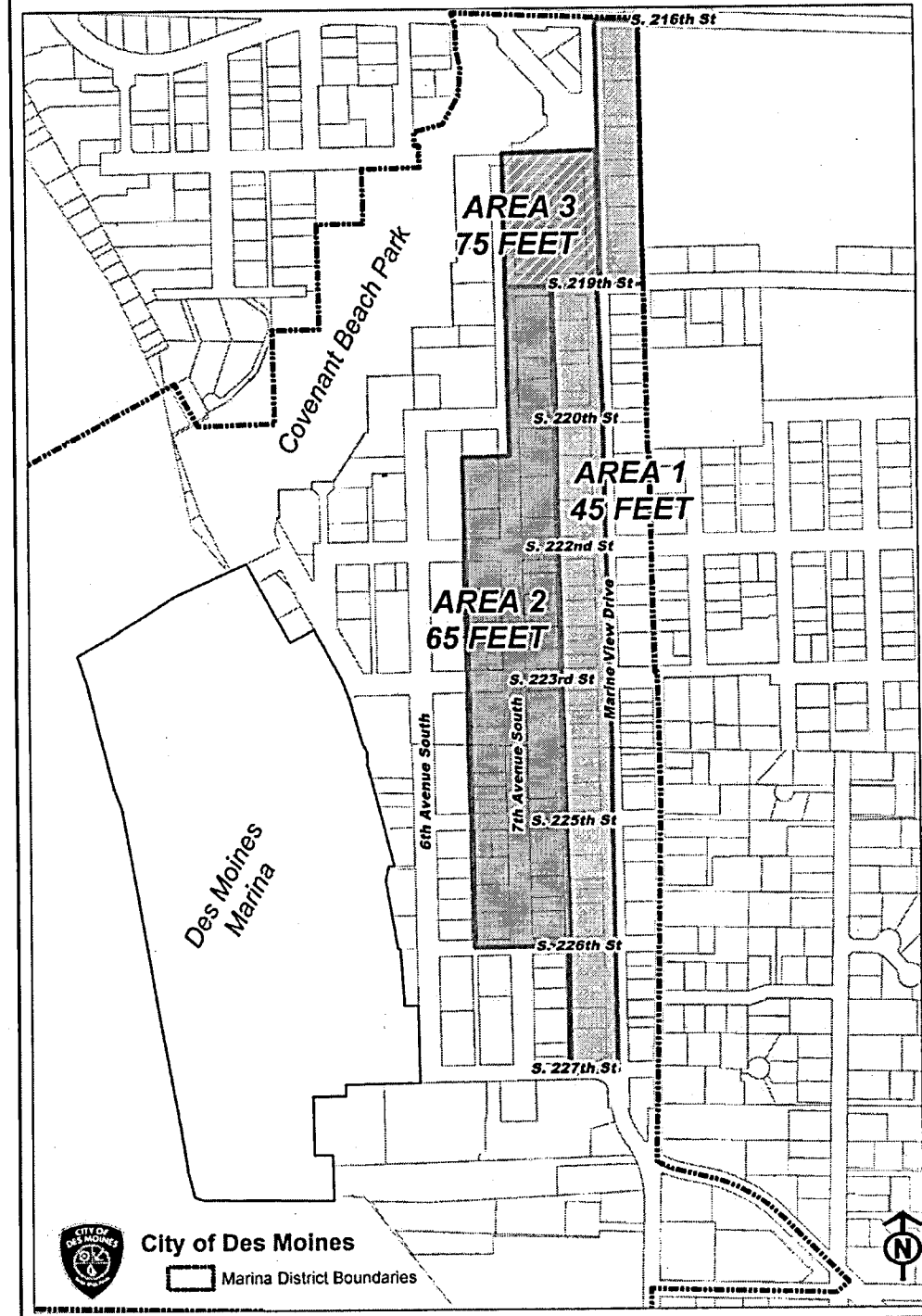


AGENDA

**Finance and Economic Development Committee Meeting
Tuesday, February 22, 2011
5:00 p.m. – 6:30 p.m.
City Hall South Conference Room**

- 1. Call to Order**
- 2. Approval of minutes of the February 8, 2011 meeting**
- 3. Review Draft Ordinance No. 11-011 relating to modifications of zoning requirements in the Marina District**
- 4. Committee member comments.**
- 5. Future meetings.**

FIGURE 2
DOWNTOWN COMMERCIAL HEIGHT BONUS AREAS



Finance and Economic Development Committee

Marina District Discussion Topics

I. Modifications to Permit Use (Multifamily) – 5 Minutes

Please see Item 17 Section 2 of the Ordinance

II. Recreational Requirements – 5 Minutes

Please see Item 10 Section 3 of the Ordinance

III. Building Setbacks – 10 Minutes

a) Corner Setbacks: Please see Item 3c Section 4 of the Ordinance

b) Front Yard Setbacks: Please see Item 3b Section 4 of the Ordinance

IV. Parking – 10 Minutes

a) Parking in Front on Buildings: Please see Item 3b Section 4 of the Ordinance

b) Angled Parking in Right-of-way: Please see Item 3b Section 5 of the Ordinance

V. Building Heights – 40 Minutes

a) Building Height Measurement: Please see Item 1 Section 4 of the Ordinance

b) Base Height Requirements: Please see Item 1 Section 4 of the Ordinance

c) Bonus Height Requirements: Please see Item 2 Section 4 of the Ordinance

VI. Public Benefit Table – 5 Minutes

Please see Item 4 Section 6 of the Ordinance

THE CONSTITUTION OF THE UNITED STATES

- I. Preamble
- II. Article I
- III. Article II
- IV. Article III
- V. Article IV
- VI. Article V
- VII. Article VI
- VIII. Article VII

Planning, Building and Public Works Third Draft
February 17, 2011 9:45 AM
DRAFT ORDINANCE NO. 11-011

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, relating to modifications of the zoning requirements regulating permitted uses, building heights, setbacks, parking, and establishing floor area ratios within Downtown Commercial Zone of the Marina District in the Des Moines Comprehensive Plan.

WHEREAS, approximately 53 acres of land area exists in the City's Marina District adjacent to Marine View Drive, 7th Avenue South, and along portions of 6th Avenue South and within the City's Marina that are zoned DC, Downtown Commercial, and

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

WHEREAS, the Council Finance and Economic Development Committee has determined that land in the Marina District is highly underutilized and that growth and vitality in the neighborhood is linked to providing for, accommodating, and encouraging property owners to develop to the highest and best use, and

WHEREAS, personal service oriented commercial use and high residential density within mixed use development are both considered highest and best uses that are desired by the City, and

WHEREAS, notice of the public hearing was given to the public in accordance with law and a public hearing was held on the _____ 2011, and all persons wishing to be heard were heard, 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, the textual code amendments proposed by this ordinance have been processed in accordance with the requirements of SEPA, a determination of nonsignificance (DNS) was issued on _____ by the responsible official, and the applicable SEPA comment period has concluded, and

1. The first part of the report deals with the general situation of the country and the position of the various groups and classes in society.

2. The second part of the report deals with the economic situation of the country and the position of the various groups and classes in society.

3. The third part of the report deals with the political situation of the country and the position of the various groups and classes in society.

4. The fourth part of the report deals with the social situation of the country and the position of the various groups and classes in society.

5. The fifth part of the report deals with the cultural situation of the country and the position of the various groups and classes in society.

6. The sixth part of the report deals with the international situation of the country and the position of the various groups and classes in society.

7. The seventh part of the report deals with the future of the country and the position of the various groups and classes in society.

8. The eighth part of the report deals with the conclusion of the report and the position of the various groups and classes in society.

9. The ninth part of the report deals with the appendix and the position of the various groups and classes in society.

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 18.27.010 and section 1 of Ordinance No. 1104 as amended by section 3 of Ordinance No. 1237 are each amended to read as follows:

Purpose of zone.

(1) The primary purpose and objective of the Ddowntown Ceommercial (D-C) zone is to enhance, promote, and maintain the business areas of the downtown neighborhoodencourage development within the Marina District.

(2) It is the further purpose of this zone to: (a) ensure land use compatibility among businesses and residences in terms of permitted uses, building height, bulk, scale; (b) provide a downtown that reflects its waterfront location; and (c) ensure that development occurs consistent with the goals, policies, and implementation strategies of the City of Des Moines Comprehensive Plan.

~~(3) It is the further purpose of this zone to ensure consistent administration of the provisions of this chapter and to recognize the hearing examiner as the appropriate party for appeal of administrative decisions.~~¹

¹ This information was placed into the Chapter prior to the development of the Local Project Review Act (Chapter 36.70B RCW). These provisions are now provided in Chapter 18.56 DMMC, which contains all of the City's Land Use Review Procedures.

Sec. 2. DMMC 18.27.020 and section 2 of Ordinance No. 1104 as amended by section 3 of Ordinance No. 1237 as amended by section 1 of Ordinance 1493 are each amended to read as follows:

Permitted uses. Only those uses listed below, and uses similar in nature as determined by the ~~planning, building, public works director~~ City Manager or designee, may be permitted in the D-C zone. Each use is more fully described in the "Standard Industrial Classification Manual." Listed uses may be otherwise conditioned in this code. The numbers in parentheses following each of the following listed uses refer to the Standard Industrial Classification (SIC) code numbers:

(1) Horticultural specialties limited to community gardens and pea patches by membership (018);

(2) Veterinary services for animal specialties (0742) and dog grooming (0752);

(3) Landscape and horticultural services (078);

(4) Fish hatcheries and preserves (092), limited to those properties that abut or are within the intertidal area of Puget Sound;

(5) Art glassware made in glassmaking plants (3229);

(6) Photocopying and Duplicating Services (7334);

(7) Art and ornamental ware, pottery (3269);

(8) United States Postal Service facilities (4311);

(9) Marinas (4493);

(10) Arrangement of passenger transportation (472);

(11) Retail trade, with ancillary wholesale trade, limited to the following:

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

(b) General merchandise stores (53);

(c) Food stores (54);

(d) Gasoline service stations, and other alternative motor vehicle fuels (55);

(e) Apparel and accessory stores (56);

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

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

(h) Miscellaneous retail (59),
except fuel dealers (598);

(12) Finance, insurance, and real estate institutions and services (60-67);

(13) Services, limited to the following:

(a) Hotels and motels (701);

(b) Personal and business services, with ancillary wholesale trade (72-73), except the following:

(i) Industrial launderers (7218);

(ii) Billboard advertising
(7312);

(iii) Heavy construction
equipment rental and leasing (7353);

(iv) Industrial truck rental
and leasing (7359); and

(v) Oil extraction equipment
rental and leasing (7359);

(c) Automobile parking (7521)
limited to properties that are municipally owned
or operated or controlled by a City-sanctioned
business neighborhood association and provided
that facilities for parking are constructed and
maintained to meet minimum required parking
improvements specified in chapter 18.44 DMMC
within three (3) years of the commencement of such
use;

(d) General automotive repair shops
(7538);

(e) Car washes (7542);

(f) Miscellaneous repair services
(76), except the following:

(i) Tank and boiler cleaning
service (7699); and

(ii) Tank truck cleaning service
(7699);

(g) Motion picture services (78);

(h) Amusement and recreation
services (79), except the following:

(i) Adult entertainment facilities and adult motion picture theaters (No SIC); and

(ii) Racing, including track operation (7948);

(i) Health services (80);

(j) Legal services (81);

(k) Educational services (82);

(l) Social services (83);

(m) Museums, art galleries, and botanical and zoological gardens (84);

(n) Membership organizations (86);

(o) Engineering, accounting, research, management, and related services (87); and

(p) Services, not elsewhere classified (89);

(14) Public administration facilities (91-97), except correctional institutions (9223);

(15) Mixed use (No SIC code); and

(16) Public parks (No SIC code);

(17) Multi-Family Residential Developments
(No SIC code).²

² Staff would not recommend that multi-family only developments be a permitted use in the Downtown Commercial Zone. Approximately half of the area that makes up the Marina District Neighborhood is already zoned multifamily which has created a residential only streetscape in these areas (primarily 6th Avenue). Creating more residential only areas would have a negative impact on the ability of the City to create a dynamic pedestrian environment that is active both at night and during the day. It could also further reduce the limited supply of commercial property in the City and may turn the Downtown Commercial Zone into a residential only neighborhood instead of an active mixed use zone.

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Sec. 3. DMMC 18.27.030 and section 3 of Ordinance No. 1104 as amended by section 3 of Ordinance No. 1237 as amended by Section 2 of Ordinance No. 1493 are each amended to read as follows:

Environmental performance standards, use restrictions, and general limitations.

(1) Every use permitted within the D-C zone pursuant to this chapter shall conform to the following general limitations and standards:

(a) As provided by chapter 9.64 DMMC, no use, activity, or equipment shall be permitted that creates a nuisance or is offensive, objectionable, or hazardous by reason of creation of odors, noise, sound, vibrations, dust, dirt, smoke, or other pollutants, noxious, toxic, or corrosive fumes or gases, radiation, explosion or fire hazard, or by reason of the generation, disposal, or storage of hazardous or dangerous wastes or materials in a manner(s) inconsistent with Title 70 RCW as presently constituted or as may be subsequently amended;

(b) Accessory uses are permitted that are customarily appurtenant or incidental to the principally permitted uses;

~~(c) Landscaping and fencing are required in accordance with chapter 18.41 DMMC;³~~

(dc) All uses shall be primarily contained within an enclosed structure except the following:

³ This requirement is also provided in this Chapter in another location – DMMC 18.27.050 (General Site Design Requirements). This section is included in the Ordinance under Section 5. Requirements related to site design should be Site Design Section instead of the Environmental Performance Section.

dining; (i) Outdoor seating and

(ii) Signs;

(iii) Off-street parking, drive-through facilities, and loading areas;

(iv) Motor vehicle fuel pumps;

(v) Display of merchandise sold on site; and

(vi) Play/recreation areas.

(ed) In reviewing a proposed permitted use, the planning, ~~building, public works director~~ City Manager or designee may waive or include minimal conditions as may be reasonably needed to ensure that the use is consistent with the purpose of the D-C zone, and to minimize the likelihood of adverse impacts.

(2) Home Occupations shall be permitted only as an accessory use, provided that all of the following conditions and limitations are satisfied:

(a) The principally permitted use to which the home occupation is accessory shall be a legally permitted, constructed, and conforming residential component of a mixed use development;

(b) All conditions set forth in DMMC 18.08.020(18) are satisfied.

(3) Boat storage and repair shall be permitted only as an accessory use on property principally permitted for Marina use and shall conform to the following additional limitations and standards:

(a) The size and location of all boat storage facilities shall be consistent with the Council adopted Marina Master Plan;

(b) All out-of-water boat repair shall be within a fully secured and fenced area not accessible by the general public;

(c) All boat repair work shall have containment areas and employ disposal methods for pollutants and toxic substances consistent with Puget Sound Clean Air Agency and NPDES standards;

(d) Only those boats and similar vessels that will be immediately and actively under repair shall be moved to or placed within a designated boat repair facility.

(4) Adult entertainment facilities and adult motion picture theaters are not permitted in the D-C zone.

(5) Nonconforming uses located in the D-C zone shall be allowed to continue to exist, but only to the extent, size, or scale that these uses were legally authorized or licensed to operate by the City. A property containing a single business entity that is a nonconforming use shall not be allowed to add any other use components or otherwise increase the intensity or facet of the use unless all nonconforming use elements of the property are first completely removed from the site. A property containing multiple business entities and that has one or more nonconforming uses upon it shall not be allowed to add any other use components or otherwise increase the intensity or facet of that portion of the property or building containing uses that are nonconforming unless the addition of a new use results in the complete removal of that portion of the property or building containing a nonconforming use.

(6) Automobile repair, carwashes, automobile service stations, uses with drive-through facilities, and similar uses shall conform to the following limitations and standards:

(a) Automobile repair and the installation of automobile parts and accessories shall be wholly performed within an enclosed structure approved by the building official for such occupancy;

(b) Each automotive and service repair facility shall be limited to a maximum of one service bay for each 7,500 square feet of land area per business site;

(c) Service bays shall be fully utilized to store and park vehicles contracted for repair or service;

(d) The number of vehicles stored or parked outside for repair or service shall not be greater than the minimum number of required parking stalls serving the auto repair facility pursuant to chapter 18.44 DMMC;

(e) No outside parking or storage of employee vehicles, customer vehicles, or vehicles contracted for service shall occur in any area that is not designated and approved by the City as an on-site parking stall;

(f) Motor vehicle fuel pump islands shall be set back a minimum of 15 feet from property lines;

(g) A six-foot high, 100 percent sight-obscuring fence shall be provided along property lines that abut residentially zoned properties, unless waived by the residential property owner prior to building permit issuance.

(7) Welding repair (7692) is only permitted in an enclosed structure.

(8) Social service facilities shall conform to the following limitations and standards:

(a) Outdoor play/recreation areas for children shall be set back a minimum of five feet from property lines; and

(b) Unless specifically authorized by the ~~planning, building, public works director~~ City Manager or designee, passenger loading and unloading areas shall be provided on site.

(9) Mixed use development shall conform to the following limitations and standards:

(a) Mixed use structures shall contain area for retail trade or personal and business services, at street level as follows:

(i) Pedestrian access from the public sidewalk to the retail trade or personal and business services shall be provided, and

(ii) A minimum of 60 percent of the street level floor area shall be occupied by retail trade or personal and business services;

(iii) A minimum of 75 percent of the street level building frontage adjacent to public right(s)-of-way shall contain floor area for retail trade or personal and business services uses;

(iv) Building space allocated for retail trade or personal and business service uses at the street level shall have a minimum gross interior depth dimension of 55 feet measured

perpendicular to the property line abutting the public street(s) serving the site.

~~(b) — (v) — The planning, building, and public works director~~ City Manager or designee is authorized to consider and approve up to a 20% reduction of the bulk requirements specified in DMMC 18.27.030 (9)(a)(ii),(iii), and (iv) when a development proposal incorporates on-site parking substantially at street floor level for retail trade or personal and business service uses and the ~~director~~ City Manager or designee determines that the proposed reduction(s) does not compromise, interrupt, or interfere with the desired functionality of the building or the continuity of City pedestrian-oriented design goals in the general area and pedestrian access to the site from the public sidewalk or right-of-way.

~~(b) — On-site multifamily recreation area is provided for developments with four or more dwelling units as provided by chapter 18.45 DMMC, except the minimum area of common recreation space per dwelling unit shall be 25 square feet; and~~

~~(c) — A detached structure that contains residential uses and does not meet the requirements for mixed use structures is prohibited.~~

(10) Multifamily and mixed use developments within the D-C zone are exempt from the requirements of DMMC 18.45.

Sec. 4. DMMC 18.27.040 and section 4 of Ordinance No. 1104 as amended by section 1 of Ordinance No. 1120 are each amended to read as follows:

Dimensional standards.

(1) Maximum Building Height. Maximum building height is 35 feet as measured from mean average sidewalk grade or, if there is no

~~sidewalk, from mean average street frontage grade,
subject to the following exceptions:~~

(a) Area 1 on Figure 1 the maximum
building height is 35 feet as measured from mean
sidewalk grade of the north-south street adjacent
to the front property line.

~~(ab) In that portion of the D-C zone
Area 2 on Figure 1 the maximum building height is
45 as measured from mean sidewalk grade of the
north-south street adjacent to the front property
line. abutting the east margin of Marine View
Drive, maximum building height must conform to
either of the following measurement standards,
whichever is higher:~~

~~(i) Thirty five feet from mean
average sidewalk grade as measured from Marine
View Drive; or~~

~~(ii) Twenty five feet from mean
average street frontage grade of 8th Avenue South
(including the alley extension of 8th Avenue South
north of South 223rd Street).~~

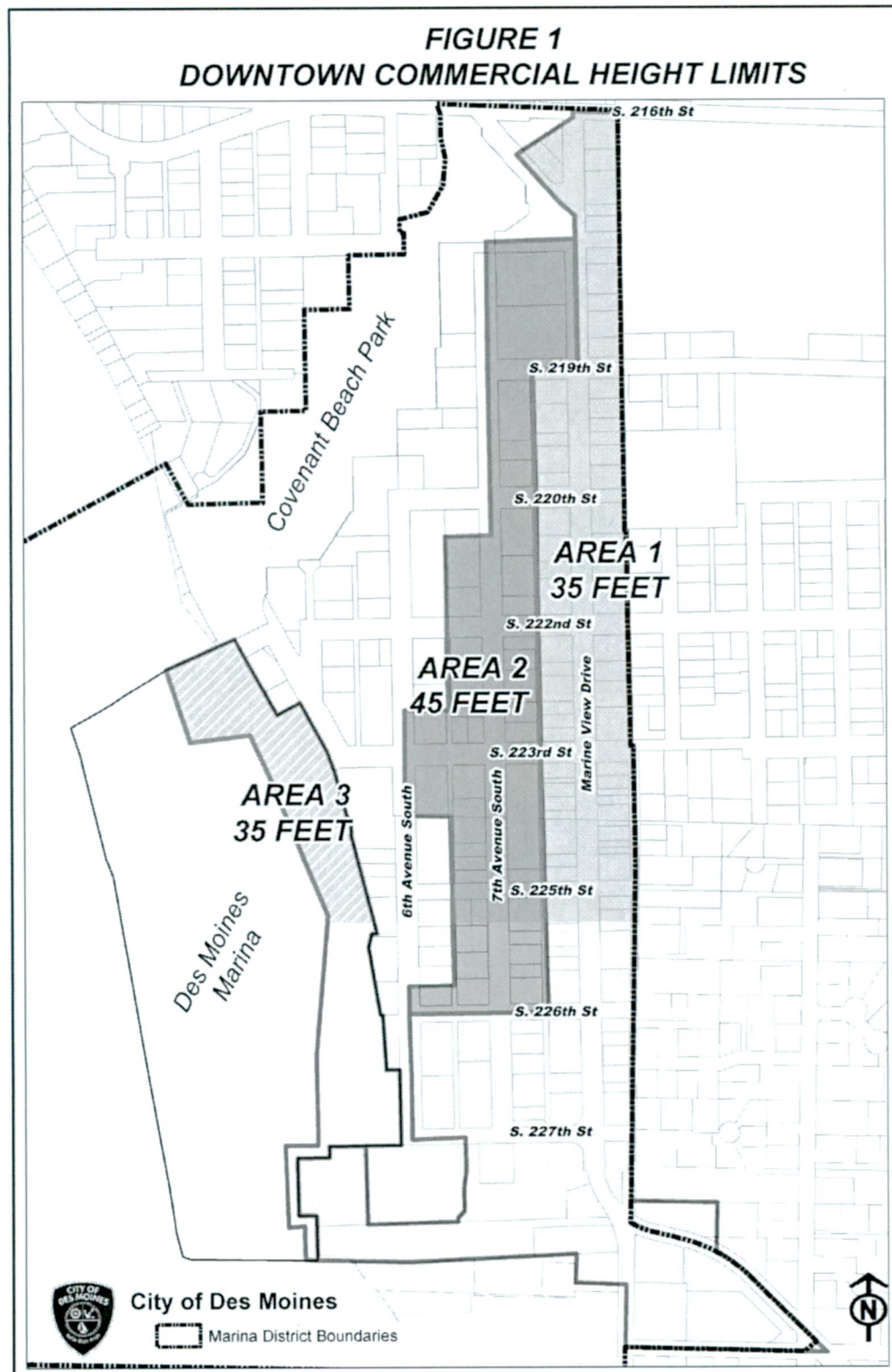
(bc) Area 3 (the Des Moines Marina) on
Figure 1 the maximum building height is 35 feet as
measured from the Marina Floor. Maximum building
height for properties contiguous to the Des Moines
marina is 35 feet as measured from mean average
sidewalk grade or mean average street frontage
grade at the marina floor, that is also know as
vacated Dock Street.

~~(c) Maximum building height for
properties abutting two north/south streets,
except properties regulated by subsection (a) of
this section, is measured from the street frontage
providing primary access to the building as
determined by the director of community
development.~~

Ordinance No.

Page 14 of 29

~~_____ (d) Maximum building height for
properties abutting one north/south street and one
east/west street is measured from the north/south
street frontage.~~



(2) Building Height Bonus. In the D-C zone, the City Manager or designee may authorize additional building heights as provided below:

(a) Area 1 on Figure 2 the maximum building height is 45 feet as measured from the mean sidewalk grade of the north-south street adjacent to the front property line.

(b) Area 2 on Figure 2 the maximum building height is 65 feet as measured from the mean sidewalk grade of the north-south street adjacent to the front property line.

(c) Area 3 on Figure 2 the maximum building height is 75 feet as measured from the sidewalk grade of 7th Avenue South.

(d) The total maximum amount of additional square footage for all buildings within the individual bonus areas that can be authorized by the City Manager or designee under this section is provided below:

(i) Area 1 Figure 2: 60,000 square feet.

(ii) Area 2 Figure 2: 140,000 square feet.

(iii) Area 3 Figure 2: No maximum.

(b) The building is a mixed-use building.

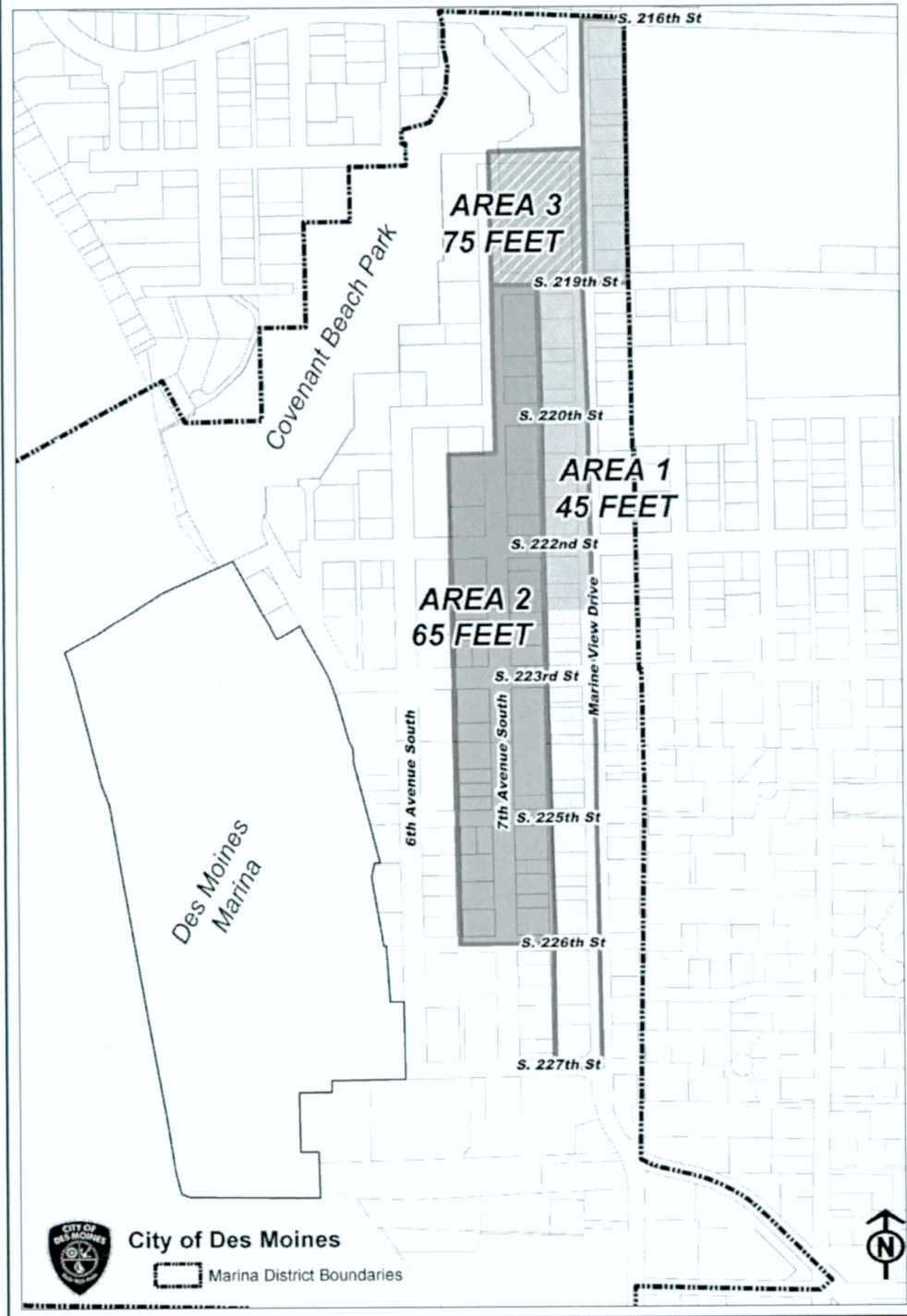
(c) The total floor area of the building does not exceed the total allowable floor area ratio as determined by 18.27.060(3).

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

(e) Useable pedestrian plazas and open space are provided.

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

FIGURE 2
DOWNTOWN COMMERCIAL HEIGHT BONUS AREAS



(23) Setbacks. All structures shall maintain setbacks from property lines as set forth below:

(a) Where any lot line lies adjacent to a public right-of-way or private street and residentially zoned property lies adjacent to such public right-of-way or private street, or when the lot line abuts a residentially zoned property, a minimum building or structure setback of 10 feet shall be maintained; and

(b) A building or structure is not required to abut the adjacent sidewalk; however, the City encourages the placement of the building adjacent to the sidewalk in order to promote adopted land use policies, enhance the pedestrian environment, promote walkability, reduce vehicular and pedestrian conflicts, and to facilitate public benefit features such as plazas.⁴

⁴ Staff recommends that this provision only apply to Marine View Drive and that new buildings along 7th Avenue and 6th Avenue be required to be placed at the front property line adjacent to the sidewalk. One of the primary differences between MVD and 7th Avenue is there is a significantly lower volume of travel, and there is parallel parking on both sides of 7th for the entire length of the roadway. Further 7th Avenue has been designated as a priority pedestrian corridor and bike way in the 2009 Comprehensive Transportation Plan. Designing buildings and related site improvements for pedestrians is fundamental for creating an environment that encourages walking, biking and transit use which is key to establishing a priority pedestrian corridor. The continuous rhythm of detailed building storefronts built to the sidewalk's edge, contributes to an exciting pedestrian environment.

- When new developments put their parking in front the pedestrian environment is significantly diminished. It also makes it less appealing for other, adjacent projects to address the street, creating a vicious cycle away from an active streetscape, while in contrast, new buildings with their parking in the rear start a cycle in the opposite, positive direction.
- When functional requirements are the only objectives considered in parking lot design, the design outcome is generally undesirable, with poor quality landscaping, unattractive streetscapes and a lack of pedestrian safety, comfort and amenity.
- Pedestrians are also given low priority and may be left to navigate between parked cars and across wide driveways, which presents safety concerns

Therefore, staff would recommend allowing the buildings to be set back and allowing parking lots in front of the buildings along MVD and creating a "Main Street" along 7th Avenue similar to that found in Poulsbo, Port Townsend, LaConner, and Leavenworth with buildings adjacent to the sidewalk facilitating a higher quality pedestrian environment in this portion of the Marina District. This approach would also allow for quality pedestrian connections between 7th, the Marina, and Beach Park,

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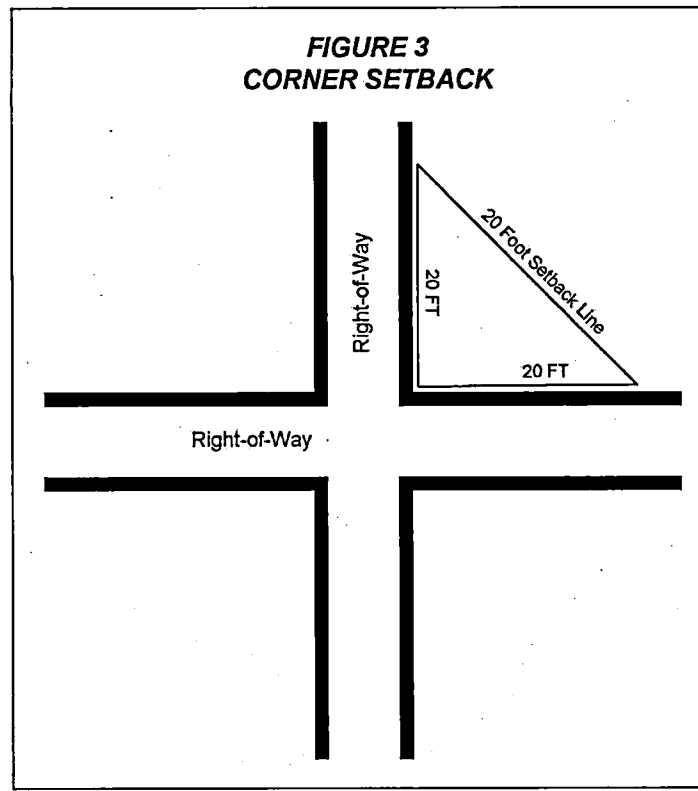
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(c) All buildings located on corner lots shall observe a 20 foot setback from the corner as measured from the corner of the right-of-way as illustrated in Figure 3 below:



(bd) Underground structures are permitted in all required setback areas.

Sec. 5. DMMC 18.27.050 and section 5 of Ordinance No. 1104 as amended by section 3 of Ordinance No. 1297 as amended by section 1 of Ordinance No. 1427 as amended by section 2 of Ordinance No. 1439 are each amended to read as follows:

General site design requirements.

Development within the D-C zone shall conform to the following site design requirements:

- (1) Walkways. Paved pedestrian walkways shall be provided on-site on newly developed

properties or materially remodeled, enlarged, or repaired to the extent of 50 percent of the market value as specified below:

(a) Pedestrian walkways shall be provided at or around building(s) of sufficient extent to provide safe pedestrian passage. A minimum six-foot walkway shall be provided adjacent to the principal building entrance(s);

(b) A minimum six-foot pedestrian walkway shall be provided that connects walkways at the building to the street sidewalks. Where no street sidewalk exists, the connecting walkway shall extend to the public right-of-way;

(c) Walkways and sidewalks shall be differentiated from vehicular circulation or vehicular parking areas as approved by the ~~community development director~~ City Manager or designee;

(d) Walkways shall conform with all applicable provisions of chapter 51-10 WAC - Barrier-free facilities, as presently constituted or as may be subsequently amended; and

(e) Lighting shall be provided where stairs, curbs, ramps, or abrupt changes in walkway direction occur.

(2) Parking and loading areas. All uses shall conform to the off-street parking provisions and loading area provisions set forth by chapter 18.44 DMMC.

(3) Vehicular access and other right-of-way improvements shall conform to the provisions set forth by Title 10 and Title 12 DMMC, and the following provisions:

(a) There shall be no customer/employee vehicular access to 8th Avenue South between South 223rd Street and South 227th Street from commercial properties.

(b) Angled parking shall be allowed along Marine View Drive provided that the following standards are met:⁵

(i) *not less than 6' of the* The sidewalk shall be relocated within dedicated right-of-way so that the curb face of the relocated sidewalk is located 36 feet as measured from the edge of traveled way of the nearest lane of traffic on Marine View Drive.

(ii) The relocated sidewalk shall be entirely in right-of-way or newly dedicated right-of-way.

(iii) The length of relocated sidewalk shall be a minimum of 100 feet, not including any sidewalk transition areas.

(iv) Sidewalk transition lengths and dimensions shall be provided by the City Engineer.

(v) Only head-in angled parking shall be allowed within the right-of-way on Marine View Drive, except that area of existing parallel parking on Marine View Drive shall be allowed to remain in place until the adjoining property redevelops, at which time the property owner may choose to construct angle parking in accordance with the provisions of this section, or the property owner may choose to eliminate the section of parallel parking, or the City's Traffic Engineer determines that a safety concern exists that necessitates removal of such parallel parking.

⁵ *120* The standards established are to replicate the condition that currently exists in front of the Theater Block. Please note that the average lot in the Marina District along MVD is only 100 feet deep, so this approach would require that the property owner dedicate approximately 40% of their property in order to provide the angled parking in a safe manner acceptable under common engineering practices.

16-1870

~~_____ Vehicular access and other right-of-way improvements shall otherwise conform to the provisions of Title 12 DMMC.~~

(4) Uses within the right-of-way. Sidewalk cafes, vendors, and similar temporary commercial uses within the public right-of-way shall conform to the provisions of Title 12 DMMC and the following provisions:

(a) A minimum of six feet of unobstructed sidewalk shall be maintained;

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

(c) The duration of right-of-way use permits for commercial purposes shall be limited to one year; applicants may reapply for right-of-way use permits;

~~(d) Sale or consumption of alcoholic beverages is prohibited;~~

(e) Applications for right-of-way use permits for commercial purposes shall include the following information:

(i) Proposed items to be placed within the right-of-way, such as seating, tables, fencing, vending carts, etc.;

(ii) Proposed activities to occur within the right-of-way, such as dining, amplification of music, preparation and sale of food or beverage items, etc.;

(iii) Proposed periods of operation, including months of the year, days of the week, hours, etc., and

(iv) Proposed source(s) of utilities such as electrical power;

(f) Applicants must immediately clear the public right-of-way when ordered to do so by city authorities for reasons of public health or safety; and

(g) In reviewing a proposed use within the public right-of-way, the ~~community development director~~ City Manager or designee may include conditions as may be reasonably needed to ensure that the use is consistent with the purpose of the D-C zone, and to minimize the likelihood of adverse impacts. The City Manager or designee ~~community development director~~ shall deny the request if it is determined that adverse impacts cannot be mitigated satisfactorily.

(5) Landscaping. All uses shall conform to the landscaping and screening provisions set forth by chapter 18.41 DMMC.

(6) Outdoor uses. Outdoor activities such as sales, display, storage, dining, etc., shall not obstruct vehicular or pedestrian visibility or movement.

Sec. 6. DMMC 18.27.060 and section 6 of Ordinance No. 1104 as amended by section 3 of Ordinance No. 1237 are each amended to read as follows:

General building design requirements. Development within the D-C zone shall conform to the following building design requirements:

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

The first of these is the fact that the Commission has not yet received any information from the Government regarding the results of its investigation into the alleged activities of the Committee. It is therefore unable to make any statement as to the progress of the inquiry or the likelihood of a successful outcome.

The second point is that the Commission has not yet received any information from the Government regarding the results of its investigation into the alleged activities of the Committee. It is therefore unable to make any statement as to the progress of the inquiry or the likelihood of a successful outcome.

The third point is that the Commission has not yet received any information from the Government regarding the results of its investigation into the alleged activities of the Committee. It is therefore unable to make any statement as to the progress of the inquiry or the likelihood of a successful outcome.

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

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

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

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

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

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

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

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

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

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

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

~~(3) The width of all floors above the second level floor shall not exceed 80 percent of the width of the street level floor.~~ Maximum Gross Floor Area:

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

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

(c) Area 3 Figure 1: The maximum gross floor area allowed on a site is determined by multiplying the lot area of the site by 2.8.

(d) Using the Public Benefit Incentive System in 18.24.060(4) below, the maximum gross floor area can be increased as follows

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

(ii) Area 2 Figure 2: The maximum gross floor area allowed on a site is determined by multiplying the lot area of the site by 4.5.

(iii) Area 3 Figure 2: The maximum gross floor area allowed on a site is determined by multiplying the lot area of the site by 5.

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

(4) Public Benefit Incentive System: The City Manager or designee may approve additional building square footage based on the ratios in Table 1 below subject to the following:

(a) The gross floor area and/or building height limits cannot exceed the limits allowed in 18.27.060(b) and 18.27.040(2) above, as provided in Table 1 below and the requirements of this section.

(b) After a project uses the maximum area of public benefit feature eligible for bonus, additional bonus floor area for that public benefit will not be awarded.

(d) The City Manager or designee may approve a public benefit feature not listed in Table 1 below if a public benefit is located within the Marina District, a public benefit will be derived from the proposed feature that is roughly equivalent to the benefit derived from a feature in Table 1.

TABLE 1

1. The first part of the report is a general introduction to the subject of the study. It discusses the importance of the study and the objectives of the research.

2. The second part of the report is a detailed description of the methodology used in the study. It includes information about the sample size, the data collection methods, and the statistical analysis techniques.

3. The third part of the report is a discussion of the results of the study. It presents the findings of the research and compares them with the previous studies in the field.

4. The fourth part of the report is a conclusion and a list of references. The conclusion summarizes the main findings of the study and provides recommendations for future research. The references list the sources of information used in the study.

5. The fifth part of the report is an appendix containing additional information related to the study. This may include raw data, detailed calculations, or other supporting materials.

6. The sixth part of the report is a bibliography listing the sources of information used in the study. This is a standard feature of academic reports and provides a way for readers to locate the original sources of the information.

7. The seventh part of the report is a list of figures and tables. These are used to present the results of the study in a clear and concise manner. They may include graphs, charts, and tables of data.

Public Benefit Incentive System Ratios

<u>PUBLIC BENEFIT FEATURE</u>	<u>BONUS FLOOR AREA PER UNIT OF PUBLIC BENEFIT FEATURE</u>	<u>MAXIMUM BONUS ADDITIONAL FLOOR AREA ALLOWED PER PUBLIC BENEFIT FEATURE</u>
1. Streetscape		
Each \$1,000 spent on additional roadway improvements	<u>100 square feet</u>	<u>No limit</u>
Each \$1,000 contributed towards the Marina Steps or Beach Park.	<u>100 square feet</u>	<u>No limit</u>
2. Design Elements		
1 sq.ft. of underground parking	<u>5 square feet</u>	<u>No limit</u>
1 sq.ft. of below-ground public parking structure ¹	<u>2.5 square foot</u>	<u>No limit</u>
1 sq.ft. of shared parking (for other sites)	<u>0.5 square feet</u>	<u>No limit</u>
1 sq.ft. of Rooftop Garden	<u>2 square feet</u>	<u>No limit</u>
1 sq. ft. of rooftop beautification	<u>2 square feet</u>	<u>No limit</u>
3. Civic Contributions		
1 sq.ft. of public parking area	<u>0.5 square feet</u>	<u>15,000 square feet</u>
1 sq.ft. of public meeting/conference facilities	<u>1 square foot</u>	<u>No limit</u>
Each \$1,000 spent on public art	<u>100 square feet</u>	<u>No limit</u>
4. Uses		
1 sq.ft. restaurant (not fast-food or take-out)	<u>1 square foot</u>	<u>No limit</u>
1 sq.ft. rooftop or top floor restaurant (not fast-food or take-out)	<u>4 square feet</u>	<u>No limit</u>
1 sq.ft. of day-care facilities	<u>6 square feet</u>	<u>2,000 square feet</u>
1 sq.ft. of public restroom	<u>4 square feet</u>	<u>1,000 square feet</u>
1 sq.ft. of public open space	<u>4 square feet</u>	<u>No limit</u>
1 sq.ft. of retail use on ground floor	<u>2 square feet</u>	<u>No limit</u>
1 sq.ft. of theater or performing arts venue	<u>5 square feet</u>	<u>No limit</u>
Transfer of development rights	<u>To be determined</u>	<u>To be determined</u>

1. City Manager (or designee) determination.

2. Areas devoted to service cores and community facilities may be used to obtain bonus floor area. No area devoted to parking or circulation may be used for this purpose.

Sec. 7. Repealer. DMMC 18.27.070 and Section 10 of Ordinance No. 1104 are each repealed.

Sec. 8. Severability - Construction.

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

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

Sec. 9. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage, approval, and publication in accordance with law.

PASSED BY the City Council of the City of Des Moines this _____ day of _____, 2011 and signed in authentication thereof this _____ day of _____, 2011.

M A Y O R

APPROVED AS TO FORM:

Assistant City Attorney

ATTEST:

City Clerk

Published: