

ORDINANCE NO. 1485

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON approving the preliminary Planned Unit Development (hereinafter "PUD") entitled Waterview Crossing, subject to conditions specified herein.

WHEREAS, SSI Pacific Place, LLC. (hereinafter, the applicant) owns, has a contract to purchase, or holds options to purchase the Property legally described in Exhibit 1, attached hereto and incorporated by reference herein; and

WHEREAS, the applicant filed an application for a PUD in order correlate comprehensively the provisions of Title 18 and other ordinances the City, and

WHEREAS, whenever public necessity, convenience, and general welfare require, the boundaries of the zones established on maps by this title, the zone of property uses in this title, or other provisions of this title may be amended by the adoption of a PUD pursuant to DMMC 18.60.010, and

WHEREAS, Development Services determined that the application met the procedural submittal requirements on October 27, 2008 and subsequently issued a notice of complete application, and

WHEREAS, projects within the Pacific Ridge Neighborhood are not required to conduct a separate environmental analysis as part, if the development is consistent with the SEPA Planned Action adopted as part of the "*Pacific Ridge Neighborhood Plan*," and

WHEREAS, establishment of the SEPA Planned Action did not create a categorical exemption from the requirements of the SEPA, but completed the review at the programmatic level instead of a project level, and

WHEREAS, the applicant was still required to submit a SEPA Checklist in order to verify that the project is consistent with the *Pacific Ridge Neighborhood Plan EIS* and the SEPA Planned Action Ordinance pursuant to WAC 197-11-172, and

WHEREAS, the *Pacific Ridge Neighborhood Plan EIS* have been available for review with the PUD application during the review process, and

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

WHEREAS, the SEPA official determined that the project was consistent with the Planned Action Ordinance and as such a threshold determination or EIS is not required pursuant to WAC 197-11-172, and

WHEREAS, the Des Moines Planning Agency reviewed the PUD at its regular meeting on May 3, 2010, and

WHEREAS, the Des Moines Planning Agency, after review of the PUD at a public meeting and consideration of the information provided by Administration, recommended approval of the application subject to specific conditions, and

WHEREAS, the City Council, in a public hearing on May 27, 2010 considered the PUD, recommendations from the Planning Agency, and information provided by Administration, and

WHEREAS, the City Council finds that the amendments contained in this ordinance are appropriate and necessary for the preservation of the public health and welfare; now therefore,

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

Sec. 1. Findings of fact. The findings of fact set forth in Exhibit 2, attached hereto and incorporated by this reference, are adopted in full by the City Council in support of its decision to approve the PUD subject to specific conditions.

Sec. 2. Decision criteria. The criteria used in making the decision are those required by DMMC 18.52.010. The City Council finds that the PUD is in compliance with the required criteria, as set forth in the findings of fact in Exhibit 2, adopted above.

Sec 3. Approved deviations. Consistent with the provisions of DMMC 18.52.100 and DMMC 18.60.010 the following deviations are approved:

(1) The requirement of DMMC 18.31.080(1)(d)(iii) and 18.31.080(2)(b) regarding the Private Recreation Area Requirement is reduced from 40 square feet to 0 square feet for 75% of the total dwelling units within a given building provided that the building is greater than 35 feet in height.

(2) The requirement of DMMC 18.31.090(3)(a) establishing a minimum front yard setback for properties zoned Pacific Ridge Residential (PR-R) of 15 feet is reduced to 10 feet; provided, that for properties within the Pacific Ridge Residential zoning classification, the perimeter adjacent to a public right-of-way shall be less than 15 feet.

(3) For parcels 1, 2, 3 and 4, as identified in Exhibit 3: The requirement of DMMC 18.31.090(4)(a) establishing a minimum side yard setback for the internal property lines for properties zoned Pacific Ridge Residential (PR-R) of 10 feet is reduced to 0 feet; provided that for properties within the Pacific Ridge Residential zoning classification, no yard area adjacent to either a public right-of-way or private road shall be less than 10 feet.

(4) The requirement of DMMC 18.31.090(12)(c) of the Floor Area Clustering Building Height Bonus is reduced from than 43,560 square feet to 38,000 square feet for Parcels 2 and 3 as illustrated on Exhibit 3.

(5) The requirement of DMMC 18.31.110(2) that the minimum ceiling height is 8'6" for all residential dwelling units is reduced to 8'0" for all residential dwelling units.

(6) For parcels 5, 6, 7, and 8, as identified in Exhibit 3: The requirement of DMMC 18.31.110(3) is waived for buildings that are less than 250 feet in length as measured along the face of the building substantially parallel to Pacific Highway.

(7) For parcels 1, 2, 3 and 4, as identified in Exhibit 3: The requirement of DMMC 18.31.110(3) is waived for buildings that are less than 250 feet in length as measured along the face of the building substantially parallel to 29th Avenue South.

(8) The requirement of DMMC 18.52.040 that the construction of the buildings within the Planned Unit Development must be completed within 3 years from the date of approval is modified so that the expiration of the Waterview Crossing PUD shall expire upon the termination of the Development Agreement, dated November 30th, 2007, between the City of Des Moines and SSI Pacific Place, LLC; provided that once the project is complete the PUD deviations will remain in effect for the life of the individual buildings.

Sec. 4. Approval subject to conditions. The PUD is approved subject to the following conditions and modifications:

(1) The applicant shall provided 65 square feet of common recreational area per each residential unit and a minimum of 60% of this recreational area shall be provided outdoors to offset the elimination of 75% of the private recreational areas requirement.

(2) The collection of Transportation Impact Fees as established in DMMC 12.56, and the collection of Pacific Ridge Mitigation Fees as established in Exhibit B of Ordinance 1298, shall be as amended by the terms of the Development Agreement dated November 30, 2007(Section 6.B) between the City of Des Moines and SSI Pacific Place, LLC.

(3) The developer shall negotiate in good faith with Sound Transit for a link light rail stop as part of the proposed development per the terms of Section 6.G of the Development Agreement dated November 30, 2007 between the City of Des Moines and SSI Pacific Place, LLC.

Sec. 5. Compliance with other law. Nothing in this ordinance shall be construed as excusing the applicant from compliance with all federal, state, or local statutes, ordinances, or regulations applicable to this PUD other than as expressly set forth herein.

Sec. 6. Ordinance attached to approval documents. A certified copy of this ordinance, along with the herein referenced findings of fact shall be attached to and become a part of the evidence of the approval of said PUD to be delivered to the applicant.

Sec. 7. Distribution of ordinance following Council action. Certified or conformed copies of this ordinance shall be delivered to the following:

(1) City of Des Moines Planning, Building and Public Works Department;

(2) South King Fire and Rescue; and

(3) City Clerk of the City of Des Moines.

Sec 8. Distribution of ordinance by planning official. Within five days following adoption of this ordinance, the planning official shall distribute the ordinance to the

applicant, and to each person who submitted timely written or oral testimony to the City Council for inclusion in the record.

Sec. 9. 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. 10. 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.

ADOPTED BY the City Council of the City of Des Moines, Washington this 22nd day of July, 2010 and signed in authentication thereof this 22nd day of July, 2010.


MAYOR PRO TEM

APPROVED AS TO FORM:


City Attorney

ATTEST:


City Clerk

Published: July 29, 2010

Effective Date: August 21, 2010

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1485, Adopted July 22, 2010.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance approves the preliminary Waterview Crossing Planned Unit Development ("PUD"), subject to conditions contained in the ordinance.

The full text of the ordinance will be mailed without cost upon request.

Sandy Paul, CMC
City Clerk

Published: July 29, 2010

WATERVIEW CROSSING LEGAL DESCRIPTIONS

ORDINANCE NO. 1485, EXHIBIT 1

July 22, 2010

PARCEL A - TAX PARCEL 2156400269

The land referred to is situated in the County of King, City of Des Moines, State of Washington, and is described as follows:

That portion of the South half of the Southeast quarter of the Northwest quarter of the Southeast quarter of Section 9, Township 22 North, Range 4 East, W.M., In King County, Washington, lying Easterly of State Highway No. 1 (Pacific Highway South);

EXCEPT that portion thereof lying North and East of the following described line;

Beginning at the Southeast corner of said Subdivision;

THENCE North $00^{\circ}58'35''$ East along the East line of said Subdivision, a distance of 30.00 feet to a point on the North margin line of South 220th Street;

THENCE North $88^{\circ}24'15''$ West along said Margin line, a distance of 30.00 feet;

THENCE North $00^{\circ}58'35''$ East a distance of 117.11 feet;

THENCE North $88^{\circ}24'15''$ East a distance of 40.00 feet;

THENCE North $00^{\circ}58'35''$ East a distance of 40.00 feet;

THENCE North $88^{\circ}24'15''$ East a distance of 75.00 feet;

THENCE North $00^{\circ}58'35''$ East a distance of 109.34 feet;

THENCE North $88^{\circ}24'15''$ East a distance of 131.75 feet to a point on the Easterly margin line of State Highway No. 1, said Point being the terminus of herein described line;

ALSO EXCEPT the South 30 feet thereof conveyed to King County for road under Recording No. 1475704;

(ALSO KNOWN AS Parcel A, City of Des Moines Boundary Line Adjustment No. LLA 930-047, recorded under Recording No. 9312079004;)

AND EXCEPTING THEREFROM a portion of Tract X conveyed to City of Des Moines by deed under Recording No. 20020715000351, described as follows:

Beginning at the Southwest corner of Tract X being 50.00 feet East of the center line of Pacific Highway South SR (99) from which a radius point bears South $88^{\circ}07'53''$ East;

THENCE parallel with and 50.00 feet east of said center line along a 5679 58 foot radius curve to the right with a center angle of $2^{\circ}41'24''$, an arc distance of 266.64 feet to the Northwest corner of said Property;

THENCE along the North line of said Property South $88^{\circ}24'15''$ East a distance of 7.00 feet to a point on a non-tangent curve from which a radius point bears South $89^{\circ}10'47''$ East;

THENCE parallel with and 57.00 feet East of said center line along a 5672 58-foot radius curve to the left with a central angle of $2^{\circ}30'03''$ an arc distance of 247.60 feet;

THENCE South $43^{\circ}50'28''$ East a distance of 27.10 feet to the South line of said Property;

THENCE along said South line North 88°24'15" West a distance of 25.20 feet to the Point of Beginning

Situate in the County of King, State of Washington.

PARCEL B - TAX PARCEL 2156400263

That portion of the South half of the Southeast quarter of the Northwest quarter of the Southeast quarter of Section 9, Township 22 North, range 4 east, Willamette meridian, in King County, Washington, lying easterly of State Highway No. 1 (Pacific Highway South);

ALSO EXCEPT that portion thereof lying South and West of the following described line:

Beginning at the Southeast corner of said Subdivision;

THENCE North 00°58'35" East along the East line of said Subdivision, a distance of 30.00 feet to a point on the North margin line of South 220th street;

THENCE North 88°24'15" West along said margin line, a distance of 30.00 feet;

THENCE North 00°58'35" East a distance of 117.11 feet;

THENCE North 88°24'15" East a distance of 40.00 feet;

THENCE North 00°58'35" East a distance of 40.00 feet;

THENCE North 88°24'15" East a distance of 75.00 feet;

THENCE North 00°58'35" East a distance of 109.34 feet;

THENCE North 88°24'15" East a distance of 131.75 feet to a point on the Easterly margin line of State Highway No. 1, said Point being the terminus of herein described line;

EXCEPT the South 30 feet thereof conveyed to King County for road under Recording Number 1475704;

AND EXCEPT the West 7 feet thereof conveyed to the City of Des Moines by deed recorded under Recording Number 20020320001782

(ALSO KNOWN AS Parcel A, City of Des Moines Boundary Line Adjustment No. LLA 930-047, recorded under Recording Number. 9312079004;)

PARCEL C - TAX PARCEL 2156400230

Portion of the South half of the Northeast quarter of the Northwest quarter of the Southeast quarter of Section 9, Township 22 North, Range 4 East, Willamette Meridian, in King County, Washington, lying Easterly of State Road No. 1;

EXCEPT the East 30.0 feet of that portion of said South half lying Northerly of the South line of South 218th street; and EXCEPT that portion thereof condemned by the City of Des Moines in King County Superior Court Cause Number 02-2-19402-8.

TOGETHER WITH that portion of the North half of the Southeast quarter of the Northwest quarter of the Southeast quarter of Section 9, Township 22 North, Range 4 East, Willamette Meridian, in King County, Washington, lying Easterly of State Road No. 1;

PARCEL D - TAX PARCEL 2724201700

All of Block 14, Gem Addition to Des Moines, according to the plat thereof recorded in volume 4 of plats, page(s) 70, in King County, Washington; together with the vacated alley in said Block 14;

TOGETHER WITH the North 30 feet of that portion of vacated South 219th Street adjoining said Block 14; and

TOGETHER WITH that portion of vacated 28th Avenue South lying between the Southerly right of way margin of South 218th Street and the center line of South 219th Street also lying adjacent to the West line of Block 14 of said Gem Addition.

PARCEL E - TAX PARCEL 2724201800

Lots 1 through 30, both inclusive, in Block 15 of Gem Addition to Des Moines, as per plat recorded in volume 4 of plats, page 70, records of King County Auditor;

TOGETHER WITH vacated alley in said Block;

TOGETHER WITH the South half of vacated South 219th Street;
together with the East half of vacated 238th Avenue South;

Situate in the City of Des Moines, County of King, State of Washington.

FINDINGS OF FACT

ORDINANCE NO. 1485, EXHIBIT 2

JULY 22, 2010

Upon review of an application requesting approval of an Planned Unit Development (hereinafter "PUD") entitled "Waterview Crossing" the Des Moines City Council, following a public hearing hereby adopts the following Findings of Fact and Conclusions of Law:

1. PUDs are classified as Type IV Land Use Actions at DMMC 18.56.060 and are a quasi-judicial matter. Type IV land use actions require a public meeting with the Planning Agency and a public hearing with the City Council pursuant to DMMC 18.56.180.
2. Waterview Crossing is envisioned to be a high-density mixed use project within the Pacific Ridge Neighborhood.
3. The scope of the vertical development as currently envisioned, ranges from 8 stories buildings adjacent to Pacific Highway and residential buildings up to 20 stories on the eastern half providing 1,608 residential units, 90,000 square feet of commercial space, 40,000 square feet of retail and structured, underground parking for approximately 2,316 cars.
4. Based on actual market conditions, the number of units, square footage of commercial space, number of parking stalls, and the distribution of each among the newly created parcels, may be decreased or increased to the maximum number allowed under the terms of the development agreement between SSI Pacific Place and the City of Des Moines.
5. The site will contain a variety of improvements/amenities for the important semi-public spaces and public spaces such as landscaping, outdoor plazas and courtyards, roof terraces, fitness facilities, community rooms, and other places for residents to gather outside of their residential unit.
6. The topography of the site slopes 76 feet in height from the northeast corner to the southwest corner, reaching a low point at the southwest corner. Portions of site also include steep grade transitions.
7. The topography changes will necessitate creative approaches to ensuring pedestrian and automotive connectivity through the site. Roadways that bound the site include the Pacific Highway South to the west, 29th Avenue to the east, 218th Avenue South to the north and South 220th Street to the south.
8. The majority of the site is covered with impervious surface as a result of the development of the mobile home parks; very little significant vegetation remains on site. There no wetlands, streams, or other undevelopable critical areas present on the subject property.
9. The Property presently consists of several separate contiguous tax lots and is located within the Pacific Ridge neighborhood (hereinafter "Pacific Ridge") of the City and is bordered on the west by Pacific Highway South, on the east by 29th Ave. South, on the south by South 220th St., and to the north by South 218th St. and

the northern boundary of King County Tax Parcel No. 2156400280; and

10. The portion of the Property that is bordered on the west by 28th Ave. South, on the east by 29th Ave south on the south by South 200th St. and on the north by South 218th St. (3.81 acres), is within the Pacific Ridge Residential Subarea of the Pacific Ridge Zone.
11. The portion of the Property that is bordered on the west by Pacific Highway South, on the east by 28th Ave. South, on the south by South 220th St., and on the north the northern boundary of King County Tax Parcel No. 2156400280 (5.68 acres), is within the Pacific Ridge Commercial 1 Subarea of the Pacific Ridge Zone.
12. The Des Moines Comprehensive Plan has designated the western half of the project site (5.68 acres) as Pacific Ridge Mixed Use and the eastern half of the project site (3.81 acres) as Pacific Ridge Residential.
13. The project is consistent with the Goals, Policies, and Strategies of the Des Moines Comprehensive Plan.
14. DMMC 18.31.010, et seq. was enacted by the City to implement the Des Moines Comprehensive Plan, Pacific Ridge Neighborhood Improvement Plan, and other adopted policies for the commercial and residential areas of Pacific Ridge, including, inter alia, the transformation of 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 replacement of lower-scale, existing buildings with new larger scale and higher structures that will dramatically enhance the appearance, character, economics, and safety of the area; and exhibit superior design features that makes Pacific Ridge inviting to residents and businesses, complements other areas of Des Moines, and fosters community pride.
15. The deviations approved as part of the PUD will produce a development which would be as good as or better than that resulting from the traditional lot by lot development, by applying to large areas.
16. The deviations are necessary to correlate comprehensively the provisions of Title 18 and other ordinances and codes of the City.
17. The deviations will permit flexibility that will encourage a more creative approach in the development of land that will result in a more efficient, aesthetic, and desirable use of open area, while at the same time, maintaining substantially the same population density and area coverage permitted in the Pacific Ridge Commercial 1 and Pacific Ridge Residential zones.
18. The deviations will permit flexibility in design, placement of buildings, use of open spaces, circulation facilities to best address the topography change across the site.

19. The City of Des Moines has established minimum design standards through the adoption of the Pacific Ridge Design Guidelines and City's Design Review Code codified as Chapter 18.56 DMMC to: (1) promote the public health, safety, and general welfare of the citizens of the City; (2) recognize that land use regulations aimed at the orderliness of community growth, the protection and enhancement of property values, the minimization of discordant and unsightly surroundings, the avoidance of inappropriateness and poor quality of design and other environmental and aesthetic objectives provide not only for the health, safety, and general welfare of the citizens, but also for their comfort and prosperity and the beauty and balance of the community; (3) protect, preserve, and enhance the social, cultural, economic, environmental, aesthetic, and natural values that have established the desirable quality and unique character of the City; (4) promote and enhance construction and maintenance practices that will tend to promote visual quality throughout the City ; (5) recognize environmental and aesthetic design as an integral part of the planning process.

