

# MINUTES – FINANCE AND ECONOMIC DEVELOPMENT COMMITTEE MEETING

January 29, 2013

South Conference Room

21630 11<sup>th</sup> Avenue South, Des Moines, WA

## Council Members

Chair Matt Pina

Carmen Scott

Jeanette Burrage

## City Staff

Tony Piasecki – City Manager

Denise Lathrop – Acting Community Development Director

Marion Yoshino – Economic Development Mgr

Pat Bosmans – City Attorney

Robert Ruth – Planning & Development Manager

Grant Fredricks – Consultant

## 1. Call to Order

The meeting was called to order at 5:35 pm.

## 2. Economic Development Update

- a. **DMCBP.** Staff mentioned the non-mandatory RFP Information session to be held at Sea-Tac Airport on 2/7 and the importance of funneling all communications from prospective proposers through the Port.
- b. **Pacific Ridge Commercial 2.** Staff mentioned the possibility of a consolidated listing of Furney & Ono properties, the continued commercial interest in the property, the importance of a signalized intersection at about 212<sup>th</sup>, and the need for more zoning flexibility regarding mixed use and building heights.
- c. **Artemis.** Building permits applications are expected to be received on 2/7.
- d. **EB-5.** ED Manager Yoshino briefed on the status of the EB5 application which was reviewed. An appeal hearing is scheduled in March, and the applicants are very confident that the job number concerns can be satisfactorily addressed. The need for applications for other parts of the City was briefly discussed.

## 3. Committee Work Plan for 2013

- e. **Institutional Campus Zoning.** Acting Director Lathrop discussed the upcoming ordinance rezoning Judson Park, Wesley Homes and Highline Community College from their current residential zoning to the newly-created Institutional Campus zone. The Committee agreed that we should wait to rezone Landmark until their ultimate use is determined.
- f. **Short-term/Casual/Monthly Business Licenses.** City Manager Piasecki discussed a request that the City waive the business license requirements for people such as house cleaners that only work intermittently in Des Moines. Changes to current fee levels were also discussed. The Committee agreed that no changes should be made at this time.
- g. **Land Use Review Procedures.** City Attorney Bosmans reviewed a proposed scope of work for outside counsel to review a number of development-related chapters in the DMMC with the goal of cleaning these up so that the DMMC is internally consistent, complies with current state and case law, and reduces the City's legal liability. The proposal is for a firm, fixed price contract with outside counsel drafting ordinances to effect the needed changes.

## 4. Discussion of Pacific Ridge Zoning

Acting Director Lathrop provided handouts of the Comp Plan and Zoning Code, and asked the Committee to reaffirm the vision. Some time was spent discussing Tour comments on permitted uses, lot size, depth of commercial lots, and PR-R use restrictions. Committee asked why SeaTac apartment building has so much parking.

## 5. Committee Member Comments

There was not time for individual Committee comments.

## 6. Future Meetings

Next meeting is Tuesday, February 26, 5:30 – 7:00 p.m. in the South Conference room. Preliminary topics are a staff presentation on the *Des Moines Façade Improvement Incentive Program* (prepared by the UW CEP 460 students) and a proposed draft of an ordinance on Pacific Ridge zoning changes.

Adjourned at 7:00 p.m.

Respectfully submitted by: Grant Fredricks



# KOEGEN EDWARDS LLP

ATTORNEYS AT LAW

Michael F. Connelly

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January 10, 2013

**Via Email: [pbosmans@desmoineswa.gov](mailto:pbosmans@desmoineswa.gov)**

Ms. Pat Bosmans, City Attorney  
City of Des Moines  
21630 11th Avenue South, Suite C  
Des Moines, WA 98198

**Re: Representation of the City of Des Moines**

Dear Pat:

The purpose of this letter is to advise the City of Des Moines (the "City") of the services we would perform and the fees we would charge as special counsel to the City.

## SCOPE OF ENGAGEMENT

We propose to review and provide advice and guidance relative to the following matters:

1. Review and revise the City's Development Code, specifically Titles 12, 13, 14, 15, 16, 17 and 18. Changes will be proposed to clarify and simplify existing language, to comply with current laws, to eliminate repetitive sections and to ensure internal consistency as well as consistency with your comprehensive plan. The scope of this review would include but would not be limited to the categories set forth in the Development Code Audit attached hereto.

2. The process to be followed would include an initial interview of appropriate staff to identify specific concerns; the detailed review of the code and the identification of any recommended changes; several conferences with appropriate staff to discuss and finalize any language changes suggested; and finally, the creation of final drafts of any code provisions revised.

## ATTORNEY-CLIENT RELATIONSHIP

In this transaction, the City would be our client and an attorney-client relationship will exist between the City and Koege Edwards LLP (the "Firm").

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### **PERSONNEL**

I would have primary responsibility for these matters. When appropriate, additional attorneys or paralegals may assist me. We assign attorneys and other personnel on the basis of experience, expertise, nature and scope of the issue, and the time constraints imposed by the matter.

### **FEES**

We would bill the City for legal services on a flat fee basis. The fee for review and revision of the code provisions (Titles 12-18) would be \$17,500. An additional fee of \$2,500 would be charged to prepare and finalize all ordinances necessary to adopt the revisions if that service is requested. This fee will include any necessary meetings with you and other appropriate staff of the City.

This fee would not include participation in the public process required to formally adopt the revisions. Attendance at public meetings can be negotiated in a separate flat fee contract or at an agreed upon hourly rate. Travel time or expenses would not be charged to the City.

### **DISBURSEMENTS AND OTHER CHARGES**

From time to time, the Firm may advance or incur certain costs and expenses with respect to the City's legal matters. These costs would be charged to the City in addition to the flat fee. Such charges include, but are not limited to, long-distance telephone charges, photocopying and messenger services.

### **MONTHLY INVOICES**

We would bill the City on a monthly basis. Statements are generally mailed by the last week of the month following the month in which the services are performed. However, disbursements and other charges often do not appear on our statements until a few weeks after the cost is incurred. Payment on all statements is due upon receipt, and balances not paid within 30 days are assessed a late payment charge of 1.25 percent per month. The amounts billed, excluding costs and expenses identified above, will not exceed the total flat fee amounts set forth above. We retain the right to cease performing legal services and to terminate our representation of the City for any reason consistent with ethical rules, including conflicts of interest or delinquency or nonpayment of legal fees and expenses.

### **CONFLICTS OF INTEREST**

Please be aware that the Firm represents many other municipalities and investment banking firms. It is possible that during the time that we are representing the City, some of our present or future clients will have disputes or transactions with the City. The City agrees that we may continue to represent or may undertake in the future to represent existing or new clients in any



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matter that is not substantially related to our work for the City even if the interests of such clients in those matters are directly adverse. We agree, however, that your prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instance where, as a result of our representation of you, we have obtained proprietary or other confidential information of a nonpublic nature, that, if known to such other client, could be used in any such other matter by such client to your material disadvantage.

If the foregoing terms are acceptable to you, please so indicate by returning the enclosed copy of this engagement letter dated and signed, retaining the original for your files. We look forward to working with you.

Very truly yours,

KOEGEN EDWARDS LLP

Michael F. Connelly

Accepted and approved on \_\_\_\_\_, 2013.

CITY OF DES MOINES, WASHINGTON

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

Title: \_\_\_\_\_



# KOEGEN EDWARDS LLP

ATTORNEYS AT LAW

## DEVELOPMENT CODE AUDIT CHECKLIST

### Initial Questions:

1. Does the development code identify and/or comply with the specific authority granted by Washington statutes and code provisions?

#### General Authority:

- (a) Non-code Cities: RCW 35.63.080, 090, 110.
- (b) Code Cities: RCW 35A.11.020, chapter 35A.12 RCW, RCW 35A.63.100.

#### Specific Authority:

- (a) Growth Management Act: Generally, chapter 36.70A RCW; Best available science and special consideration criteria, WAC 365-195-910 through 920; Reviewing, amending and updating comprehensive plans, WAC 365-196-600 – 660; Reviewing, amending and updating development regulations, WAC 365-196-800 – 870; Project review, chapter 36.70B; Project consistency (RCW 36.70B.040), WAC 365.197.
- (c) Environmental Regulations: Generally, chapter 43.21C RCW; authority to adopt, RCW 43.21C.120, WAC 197-11-904; SEPA procedures (state), WAC 173-802; model ordinance, WAC 173-806; SEPA rules, WAC 197-11; Fish and wildlife (fish), WAC 197-220; Fish and wildlife (wildlife), WAC 197-232; Maximum environmental noise levels, WAC 173-60 (Recreational vehicles excepted, see chapter 88.12 RCW).
- (d) Water Resources: Regulation of public ground waters, chapter 90.44 RCW, Water resources, chapter 43.27A RCW; Groundwater management areas and programs, WAC 173-100; Water resources protection programs, WAC 173-500-501 through 591 (Water Resources Inventory Areas (“WRIA”)). See also WAC 246-290-106; WAC 246-290-420(1); WAC 365-185-825. Other related statutes include RCW 36.70A.050, 36.70A.190 and 70.142.050 ( Immediate health threats; as well as RCW 70.119A.030, 70.119A.180, RCW 43.20.050 and title 90, specifically RCW 90.44.050.

Finally see AGO 1992 NO. 17 (Authority to determine adequate water supply). See also the recent case of *Five Corners Family Farmers v. Washington State Dept. Of Ecology*, 173 Wn. 2d 296 (2011). (Allows certain users (stockwater) almost unlimited use of groundwater.)

- (e) Wastewater Considerations: Title 57 RCW Water and Sewer Districts; WAC 246-272A on site sewage systems; WAC 246-272B large on-site sewage systems.

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- (f) Interlocal Agreements: Proving specific authority with respect to land use regulation within and without a municipalities' jurisdiction.
  - (g) Subdivision Regulations: Chapter 58.17 RC.
  - (h) Floodplain Regulations: Chapter 86.16 RCW; flood plain management WAC 173-158.
  - (i) Shoreline Regulations: Chapter 90.58 RCW; Streams and rivers, WAC 173-18; Lakes, WAC 173-20; Adoption of designated shorelines and wetlands WAC 173-22; State master Program approval/amendment process, 173-26; shoreline management permit and enforcement procedures, 173-27.
2. Is it clear what titles and chapters are intended to be read together, (i.e. what is included within your development regulations), and when provisions from one title and chapter apply to another chapter or title?
  3. Are all necessary codes, statutes or other laws, adopted by reference and properly identified?
  4. Do the development regulations contain language adopting subsequent amendments to these codes, statutes and laws?
  5. Do the development regulations identify what actions are subject to each of the titles?
  6. Is there a clear "change of use" paragraph setting forth what specific changes would require the property owner to conform to current code provisions?
  7. Do the development regulations provide for the termination of applications not pursued by the applicant, where such language in the IBC (International Building Code) or pertinent subdivisions statutes are not applicable?
  8. Do the development regulations include a variance process where regulations deprive property owners of all "economically beneficial use" of their land? How is this applied to shoreline regulations and setbacks?
  9. Are all definitions consistent with state law, internally consistent and without duplication?
  10. Do the development regulations contain provisions with respect to the following general matters?
    - (a) Purpose;
    - (b) Limitation of persons intended to be benefited by the development code;
    - (c) The liability of property owners;
    - (d) A limitation of the city's liability;



- (e) The enforcement of violations of the development code including penalties (misdemeanor or civil infraction), standing and the right of appeal;
- (f) The authority of specific city officials and the authorized delegation of that authority;
- (g) Rules of construction;
- (h) Severability;
- (i) Relationship of the development code to covenants/easements;
- (j) A process for obtaining administrative interpretations, standing and the right of appeal;
- (k) Implementation of and consistency with the adopted comprehensive plan; and
- (l) Use of a hearing examiner including a clear definition of the scope of review, the hearing examiner's authority, the process to be followed, the right to reconsideration, standing and the right of appeal.

**11. Does the development Code comply with the following constitutional and statutory requirements?**

- (a) Religious Freedom: Wa. Const. art. I, § 11; U.S. Const. amend. I; U.S.C.A. § 2000cc(a)(1) (areas of judicial concern include: delay of demolition due to historical preservation ordinance; significant reduction in value due to historical designations; prohibition of tent cities; outright prohibitions of church facilities).
- (b) Unlawful Gifting: Wa. Const. art. VIII, § 7 (waiver of fees or costs may constitute gifting).
- (c) Equal Protection: Wa. Const. art. I, § 12; U.S. Const. amend. XIV (waiver of zoning, fee or development requirements for some, but not all).
- (d) Procedural Due Process: Wa. Const. art. I, § 3; U.S. Const. amend. XIV (meaningful right to be heard, notice, appeals (appeal fees)).
- (e) Substantive Due Process: Wa. Const. art. I, § 3; U.S. Const. amend. XIV (code authority exceeds statutory authority or actions exceed any granted authority; generally found where code imposes burden or fee unrelated to request, code is silent as to criteria or the basis for imposing conditions or where no defined process is established; code abolishes non-conforming uses immediately; code is vague).
- (f) Discrimination against manufactured housing and/or recreational vehicles prohibited: RCW 35.21.684; RCW 35A.21.312; RCW 36.01.225.
- (g) Requirement to consultation with aviation interests: RCW 36.70.547; RCW 35.63.250; RCW 35A.63.270.
- (h) Scenic Vistas Act: RCW 47.42.030.
- (i) Limited Access Facilities Regulations: Chapter 47.52 RCW.



- (j) Compliance with “Nollan/Dolan” and RCW 82.02.020: The requirements of nexus and rough proportionality.
- (k) Model Floodplain Ordinance: Is your current flood Plain ordinance consistent with the “Model Floodplain Ordinance” chapter 86.16 RCW; RCW 86.16.041.
- (l) Daycare Regulations: RCW 35.63.185; RCW 35.21.688; RCW 35A.63.215; RCW 36.70A.450; Family Day care provider is defined in RCW 43.215.010.
- (m) Accessory Dwelling Units: RCW 35.63.210; RCW 35A.63.230; RCW 36.70A.400; RCW 43.63A.215, 42 USC Section 3602 (Fair Housing Act).
- (n) Group Homes: RCW 35.63.220; RCW 35A.63.240; RCW 36.70A.410; RCW 43.185B.005 (2) (e); Title 42 USC Section 3602(k), 3602(h).
- (o) Temporary Encampments for the Homeless: RCW 35.21.915, RCW 35A.21.360, RCW 36.01.290.
- (p) Chapter 36.70B RCW:
  - (i) Application process, determination of completeness, additional information (See RCW 36.70B.080(1) concerning contents of a completed application);
  - (ii) Development agreements and compliance with (RCW 36.70B.170-210);
  - (iii) Deadlines;
  - (iv) Notice;
  - (v) Hearings;
  - (vi) Is there a requirement that all extensions of deadlines be memorialized in writing?; and
  - (vii) Do the development regulations clearly define what constitutes standing for administrative appeals?
  - (viii) Is there a clear definition of documents required for permit applications to minimize the impact of *Noble manor Co. v. Pierce County*, 133 Wn. 2d 269 (1997).
- (q) Chapter 43.21C RCW; WAC 197-11.
- (r) Chapter 58.17 RCW (subdivisions).
- (s) Communication Act, 47 U.S.C.A. § 332; Telecommunication towers: 47 U.S.C.A. § 332(c) (7); see also *Sprint Telephony PCS, L.P. v. County of San Diego*, 543 F. 3d 571 (2008); *T-Mobile USA Inc. v. City of Anacortes*, 572 F. 3d 987 (2009); and *T-Mobile v. Fairfax County BOS*, No. 11-1060 (4<sup>th</sup> Cir.) (2012).



12. Miscellaneous Issues:

- (a) Is there a clear delineation between comprehensive plans and development regulations (subarea plans, overlay zones)?
- (b) Are imposed street and sidewalk standards and improvement required in a manner consistent with RCW 82.02.020 and the “Nollan/Dolan” analysis?
- (c) Are future acquisition areas and future right of ways (enhanced setbacks) expressly provided for and a map, identifying the areas subject to this condition, identified and included in the development code?
- (d) Is the city’s process to review zone changes made in conjunction with annual comprehensive plan amendments, clear, and in compliance with chapters 36.70A and 36.70B RCW?
- (e) Does the development code distinguish between matters processed legislatively and appealable to the Growth Management Hearings Board and project actions subject to chapters 36.70B and 36.70C RCW?
- (f) Does the development code specify “staff report” requirements for project actions and legislative changes?
- (g) Are written findings required for land use decisions made by administrators, boards, commissions, hearing examiners or legislative bodies?
- (h) Does the development code require and define the use of “best available science” pursuant to RCW 36.70A.172(1) (WAC 365-195), see also *Olympic Stewardship Found. v. Western Washington Growth Management Hearings Bd.*, 163 Wn. App. 12 (2011)?
- (i) Does the development code identify documents to be relied upon when making a SEPA determination in the SEPA ordinance? (RCW 43.21C.060)
- (j) Does the development code extend the scope of state vesting laws by local ordinance? Is that done intentionally? Does it define when and what permits vest, in a manner that is consistent with state and common law rules?
- (k) Is the listed criteria for approving a change in zone consistent with the city’s intent? See *Phoenix Dev., Inc. v. City of Woodinville*, 171 Wn.2d 820, 834 (2011) (demonstrated need); See *Bjarnson v. Kitsap County*, 78 Wn. App. 840, 846 (1995), *Henderson v. Kittitas County*, 124 Wn. App. 747 (2004) (changed conditions); see *Whatcom County Fire Dist. No. 21 v. Whatcom County*, 171 Wn.2d 421 (2011) (requiring specific agency approval).
- (l) Are the restrictions on nonconforming structures and uses lawful? See *Van Sant v. City of Everett*, 69 Wn. App. 641, 649 (1993); *Coleman v. City of Walla Walla*, 44 Wn.2d 296 (1954); *State ex rel. Miller v. Cain*, 40 Wn.2d 216, 218 (1952); *City of University Place v. McGuire*, 144 Wn.2d 640, 650 (2001).

## CHAPTER 11: PACIFIC RIDGE ELEMENT

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### **11-01**      **GOALS**

**11-01-01**      The City of Des Moines intends to transform Pacific Ridge into a new urban community that takes advantage of its geographic location, local and regional transportation linkages, stable soils, and view potential. The transformation of Pacific Ridge will include replacement of lower-scale, existing buildings with new structures that will dramatically enhance the appearance, character, economics, and safety of the area. Pacific Ridge will contain buildings and open spaces designed for pedestrians as well as the motorist. Pacific Ridge will be an area of businesses and residences. New buildings may be five to eight stories in height along Pacific Highway emphasizing retail and office uses. Between the development along Pacific Highway and Interstate 5, buildings may be 8 or more stories in height emphasizing residential high-rise home ownership with green open spaces and view corridors. This new community will exhibit superior design features that make Pacific Ridge inviting to residents and businesses, complement other areas of Des Moines, and foster community pride.

### **11-02**      **BACKGROUND AND CONTEXT**

**11-02-01**      The Pacific Ridge area is located along Pacific Highway South and between 24<sup>th</sup> Avenue South to the west, Interstate 5 to the east, South 212<sup>th</sup> Street to the north, and Kent-Des Moines Road to the south (see Figure 2-7 within the Land Use Element). Nearby regional transportation facilities (existing and planned) provide excellent access to the area. Pacific Ridge's topography and elevation provide excellent opportunities for views of Mount Rainier, Puget Sound, and the Olympic Mountains.

**11-02-02**      Extensive roadway improvements have been completed for this portion of Pacific Highway South. These improvements represent considerable public investment in the area's infrastructure and will improve traffic flow/capacity and vehicular/pedestrian safety, and will significantly enhance the appearance of this area.

**11-02-03**      Many Pacific Ridge properties are not improved to the extent presently allowed by the City of Des Moines Comprehensive Plan and the Zoning Code. Many properties are improved with older buildings and are likely to be redeveloped in the near future.

**11-02-04**      Due to its location and proximity to several major transportation linkages, age of buildings, other social and economic factors, Pacific Ridge represents an opportunity to increase density without the adverse impacts that may occur elsewhere in the City.

### **11-03**      **POLICIES**

**11-03-01**      For commercial properties south of South 216<sup>th</sup> Street, encourage retail and employment uses, but also allow dwellings over street-level commercial uses (mixed use) in this area. Allow multifamily development (with minor and incidental commercial uses) on properties south of South 216<sup>th</sup> Street that do not front upon Pacific Highway South. Allow for limited

townhouse development east of 30<sup>th</sup> Avenue with Council approval. Do not allow residential uses north of South 216<sup>th</sup> Street.

**11-03-02** Encourage developers to take advantage of increased building heights in this neighborhood to enhance land value, promote redevelopment, expand view opportunities, and to accommodate household growth targets specified by the Countywide Planning Polices for King County.

**11-03-03** Encourage land uses that promote long-term residency and activity during both daytime and nighttime hours, such as mixed-use buildings and condominium dwellings.

**11-03-04** Ensure new development includes mitigation measures to offset adverse impacts to the natural and built environment that would otherwise occur. Ensure that new construction does not result in undue adverse impacts upon nearby land uses, and that infrastructure and municipal services are available to serve new land uses.

**11-03-05** Encourage new construction to mitigate adverse impacts relating to displacement of affordable housing. Encourage homeownership, and affordable homeownership, within Pacific Ridge.

**11-03-06** Ensure that development requirements, land use review procedures, and mitigation measures do not unnecessarily hinder redevelopment. Utilize innovative land use review techniques/procedures to minimize timeframes and uncertainty during permit review. Examples of such techniques/procedures include: streamlined environmental review; optional DNS; impact fees, etc.

**11-03-07** Promote redevelopment of Pacific Ridge properties to attract new or expanded businesses and commercial development to Pacific Ridge.

**11-03-08** Ensure that public and private development continues the pedestrian-friendly environment envisioned by the Pacific Highway South Roadway Improvement Project. Ensure compliance with the state Barrier-Free Regulations.

**11-03-09** Expand recreational opportunities in or near Pacific Ridge.

**11-03-10** Encourage use of alternative modes of transportation, including walking, bicycling, carpooling, and mass transit. Coordinate City-sponsored transportation improvements via the Comprehensive Transportation Plan and the Capital Improvement Program.

**11-03-11** Coordinate with Sound Transit and the Cities of Kent, SeaTac and Federal Way on the extension of light rail through Des Moines.

**11-03-12** Promote a pedestrian-friendly sidewalk environment throughout Pacific Ridge. The sidewalk environment may include storefronts near the sidewalk, consolidated and/or shared vehicular access, public open space, attractive landscaping, and integrated signs and lighting. Promote safe and direct pedestrian access between Pacific Highway South and nearby properties.

**11-03-13** Ensure that off-street parking regulations reflect anticipated future demand. Require off-street guest parking for multifamily developments. Continue to allow shared and off-site parking when no adverse parking impacts will result. Ensure that off-site parking is available at the time new uses are authorized.

**11-03-14** Encourage the development and use of gateway features, focal points, and unique design features that contribute to the identity of Des Moines and Pacific Ridge.

**11-03-15** Require that new construction contain and exhibit high-quality design elements and building materials as outlined by the Pacific Ridge Design Guidelines.

**11-03-16** Enhance personal and property safety through development regulation, including use of crime prevention through environmental design (CPTED) guidelines or regulations.

**11-03-17** Encourage new construction to incorporate design elements that provide view corridors, visual interest, pedestrian scale, and features which minimize impacts associated with building height, bulk, and scale. Require the terracing of upper floors of buildings.

**11-03-18** Encourage new development to include public benefit features such as plazas and courtyards with outdoor seating, hill-climbs, overhead weather protection, public art, etc.

#### **11-04**        **STRATEGIES**

**11-04-01** Amend the Des Moines Municipal Code (DMMC) and the City of Des Moines Comprehensive Plan as necessary to maintain consistency with and implement this Element.

**11-04-02** Encourage land assemblage (lot consolidation) so that larger-scale development proposals can be considered, and to minimize instances where “hold-out” properties do not contribute to the emerging character of the area. When new construction is proposed, encourage or require that internal property lines within building sites be removed. Discourage further division of parcels when such proposals are inconsistent with Pacific Ridge policies and/or regulations.

**11-04-03** Do not allow the establishment of new land uses that are inconsistent and/or incompatible with this Element, such as: automobile towing, commercial parking lots, automobile sales, car washes, and drive-through facilities. Allow a limited number of gasoline stations, automobile repair uses, and retail tire sales.

**11-04-04** Encourage or require that new development include mitigation measures relating to displacement of affordable housing. Encourage new residential development to offer owner-occupied dwellings.

**11-04-05** Encourage or require use of shared driveways in order to minimize the number of locations where the sidewalk is interrupted by vehicular traffic. Ensure that land use policies and regulations are consistent with the controlled-access requirements of the Washington State Department of Transportation (WSDOT).

**11-04-06** Encourage transit service to Pacific Ridge, such as nearby park-and-ride lots, direct bus service to light and heavy rail transit stops, bicycle corridors, to and from transit nodes, etc.

**11-04-07** Support a light rail alignment on or east of the SR 99 center median, or along 30th Avenue South, provided a light rail stop is added in the vicinity of South 216th Street; or designate the west margin of Interstate 5 as the light rail corridor through Pacific Ridge. Work with Sound Transit to establish a light rail stop in the vicinity of S 216<sup>th</sup> Street.

**11-04-08** Ensure that street trees are planted throughout the Pacific Ridge.

**11-04-09** Extend Midway Park to the east, and to the west to Pacific Highway South. Provide pedestrian connections between Midway Park, Pacific Highway South, and the Steven J. Underwood Park complex.

**11-04-10** Align City and outside resources, including in-lieu multifamily recreation fees, to improve and/or expand recreation opportunities and open space in and near Pacific Ridge. Examples of potential improvements include: 1) enlarging Midway Park; 2) improving the Sports Park complex adjacent to Pacific Ridge; and 3) improving pedestrian connections between these facilities.

**11-04-11** Require that the comprehensive plans and capital improvement plans of the special purpose districts that serve Pacific Ridge reflect the build-out conditions specified by this Element and all implementing policies/regulations.

**11-04-12** Coordinate with other agencies/organizations to: 1) attract new businesses in Pacific Ridge; 2) promote development and redevelopment opportunities in Pacific Ridge; and 3) encourage new construction that is consistent with this Element.

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## Chapter 18.31 PACIFIC RIDGE ZONE

### Sections

- 18.31.010 Purpose.
- 18.31.020 Subareas within Pacific Ridge zone.
- 18.31.030 PR-R – Permitted uses.
- 18.31.040 PR-C1 – Permitted uses.
- 18.31.050 PR-C1 – Uses allowed in conjunction with a permitted use.
- 18.31.060 PR-C2 – Permitted uses.
- 18.31.070 PR-C2 – Uses allowed in conjunction with a permitted use.
- 18.31.080 Environmental performance standards and general limitations.
- 18.31.090 Dimensional standards.
- 18.31.100 General site design requirements.
- 18.31.110 General building design requirements.

#### **18.31.010 Purpose.**

The principal objective and purpose of this zone and its application is to implement the City of Des Moines Comprehensive Plan, Pacific Ridge Neighborhood Improvement Plan, and other adopted policies for the commercial and residential areas of Pacific Ridge.

Furthermore, it is the objective and purpose of this zone to provide development regulations that will promote redevelopment of Pacific Ridge properties in order to create attractive, safe, and desirable areas to work and reside. Redevelopment of Pacific Ridge is appropriate because this area has excellent access to transportation facilities, view opportunities, and higher-density development which can help Des Moines meet or exceed population and employment growth targets specified by the countywide planning policies for King County. Also, redevelopment of Pacific Ridge properties is appropriate because many of the existing structures and land uses have resulted in social problems such as: high crime rates (especially major felony crimes); declining property values; unsafe and undesirable housing conditions; insufficient building and property maintenance; absentee property ownership/management; violation of zoning, construction, and health codes; transient residency; and marginal businesses.

A related consideration is to make it possible to efficiently and economically plan for, design, finance, and provide public services, capital facilities, and utilities for the populations and activities within this zone. For all of the above reasons, the purpose of this chapter is to promote public health, safety, and welfare through redevelopment of Pacific Ridge properties. [Ord. 1267 § 2(part), 2000.]

#### **18.31.020 Subareas within Pacific Ridge zone.**

(1) Except as provided below, properties within the Pacific Ridge zone are located within one of three subareas as illustrated by the zoning map designated by DMMC 18.80.010. The three subareas, hereafter referred to as zones, have unique land use and development regulations, and some general regulations apply to each zone. The three Pacific Ridge zones are as follows:

- (a) PR-R, Pacific Ridge Residential.
- (b) PR-C1, Pacific Ridge Commercial 1.

(c) PR-C2, Pacific Ridge Commercial 2.

(2) Other zones may be applied to existing and planned public facilities, parks, utilities, and similar land uses.

(3) For application of the general provisions of this title, PR-R is a multifamily residential zone while PR-C1 and PR-C2 are commercial zones. [Ord. 1267 § 2(part), 2000.]

**18.31.030 PR-R – Permitted uses.**

Only those uses listed below, and uses similar in nature as determined by the planning, building and public works director, are permitted in the PR-R zone. Uses are more fully described in the “North American Industrial Classification System.” Listed uses may be otherwise conditioned in this code. The numbers in parentheses following each of the following listed uses refer to North American Industrial Classification System (NAICS) code numbers:

(1) Multifamily dwellings (no NAICS code);

(2) Religious organizations (813110);

(3) Nursing care facilities (623110) and community care facilities for the elderly (6233);

(4) Public utility facilities and appurtenances necessary for the distribution of utility services to final customers within the immediate area;

(5) Mixed use (no NAICS code), subject to the limitations below and the limitations provided in DMMC 18.31.090, Environmental performance standards and general limitations:

(a) Total nonresidential floor area shall not exceed 15 percent of the total floor area of the individual building and a minimum of 25 percent of commercial space must be located along the ground floor;

(b) Permitted nonresidential uses shall be limited to the following:

(i) Retail trade (44-45), limited to the following:

(A) Food and beverage stores (445);

(B) Health and personal care stores (446);

(ii) Real estate and rental and leasing (53), limited to the following:

(A) Offices of real estate agents and brokers (5312);

(B) Real estate property managers (53131);

(C) Offices of real estate appraisers (53132);

(D) Other activities related to real estate (53139); and

(E) Video tape and disc rental (53223);

(iii) Health care and social assistance (62), limited to the following:

(A) Ambulatory health care services (621) except blood and organ banks (621991); and

- (B) Child care facilities (6244);
- (iv) Food services and drinking places (722), limited to the following:
  - (A) Full service restaurants (7221); and
  - (B) Limited-service eating places (7222);
- (v) Other services (81), limited to the following:
  - (A) Footwear and leather goods repair (811430);
  - (B) Personal care services (8121);
  - (C) Dry-cleaning and laundry services (8123); and
  - (D) Photofinishing (81292);
- (vi) Public administration (92), limited to police protection (92212);
- (6) Botanical gardens (712130);
- (7) Public parks (no NAICS code);
- (8) The following buildings, structures and uses are allowed when accessory to a use otherwise permitted by this chapter:
  - (a) Ancillary and incidental indoor storage and maintenance facilities related to on-site buildings and uses;
  - (b) Telecommunication facilities as allowed by Title 20 DMMC;
  - (c) Recreation facilities for use by residents of the property;
  - (d) Child and adult day care as regulated and licensed by the Washington State Department of Social and Health Services, or its successor agency;
  - (e) Home occupation, subject to the following limitations:
    - (i) The occupation shall be conducted entirely within the dwelling;
    - (ii) The occupation shall not require structural features that are not customary or incidental in a dwelling;
    - (iii) No signs identifying or advertising the home occupation, or other exterior evidence of the home occupation is allowed;
    - (iv) A business license as provided by Title 5 DMMC is granted by the city for the home occupation;
    - (v) In authorizing a home occupation, the city manager may impose conditions of approval as necessary to ensure the activity is compatible with the surrounding uses;
    - (vi) In the event the city manager determines that the home occupation has resulted in adverse land use impacts, the city manager is authorized to impose additional conditions of approval as necessary; and

(viii) In the event the nature or extent of the home occupation changes so that the adverse land use impacts cannot be satisfactorily mitigated, the city manager may revoke all approvals and licenses related to the home occupation. [Ord. 1406 § 1, 2007; Ord. 1267 § 2(part), 2000.]

**18.31.040 PR-C1 – Permitted uses.**

Only those uses listed below, and uses similar in nature as determined by the community development director, are permitted in the PR-C1 zone. Uses are more fully described in the "North American Industrial Classification System." Listed uses may be otherwise conditioned in this code. The numbers in parentheses following each of the following listed uses refer to North American Industrial Classification System (NAICS) code numbers:

(1) Retail trade (44-45), except the following:

- (a) Automobile dealers (4411);
- (b) Other motor vehicle dealers (4412);
- (c) Tire dealers (44132);
- (d) Manufactured (mobile) home dealers (45393);
- (e) Heating oil dealers (454311); and
- (f) Other fuel dealers (454319);

(2) A maximum of one gasoline station (447) is permitted within the PR-C1 zone. Buildings containing only a gasoline station are not subject to the minimum building height provisions contained in this chapter;

(3) Limousine service (485320) when primarily contained within an enclosed structure;

(4) Postal service (491);

(5) Couriers and messengers (492);

(6) Information establishments (51), except telecommunication (5133), which is regulated by Title 20 DMMC;

(7) Finance and insurance (52);

(8) Real estate and rental and leasing (53), except the following:

- (a) Lessors of miniwarehouses and self-storage units (53113);
- (b) Automotive equipment rental and leasing (5321); and
- (c) Commercial and industrial machinery and equipment rental and leasing (5324);

(9) Professional, scientific, and technical services (54), except off-premises signs (billboards) which are regulated by chapter 18.42 DMMC;

(10) Management of companies and enterprises (55);

(11) Administrative and support services (56), except the following:

- (a) Repossession services (561491);
  - (b) Services to buildings and dwellings (5617); and
  - (c) Waste management and remediation services (562);
- (12) Educational services (61);
- (13) Health care and social assistance (62), subject to the following limitations:
- (a) The following uses are prohibited:
    - (i) Outpatient mental health and substance abuse centers (62142);
    - (ii) Hospitals (622);
    - (iii) Residential mental retardation, mental health, and substance abuse facilities (6232);
  - (b) Permitted nursing and residential care facilities (623) and community care facilities for the elderly (6233) are allowed only within the residential portion of a mixed-use building;
- (14) Arts, entertainment, and recreation (71) subject to the following limitations:
- (a) The following uses are prohibited:
    - (i) Spectator sports (7112);
    - (ii) Amusement, gambling, and recreation industries;
  - (b) Adult entertainment facilities and adult motion picture theaters (no NAICS code) are prohibited within 500 feet of the property lines of churches, common schools, day care centers, public facilities, or other adult entertainment facilities or adult motion picture theaters;
- (15) Accommodation and food services (72), limited to the following:
- (a) Hotels (72111), subject to the following:
    - (i) Casino hotels and motels are prohibited; and
    - (ii) Hotels and resort hotels are further allowed as follows:
      - (A) Hotels and resort hotels shall contain a minimum of 125 guest rooms; and
      - (B) Hotels and resort hotels shall contain meeting room facilities; and
      - (C) A maximum of six hotel and/or resort hotel developments shall be allowed within the PR-C1 zone; and
      - (D) A maximum of 1,500 guestrooms shall be allowed within the PR-C1 zone;
  - (b) Food services and drinking places (722), subject to the following provisions:
    - (i) Fast food restaurants (722211) are allowed only in conjunction with a permitted use;

- (ii) Mobile food services (72233) are regulated by chapter 5.57 DMMC;
  - (iii) Drive-through facilities are prohibited;
  - (iv) Buildings containing only a full-service restaurant (72211) are not subject to the minimum building height provisions contained in this chapter;
- (16) Other services (81), subject to the following limitations:
- (a) The following uses are prohibited:
    - (i) Carwashes (811192), except automotive detail shops;
    - (ii) Other automotive repair and maintenance (811198);
    - (iii) Death care services (8122);
    - (iv) Industrial launderers (812332); and
    - (v) Commercial parking lots and garages (812930);
  - (b) Automobile body, paint, interior, and/or glass repair (81112), general automotive repair (811111), automotive exhaust system repair (811112), automotive transmission repair (811113), and automotive oil change and lubrication shops (811191) shall be allowed in the PR-C1 zone; provided, that all of the following requirements shall be met:
    - (i) The proposed use shall be located within a building constructed on or before October 30, 2009, and said building is or has been previously used for such use; and
    - (ii) The proposed use shall be fully located within an enclosed building area; and
    - (iii) Any building or structure that the proposed use is located or proposed to be located within shall not be expanded or enlarged in gross floor area or volume after October 30, 2009; and
    - (iv) Any business owner proposing to use a building or structure that the proposed use is located or proposed to be located within shall demonstrate to the city of Des Moines, South King Fire and Rescue, and Puget Sound Clean Air Agency that quantities, storage, and transport of hazardous materials are properly managed, work areas provide adequate containment to avoid pollution runoff, and facilities are equipped with proper pre-treatment devices to avoid discharge of pollutants to the air or public drainage systems;
  - (c) Pet boarding (812910) is allowed only in conjunction with a permitted use;
- (17) Public administration (92), except the following:
- (a) Correctional institutions (92214); and
  - (b) Parole offices and probation officers (92215);
- (18) Mixed use (no NAICS code) when dwellings are located above the second story of the building;
- (19) Public parks (No NAICS code); and

(20) Public utility facilities and appurtenances necessary for the distribution of utility services to final customers within the immediate area. [Ord. 1467 § 1, 2009; Ord. 1267 § 2(part), 2000.]

**18.31.050 PR-C1 – Uses allowed in conjunction with a permitted use.**

The uses listed below, and uses similar in nature as determined by the community development director, are only allowed in the PR-C1 zone when located within the same building as a permitted use. Uses are more fully described in the “North American Industrial Classification System.” Listed uses may be otherwise conditioned in this code. The numbers in parentheses following each of the following listed uses refer to North American Industrial Classification System (NAICS) code numbers:

- (1) Fast food restaurants (722211);
- (2) Pet boarding (812910). [Ord. 1267 § 2(part), 2000.]

**18.31.060 PR-C2 – Permitted uses.**

Only those uses listed below, and uses similar in nature as determined by the community development director, are permitted in the PR-C2 zone. Uses identified in this section are more fully described in the “North American Industrial Classification System.” Listed uses may be otherwise conditioned in this code. The numbers in parentheses following each of the following listed uses refer to North American Industrial Classification System (NAICS) code numbers:

(1) Except for the uses listed below, uses permitted in the PR-C1 zone are permitted in the PR-C2 zone:

- (a) Hospitals (622);
  - (b) Nursing and residential care facilities (623);
  - (c) Community housing services (62422);
  - (d) Hotels and motels (72111);
  - (e) Mixed use (no NAICS code);
  - (f) Adult entertainment facilities and adult motion picture theaters (no NAICS code);
- (2) Tire dealers (44132);
  - (3) Gasoline stations (447);
  - (4) Automotive repair and maintenance (8111). [Ord. 1267 § 2(part), 2000.]

**18.31.070 PR-C2 – Uses allowed in conjunction with a permitted use.**

The uses listed below, and uses similar in nature as determined by the community development director, are only allowed in the PR-C2 zone when located within the same building as a permitted use. Uses are more fully described in the “North American Industrial Classification System.” Listed uses may be otherwise conditioned in this code. The numbers in parentheses following each of the following listed uses refer to North American Industrial Classification System (NAICS) code numbers:

- (1) Fast food restaurants (722211);
- (2) Pet boarding (812910);

(3) Light manufacturing, processing, and assembly of goods sold onsite at retail (no NAICS code). [Ord. 1267 § 2(part), 2000.]

**18.31.080 Environmental performance standards and general limitations.**

Every use permitted within the PR zone shall conform to the following general limitations and standards:

(1) Provisions applicable to all PR zones:

(a) Accessory uses are permitted that are customarily appurtenant or incidental to the principally permitted uses.

(b) Landscaping and screening are required in accordance with chapter 18.41 DMMC.

(c) Off-street parking and loading areas are required in accordance with chapter 18.44 DMMC.

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

(i) Within a mixed-use building, nonresidential building area shall be located at or near street level, and shall be visible from the public right-of-way;

(ii) Within the PR-C1 zone, structures containing only residential uses are allowed on corner and through lots when a commercial or mixed-use structure is located along the Pacific Highway South frontage; and

(iii) On-site multifamily recreation area is required 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 50 square feet and the private recreation space per dwelling unit shall be 40 square feet for buildings over 35 feet.

(e) Capital Facilities, Utilities, and Public Services.

(i) All capital facilities, utilities, and public services must be adequate to support the proposed land use or structure, including but not limited to drainage; street and walkway systems, both on-site and off-site; sewer and water systems; fire protection; police service; electrical power; and telecommunications. Improvements to capital facilities, utilities, and public services shall conform to adopted plans, policies, and regulations.

(ii) All development shall be required to install or pay for a proportional share of any new facilities or utilities required to serve the development. Mechanisms such as latecomer's agreements and impact fees may be used to equitably distribute the cost of required improvements.

(iii) Except for high-voltage (i.e., 115 kV) transmission circuitry, all preexisting and newly installed utilities on site and within the abutting rights-of-way shall be placed underground.

(f) Nuisances.

(i) 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, light or glare, steam, vibrations, dust, dirt, smoke, or other pollutants, fumes or gases (toxic or nontoxic), 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.

(ii) In addition to the uses, activities and equipment deemed a nuisance under the provisions of subsection (1)(f)(i) of this section, the following are declared to be nuisances in all PR zones: all houses, housing units, other buildings, premises or places of resort where controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered, or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, injection, or any other means.

(iii) Any person, firm or corporation found by a court of competent jurisdiction to be keeping or maintaining a nuisance as provided in this chapter shall be liable for all costs and expenses of abating the same, when the nuisance is abated by any officer of the city, and the costs and expenses shall be taxed as part of the cost of said prosecution against the party liable, to be recovered as other costs are recovered. In addition to other powers given in the Des Moines Municipal Code and other applicable law to collect such costs and expenses, the city may bring suit for the same in any court of competent jurisdiction against the person, firm or corporation allowing, creating, enabling, keeping, maintaining or otherwise failing to correct the nuisance so abated.

(g) Hazardous Substances.

(i) No use permitted in this chapter, with the exception of public utility and service facilities, shall store any hazardous substance, except that for the purposes of this chapter the following substances shall be exempt:

- (A) Heating oil stored in an underground tank sufficiently contained so as to preclude soil and ground water contamination;
- (B) Gasoline stored in an approved Underwriters Laboratory container;
- (C) Prepackaged retail quantities of fertilizers, pesticides, and auto and home care products only for home use.

(ii) Failure to comply with any of the requirements of this section shall be deemed a violation and shall result in enforcement by civil penalty as set forth in DMMC 18.72.060 and/or civil violation enforcement penalties or abatement procedures as established in chapter 1.28 DMMC. Any person or business who fails to comply with the provisions of this chapter, or allows a violation to continue after receiving written notice of violation from the community development director, shall be deemed to be causing or permitting a public nuisance and shall be liable in an action for abatement filed by the city in superior court.

(h) In reviewing a proposed permitted use, the community development director may include minimal conditions of approval as may be reasonably needed to ensure that the use is consistent with the purpose of the PR zone, and to minimize the likelihood of adverse impacts.

(2) Provisions Applicable to the PR-R Zone.

(a) Parking and loading areas within the PR-R zone are further allowed as follows:

(i) For land uses with more than 20 required off-street parking spaces, a minimum of 70 percent of the total off-street spaces provided shall be located within a parking garage structure.

(ii) Parking spaces not within a parking garage structure shall be subject to maximum lot coverage limitations.

(b) Multifamily recreation area is required in accordance with chapter 18.45 DMMC, except that the minimum area of common recreation space per dwelling unit shall be 50 square feet and the private recreation space per dwelling unit shall be 40 square feet for buildings over 35 feet.

(c) New construction shall conform to applicable Federal Aviation Administration regulations, including Part 77, Federal Aviation Regulations, Objects Affecting Navigable Airspace, as presently constituted or as may be subsequently amended.

(3) Provisions Applicable to the PR-C1 Zone.

(a) Off-street parking not within a parking garage structure shall occupy not more than 35 percent of the building site.

(4) Provisions Applicable to the PR-C1 and PR-C2 Zones.

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

(i) Outdoor seating and dining;

(ii) Signs;

(iii) Loading areas;

(iv) Motor vehicle fuel pumps;

(v) Retail nursery and garden centers (44422) in the PR-C2 zone;

(vi) Minor and incidental outdoor display areas for merchandise sold on site as approved through the design review process;

(vii) Play/recreation areas; and

(viii) Miscellaneous storage when limited to 10 percent of the site area and when perimeter landscaping and fencing is provided as approved through the design review process.

(b) Automobile repair, automobile service stations, and similar uses shall conform to the following limitations and standards:

(i) Automobile repair and the installation of automobile parts and accessories shall be primarily contained within an enclosed structure;

(ii) Unless specifically authorized by the community development director, views into automobile service bays from Pacific Highway South shall be diminished by building orientation, screening, or other means;

- (iii) Unless specifically authorized by the public works director, vehicular access shall be limited to one driveway per street frontage;
  - (iv) Motor vehicle fuel pump islands shall be set back a minimum of 15 feet from property lines;
  - (v) A six-foot-high, 100 percent sight-obscuring fence shall be provided along property lines that abut residential properties as designated by the Greater Des Moines Comprehensive Plan; and
  - (vi) Vehicle storage shall be limited to those vehicles contracted for repair or service.
- (c) Social service facilities shall conform to the following limitations and standards:
- (i) Outdoor play/recreation areas for children shall be set back a minimum of five feet from property lines; and
  - (ii) Unless specifically authorized by the community development director, passenger loading and unloading areas shall be provided on site. [Ord. 1410 § 1, 2007; Ord. 1267 § 2(part), 2000.]

**18.31.090 Dimensional standards.**

- (1) Lot Area. Every lot shall have a minimum area of 7,500 square feet.
- (2) Lot Width. Every lot shall have a minimum width of 75 feet.
- (3) Front Yard.
- (a) In the PR-R zone, every lot shall have a front yard of not less than 15 feet.
  - (b) In the PR-C1 and PR-C2 zones, no front yard is required.
- (4) Side Yard.
- (a) In the PR-R zone, every lot shall have a side yard on each side of the lot. The side yards shall have a width of not less than 10 feet.
  - (b) In the PR-C1 and PR-C2 zones, no side yard is required.
- (5) Rear Yard. Every lot shall have a rear yard of not less than 15 feet.
- (6) Measurement of Building Height.
- (a) PR-R zone: Building height shall be measured from average finish grade.
  - (b) PR-C1 zone: Building height shall be measured from mean sidewalk grade of Pacific Highway South.
  - (c) PR-C2 zone: Building height shall be measured from mean sidewalk grade as follows:
    - (i) Building height for properties abutting Pacific Highway South is measured from Pacific Highway South.
    - (ii) Building height for properties abutting 24th Avenue South is measured from 24th Avenue South.

(iii) Building height for properties that do not abut Pacific Highway South or 24th Avenue South is measured from South 216th Street.

(7) Minimum Building Height.

(a) Except for buildings containing only a full-service restaurant or a gasoline service station, and other instances specifically authorized by the city manager or designee in writing, no building shall be less than the height specified below:

(i) PR-R zone: 35 feet.

(ii) PR-C1 zone: 35 feet.

(iii) PR-C2 zone: No minimum building height.

(b) For the purposes of this subsection, minimum building height shall not include decorative towers or appurtenances, roof slopes out of character with the building's architecture, or other contrivances provided solely for achievement of the required minimum building height. In calculating minimum building height, the city manager or designee shall include regular architectural features enclosing functional, occupiable building areas.

(8) Maximum Building Height. Buildings and structures may be built to the height specified:

(a) PR-R zone: 35 feet. Buildings may be built to a height of 120 feet with approval of a condominium height bonus or 200 feet with approval of a floor area clustering height bonus as provided by this chapter.

(b) PR-C1 zone:

(i) Except as provided by subsection (8)(b)(ii) of this section, 55 feet.

(ii) In that portion of the PR-C1 zone east of Pacific Highway: 85 feet.

(c) PR-C2 zone: 55 feet.

(9) Building Height Limitation Adjacent to Single-Family. When an abutting property is designated single-family residential by the Des Moines Comprehensive Plan, building height shall be limited as follows:

(a) Within 20 feet of the abutting single-family residential property, maximum building height shall be 35 feet.

(b) Within 40 feet of the abutting single-family residential property, maximum building height shall be 45 feet.

(c) During the design review and environmental review, the city manager or designee may impose other conditions of approval in order to mitigate potential height, bulk, and scale impacts upon adjacent single-family residents not sufficiently mitigated by existing regulations.

(10) Condominium Building Height Bonus. In the PR-R zone, the city manager or designee may authorize buildings 36 to 120 feet in height when a condominium declaration which satisfies chapter 64.34 RCW is recorded for all dwellings within the building.

(11) Floor Area Clustering Building Height Bonus. In the PR-R zone, the city manager or designee may authorize buildings up to 200 feet in height when all of the following provisions are met:

- (a) A condominium height bonus was granted pursuant to the condominium building height bonus established by subsection (10) of this section.
- (b) The total floor area of the building does not exceed the total maximum floor area of a building that could have been built under the condominium building height bonus established by subsection (10) of this section.
- (c) The minimum building site area is 43,560 square feet.
- (d) Useable pedestrian plazas and open space are provided.

(12) Height Allowance for Enhanced Design of Distinctive Rooflines. In the PR-C1, PR-C2 and PR-R zones, a portion of a building may exceed the maximum building height; provided, that the following provisions are met:

- (a) The purpose of the additional height for the building is to provide a roofline that is of distinctive form through the use of design elements such as pitched roofs, sloped roofs, vertical offsets or other similar roof features that achieve the goals of Pacific Ridge Design Guideline 2.B.2.
- (b) The maximum building height established in subsection (9) of this section shall only be increased by a maximum of seven percent.
- (c) Architectural features associated with the distinctive roofline shall be used to emphasize significant architectural elements of the building such as the main entrance of the building or the buildings orientation to a corner, or to provide for pitched or sloped roofs for the building.
- (d) Height allowed for distinctive rooflines under this section shall not be used to determine the building height for the purposes of establishing the maximum gross floor area under DMMC 18.31.110(3).
- (e) The building area or amount of building structure extending above the maximum height established in subsection (9) of this section shall be limited to 30 percent of the building roof deck area. When multiple building rooflines exist at different building levels or stories, the 30 percent requirement shall only apply to the area of the roof deck of the tallest portion of a building.

(13) Placement of Buildings.

(a) Where a building site abuts the public right-of-way of Pacific Highway South, at least one of the main buildings on the site shall be placed as follows:

- (i) Except as provided below, the building shall abut, or be in close proximity to, the public right-of-way of Pacific Highway South.
- (ii) Through the permit review process, the city manager or designee may determine it is in the public interest to allow the proposed building to be set back from the right-of-way. In considering a request for setback, the director shall consider matters such as adopted land use policies, vehicular and pedestrian circulation, sight distances,

landscaping, existing site improvements, adjacent site improvements, easements or other encumbrances, and public benefit features such as plazas and public artwork.

(b) The distance between a building containing dwelling units and any other building shall be not less than 10 feet.

(c) On the rear third of an interior lot, accessory buildings not containing dwellings may be built to the side lot lines and the rear lot line; provided, not less than 10 feet of the rear lot line shall be free and clear of buildings.

(d) On the rear one-third of a corner lot:

(i) Accessory buildings not containing dwellings may be built to the interior side lot line and the rear lot line.

(ii) Where a setback from the street is required for the adjoining lot, no building shall be erected closer than 10 feet to the street side lot line.

(e) On the rear third of a reverse corner lot:

(i) Accessory buildings not containing dwellings may be built to the interior side lot line.

(ii) Where a setback from the street is required for the adjoining lot, no building shall be erected closer than 10 feet to the street side lot line.

(iii) No building shall be erected closer than five feet to the rear lot line. [Ord. 1513 § 1, 2011; Ord. 1405 § 1, 2007; Ord. 1267 § 2(part), 2000.]

#### **18.31.100 General site design requirements.**

(1) Design Guidelines. Design guidelines shall be adopted for new construction within Pacific Ridge. All development proposals shall demonstrate substantial compliance, as determined by the community development director, with the adopted Pacific Ridge design guidelines. The guidelines shall provide objectives and techniques for ensuring that new construction provides lasting benefit to the community; minimizes incompatibility among land uses; and promotes crime prevention. Design guidelines shall address site design issues including, but not limited to, the following:

(a) Placement and orientation of buildings and building entrances;

(b) Vehicular access, parking, and circulation;

(c) Pedestrian orientation and access;

(d) Orientation to transit;

(e) Placement and screening of service and loading areas;

(f) Landscaping;

(g) Freestanding signage;

(h) Screening of parking and other site features;

(i) Placement and design of open space;

- (j) Crime prevention; and
- (k) Exterior lighting. [Ord. 1267 § 2(part), 2000.]

**18.31.110 General building design requirements.**

(1) Design Guidelines. Design guidelines shall be adopted for new construction within Pacific Ridge. All development proposals shall demonstrate substantial compliance, as determined by the community development director, with the adopted Pacific Ridge design guidelines. The guidelines shall provide objectives and techniques for ensuring that new construction provides lasting benefit to the community; minimizes incompatibility among land uses; and promotes crime prevention. Design guidelines shall address building design issues including, but not limited to, the following:

- (a) Building height, bulk, and scale;
- (b) Building modulation and fenestration;
- (c) Building silhouette and roof design;
- (d) Placement and orientation of building entrances, common areas, activity areas, balconies, and other features;
- (e) Exterior building materials;
- (f) Window and door detailing;
- (g) Continuity/variety in building design;
- (h) Orientation to transit;
- (i) Wall signage;
- (j) Crime prevention;
- (k) Awnings, covered walkways, and other weather protection; and
- (l) Placement and screening of mechanical equipment.

(2) Minimum floor-to-ceiling height for dwellings. Dwellings shall have a minimum floor-to-ceiling height of eight feet, six inches.

(3) Maximum Gross Floor Area.

(a) The maximum gross floor area for buildings within Pacific Ridge neighborhood shall be determined by multiplying the lot area of the site by the floor area ratio number established in the following table:

| Building Height | PR-C1 and PR-C2 FAR | PR-R FAR |
|-----------------|---------------------|----------|
| 35 Feet or Less | 2.8                 | 2.8      |
| 35 – 50         | 3.5                 | 3.5      |
| 50 – 60         | 4                   | 4.0      |
| 60 -70          | 4.5                 | 4.5      |

|           |                |     |
|-----------|----------------|-----|
| 70 – 80   | 5              | 5   |
| 80 – 90   | 5.5            | 5.5 |
| 90 – 100  | Not Applicable | 6.5 |
| 100 – 110 | Not Applicable | 7.5 |
| 110 – 120 | Not Applicable | 9   |
| > 120     | Not Applicable | 9   |

(b) Gross floor area shall include the total square footage of the enclosed building; provided, that:

(i) For properties located adjacent to Pacific Highway South, the area of parking garages constructed below the adjacent sidewalk grade on Pacific Highway South shall not be included in the calculation of gross floor area.

(ii) For all other properties in the Pacific Ridge neighborhood, the area of parking garages constructed below the lowest sidewalk grade adjacent to the property line shall not be included in the calculation of gross floor area.

(4) Within the PR-C1 and PR-C2 zones, 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, the Uniform Building Code, and the following provisions:

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

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

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

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

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

(f) The minimum horizontal distance between the structural encroachment and the 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) Structural encroachments into the right-of-way shall maintain adequate distance away from utility, transportation, or other facilities as determined by the community development director in consultation with the public works director;

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

(j) 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

(k) In reviewing a proposed structural encroachment into the public right-of-way, the community development director may include conditions as may be reasonably needed to ensure that the structure is consistent with the purpose of the PR zone, and to minimize the likelihood of adverse impacts. The community development director shall deny the request if it is determined that adverse impacts cannot be mitigated satisfactorily. [Ord. 1513 § 2, 2011; Ord. 1267 § 2(part), 2000.]

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**The Des Moines Municipal Code is current through Ordinance 1548, passed August 30, 2012.**

Disclaimer: The City Clerk's Office has the official version of the Des Moines Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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