of said appeal of the City SEPA Official's decision for Zenith Viewpointe and shall be delivered to the applicant and appellant.

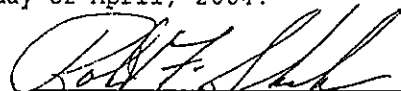
Sec. 6. Distribution of resolution following council action. Certified or conformed copies of this resolution shall be delivered to the following:

- (1) City of Des Moines Community Development and Public Works Departments;
- (2) King County Fire District #26; and
- (3) City Clerk of the City of Des Moines.

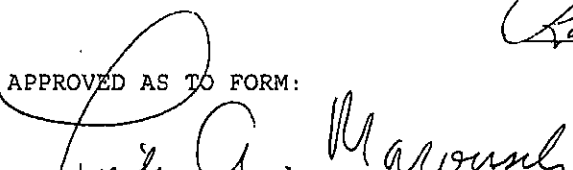
Sec. 7. Distribution of resolution by planning official. Within five days following adoption of this resolution, the planning official shall distribute the resolution to the applicant, appellants, and to each person who submitted timely written or oral testimony to the city council for inclusion in the record.

Sec. 8. Reconsideration. A request to reconsider this decision of the city council may be made by the applicant, appellant, or by any person who submitted timely written or oral testimony to the city council for inclusion in the record. The request for reconsideration, in the form of a letter, shall be delivered to the community development department within 10 days following the date of adoption of this resolution. The request shall contain a clear reference to the appeal to be reconsidered and a statement of the specific factual findings or conclusions of the city council disputed by the person filing the request for reconsideration. The city council shall reconsider a decision if the council finds that an error of fact, law, or procedure that is more likely than not to affect the outcome of the decision has been made; or if the person requesting reconsideration is seeking to enter previously unavailable information that is more likely than not to affect the outcome of the decision. The request for reconsideration shall be processed in conformance with City Council rules of procedure, Chapter 4.12 DMMC.

ADOPTED BY the City Council of the City of Des Moines, Washington this 8th day of April, 2004 and signed in authentication thereof this 8th day of April, 2004.


MAYOR

APPROVED AS TO FORM:


City Attorney

ATTEST:


City Clerk

FINDINGS OF FACT

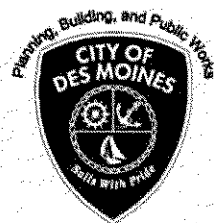
RESOLUTION NO. 972, EXHIBIT 1

APRIL 8, 2004

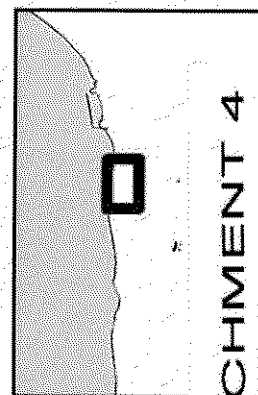
The Des Moines City Council, upon review of an appeal filed by the Zenith Community requesting that the Mitigated Determination of Nonsignificance threshold determination issued by the City SEPA Official for the Zenith Viewpoint proposal be ruled erroneous and require preparation of an environmental impact statement or, alternatively, require adequate mitigation for the proposal, and in consideration of information communicated at the public hearing, hereby finds:

- 1) An unclassified use permit application and plans dated June 6, 2001 for a mixed use development consisting of 5 residences and 4,500 square feet of commercial office space were submitted by Alex White and Company Inc. (the applicant) to the City of Des Moines for a site located at 23659 Marine View Drive.
- 2) The official zoning map for the City of Des Moines shows that the subject site is zoned NC, Neighborhood Commercial. Mixed uses are listed as permitted uses, subject to an unclassified use permit.
- 3) The Land Use Map for the Greater Des Moines Comprehensive Plan shows the subject property as "Commercial".
- 4) Along with the unclassified use permit application and plans, the applicant submitted an environmental checklist to the City of Des Moines Community Development Department on June 14, 2001.
- 5) During its review of the submitted plans and application materials, City staff informed the applicant that office use was a permitted for the site, but it had concerns about the amount of commercial office space contained within the mixed use, as proposed, and the potential for traffic impacts to single family residential areas associated with that amount of commercial space.
- 6) On January 29, 2002 the applicant submitted a revised plan to the City of Des Moines that showed an increase in residential units to 9 units and a decrease in commercial space to 1,800 square feet.
- 7) The City of Des Moines Community Development Department reviewed the newly submitted plans and noted plan changes in the environmental checklist on February 13, 2002. The full and revised application was deemed complete on February 27, 2002.
- 8) The City of Des Moines Community Development Department encouraged the applicant to solicit input from residents of the Zenith Community living nearby to determine their environmental and design issues and concerns.
- 9) The applicant hosted a neighborhood meeting at the Des Moines Fire Station on March 13, 2002. Notices of the meeting were posted at the site and mailed to property owners within 300 feet of the site.
- 10) Twenty-four residents attended the neighborhood meeting. Some of these residents provided verbal comments; fifteen residents offered written comment letters to the applicant.
- 11) The City of Des Moines Community Development Department reviewed notes from the neighborhood meeting, submitted comment letters, plans dated January 29, 2002, and environmental documents submitted by the applicant and required the applicant to submit a traffic study for review.

- 28) In general, community standards for minimum light and air space and any associated views are reflected in the adopted zoning for a given property as well as the standards for the zoning of properties in the immediate area. The proposal was ~~evaluated against city standards. The level of protection afforded under existing~~ zoning for surrounding properties for light and air space was determined to not be adequate by city staff. City staff imposed additional open space and building bulk related mitigation requirements to provide additional protections. Some views of Puget Sound could be altered by the proposed mixed use project, but the degree of light and air space between properties has been ameliorated. Some blocking of natural light by the proposed mixed use was expected, but city staff believed that imposed project mitigation along with the fact that there was only a 5 foot difference in maximum building height between residential and commercial structures prevents this from being deemed significant.
- 29) The site fronts on Marine View Drive which is classified by the City of Des Moines as a collector arterial.
- 30) Pedestrian traffic would increase in the surrounding area as a result of the proposed mixed use, but not significantly. It is not probable that pedestrians associated with the construction of 8 new residences would overwhelm the immediate Zenith neighborhood area. Additionally, the orientation of all proposed commercial office space and 4 of the residential units is more closely associated with Marine View Drive and its pedestrian and street system which should have negligible impact on the Zenith neighborhood area.
- 31) The applicant's plan reflects on site parking meeting minimum city requirements.
- 32) The applicant is required to construct half street frontage improvements adjacent to the site.
- 33) Full and detailed engineering of certain project elements such as road, storm, utilities and grading typically do not occur until use entitlements are in place or sanctioned by the city. Surveys, topography, existing utility sizing and availability, soil information, a general understanding of the downstream drainage system, and similar information are typically required and reviewed prior to detailed design and civil engineering review of a land use proposal.
- 34) The City of Des Moines can require more detailed review of certain project elements when in it's review of preliminary studies and data there is evidence that significant problems or issues exist or are not reasonably understood.
- 35) City staff believed that it had sufficient information to understand the Zenith Viewpointe proposal and its potential impacts; there was no evidence that unusual or significant problems existed to warrant additional study or analysis for the purpose of assessing probable significant adverse environmental impacts.
- 36) The City Council recognizes that some of the existing environmental documents for this proposal can be adopted for future proposals on the subject property should the SEPA appeal be denied and the proposed underlying unclassified use permit application not be approved. In this event, certain items of the environmental mitigation agreement, which are specific to this development request, may give false direction to those future proposals.
- 37) Eliminating and modifying certain terms of the environmental mitigation agreement is necessary to prevent confusion and misdirecting future proposals for this site.



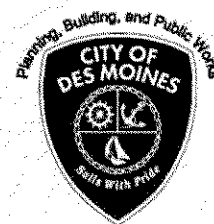
**Neighborhood
Commercial
Zoned
Properties**



ATTACHMENT 4

21630 11th Ave.
Des Moines, IA 50319
PHONE: (515) 281-4595 | FAX: (515) 281-4596
WEB: <http://www.desmoines.gov>

Map Generated by
Product of City of Des Moines Development

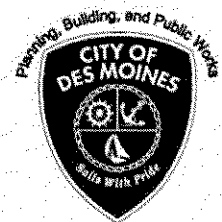


Neighborhood Commercial Zoned Properties

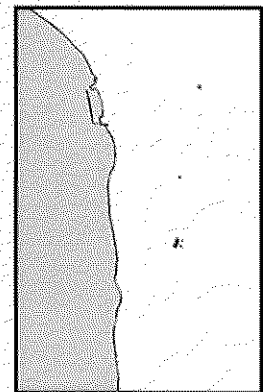


21630 11th Ave S
Des Moines, WA 98198-6398
PHONE: (206) 878-4595 | FAX: (206) 870-7626
WEB: <http://www.desmoineswa.gov>

Map Generated January 31, 2012
Product of City of Des Moines Development Services



**Neighborhood
Commercial
Zoned
Properties**





STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

January 30, 2012

Robert Ruth
Development Services Manager
City of Des Moines
21650 - 11th Avenue South Suite D
Des Moines, Washington 98198

Dear Mr. Ruth:

Thank you for sending the Washington State Department of Commerce (Commerce) the following materials as required under RCW 36.70A.106. Please keep this letter as documentation that you have met this procedural requirement.

City of Des Moines - Proposed ordinance (No. 12-013) which amends the NC zone permitted uses section of our city's code to include multi-family dwellings. These materials were received on January 24, 2012 and processed with the Material ID # 17763.

We have forwarded a copy of this notice to other state agencies.

If this submitted material is an adopted amendment, then please keep this letter as documentation that you have met the procedural requirement under RCW 36.70A.106.

If you have submitted this material as a draft amendment, then final adoption may occur no earlier than sixty days following the date of receipt by Commerce. Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Dave Andersen (509) 434-4491 or Paul Johnson (360) 725-3048.

Sincerely,

Review Team
Growth Management Services

ATTACHMENT 5

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Huntington Park Request for Surface
Water Management Services

ATTACHMENTS:

1. 2/4/12 Letter from Huntington Park
2. Huntington Park drainage map

FOR AGENDA OF: March 8, 2012

DEPT. OF ORIGIN: Planning, Building & Public
Works

DATE SUBMITTED: February 29, 2012

CLEARANCES:

- [X] Legal PS
[X] Finance ph
[] Marina N/A
[] Parks, Recreation & Senior Services N/A
[X] Planning, Building & Public Works MS
[] Police N/A
[] Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: MS

Purpose and Recommendation

The purpose of this agenda is to decide whether or not the City should provide Surface Water Management (SWM) street sweeping and catch basin clean out services to Huntington Park as requested by the Huntington Park Home Owners Association (HOA) (See Attachment 1). The HOA is requesting the City Council reconsider this issue that Council reviewed initially on October 7, 2010 and subsequently denied. The requested services have an annual cost of \$5,400. If extended Citywide, the cost to serve all private streets, commercial properties and multi-family developments would be \$20,000.

Staff again recommends that services be denied because all of the streets within Huntington Park are private and the City does not perform the requested services for any private streets, multi-family developments, commercial properties or other private streets in the City. The City also discounts its fees by 70% to account for the maintenance services currently rendered by the Huntington Park HOA for its streets.

Suggested Motions

Motion 1. "I move to restore street sweeping and catch basin cleaning to all private streets in the City and to adjust Citywide or private property SWM rates accordingly."

Motion 2: "I move to restore street sweeping and catch basin cleaning of storm drains as requested by the Huntington Park Home Owners Association and direct staff to prepare a service agreement with the Association for Council approval."

Background

The City's Surface Water Management (SWM) utility is designed to prevent storm water flooding and to minimize the impacts of storm water to creeks, streams and ultimately Puget Sound. Storm water flows onto and out of private property throughout the City. Ultimately it is collected by the City's SWM system and carried to Puget Sound or its tributaries where it is discharged. The City's SWM system includes 63 storm water detention and treatment facilities. SWM fees cover the City's costs to collect, retain, store, treat, test and ultimately convey storm water from all public and private property in the City.

When the SWM utility was first developed in 1990, SWM services were provided to Huntington Park per a service agreement similar to nearly 70 other service agreements that were made between the City and private property owners all over the City. These service agreements primarily provided for maintenance of storm water facilities for multi-family developments and commercial businesses, but in some cases also included private streets.

In 2000, notices were sent to all properties under these agreements at the direction of the City Council that the City could no longer provide these services and the agreements were terminated due to budget cuts caused by the passage of Initiative 695. For 2000, a SWM maintenance crewmember was laid off resulting in a 20% reduction of maintenance staff.

While the maintenance worker was restored in 2006, following a utility rate adjustment, the evaluation for making the rate adjustment did not consider the re-introduction of the private system facility maintenance program. The added worker was needed to provide the minimum level of service to only public-owned streets and facilities.

In 2009, the Huntington Park HOA submitted a letter to the City requesting that the services that were terminated in 2000 be restored. The letter stated that the 340 residences within Huntington Park pay approximately \$50,000 annually in SWM fees to the City but receive very little benefit for these charges. Staff met with members of the HOA and it was explained that the fees that are collected provide maintenance to all of the public streets City-wide which are also used by Huntington Park residents. It was also explained that providing services to Huntington Park would be an exception and not fair to all of the other property owners that are required to maintain their private streets and facilities.

On October 7, 2010, the issue was brought to Council to consider and no motion was made to restore SWM services to Huntington Park. Staff then informed the HOA that its request was not supported by the Council.

A second letter, dated February 4, 2012, from the HOA was received again requesting SWM services be restored in Huntington Park (Attachment 1).

Discussion

The recent letter from the HOA erroneously states that the residents are paying the same fees as residents living in areas with public systems. In fact, per DMMC 11.12.060, service charges for private streets are charged at 30% of the normal rate following the state highway right-of-way model under RCW 90.03.525 where the Legislature found that 30% rate "presumptively fair and equitable" because of WSDOT's expenditures for construction, operation, and maintenance of storm water control facilities on its system. The 70% discount recognizes the maintenance services and any improvements or repairs that the HOA is providing on these private streets with the remaining 30% of charges being used to address offsite/downstream collection, retention, storage, treatment, testing and ultimately conveyance of storm water runoff from Huntington Park. To restore the SWM services, the City would need to (1) absorb the additional costs, (2) be compensated by charging the properties within Huntington Park a higher rate for the private streets or (3) pass these costs on to City ratepayers through higher fees. For 2012, residents in Huntington Park are paying \$4,089 annually in SWM fees for the private streets. This is a difference of \$9,541 from the \$13,630 normal rate that would be charged if the private streets were charged as commercial property. If SWM services were restored to Huntington Park, the service charge to compensate for the estimated \$5,400 cost of services would need to be adjusted to 70% per equivalent billing unit rather than 30% to avoid higher rates Citywide. Such services would not include any repairs or improvements and would only include catch basin cleaning (vactoring) and street sweeping.

Alternative

An alternative would be to restore City street sweeping and catch basin cleanout services to all private streets at an estimated additional cost of \$20,000 to \$25,000. The City Council may also want to eliminate the service charge to all City-wide private streets. Doing so would mean the loss of approximately \$20,000 in revenue to the SWM utility to cover expenses related to offsite/downstream water quantity and quality impacts from the runoff from all private streets. To compensate for the loss of revenues and/or additional cost, the utility would need to adjust the monthly utility rate from the current \$12.56 by \$0.11 to \$12.67 per month. This alternative is not recommended as the result is the general rate payers subsidizing for the impacts caused by the owners of these private streets.

Financial Impact

For Motion 1, the financial impact would be an additional \$20,000 to \$25,000 to provide the additional services plus an annual loss of \$20,000 if all fees were waived until the utility rate is adjusted to compensate for this loss and extra costs. For Motion 2, the cost to provide these services is \$5,400.

Recommendation or Conclusion

Staff recommends that Huntington Parks request be denied for the same reasons as were determined previously. The SWM fees for private streets are set at 30% of the base rate to account for the maintenance services, repairs and improvements made by the owners of the private streets. Any fees collected from the City from private streets are used to address issues/impacts caused by the runoff of private streets. If Council decides to restore SWM services to Huntington Park, a maintenance agreement will need to be prepared stating the services that would be provided and what type of adjustment if any that would be made to the utility fees within Huntington Park.

February 4, 2012

Mr. Mayor, Council Members, Mr. Piasecki, and Staff,

I live in Huntington Park. Currently I am serving as chairman of the Finance and Insurance Committee for Huntington Park West Homes Association, Inc.

As you may know, H.P. is an age restricted community for folks 55 and over. As such, most of our residents are retired, living on fixed incomes. Our residents not only appreciate lower costs they have the right to expect the board to drive a hard bargain no matter the product or service or who the provider is.

I am asking for your support to resolve a long standing issue regarding Surface Water Management fees (SWM) and private storm drain systems. Residents of communities owning private systems pay fees and taxes at the same rate as residents living in areas with public systems. However, the benefits are far from equal. The City of Des Moines expends no money to maintain private systems. This cost is picked up by the residents in addition to the SWM fees. This also true of our private streets, sidewalks, curbs, streetlights, and signage.

Because H.P. is a private community we also own and maintain our streets, sidewalks, streetlights, signage, and curbs. We do not get a

break on our property taxes to offset this expense. Is this fair? That is the question I am asking you address.

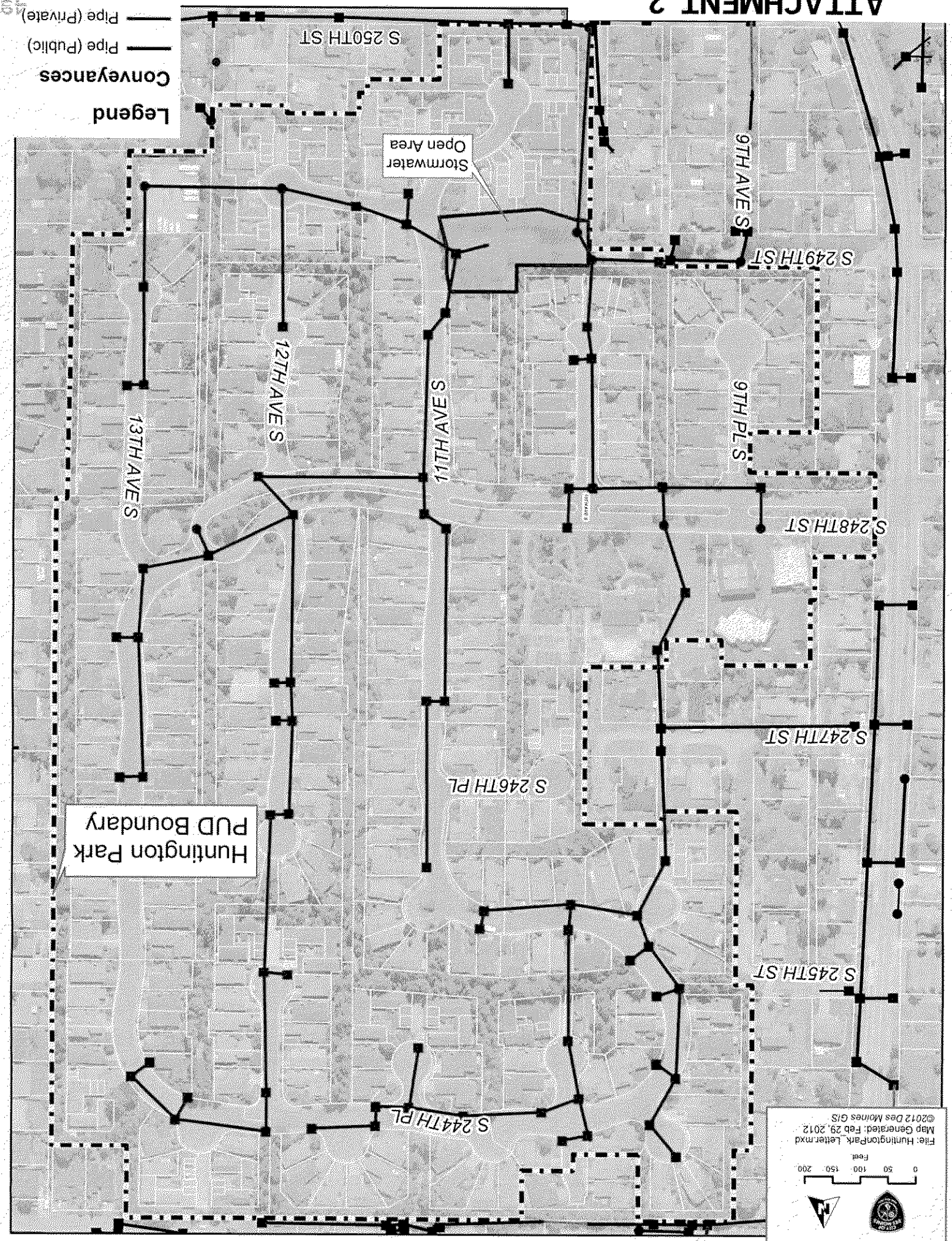
I last attempted to get this issue before the Council with a letter to then Mayor Sheckler date October 19, 2011. To date I have heard nothing. This is an issue that does not set well with the residents of Huntington Park and I doubt it will go away anytime soon. This can be resolved very easily. Restore the street sweeping and catch basin clean out services the City provided to us for many years.

I am requesting your prompt attention to this matter. I can be contacted at 206-592-1724 if you have any questions or need more information.

Best regards,

Ben Gill, Chairman, Finance and Insurance Committee

ATTACHMENT 2



Legend
Pipe (Public)
Pipe (Private)

Stormwater
Open Area

Huntington Park
PUD Boundary

File: HuntingtonPark_Letter.mxd
Map Generated: Feb 29, 2012
©2012 Des Moines GIS

0 50 100 150 200
Feet





DATE _____

[illegible]