

ORDINANCE NO. 1410

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON, related to the private recreation area requirements established for the Pacific Ridge by chapter 18.31 of the Des Moines Municipal Code.

WHEREAS, the City Council supports the redevelopment of the Pacific Ridge Neighborhood as a high density and pedestrian oriented community, and

WHEREAS, Policy 2-03-05 of the Land Use Element of the Comprehensive Plan states that the City should "promote a land use pattern, scale, and density that supports public transportation services and encourages people to walk and bicycle, as well as provide convenient and safe automobile usage," and

WHEREAS, Strategy 2-04-08 of the Land Use Element of the Comprehensive Plan states that the City should "encourage improvement of the Pacific Ridge Neighborhood by working with the business community and other representative organizations to achieve the goals of the City of Des Moines Comprehensive Plan," and

WHEREAS, Policy 11-03-02 of the Pacific Ridge Element of the Comprehensive Plan states that the City should "encourage 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 Policies for King County," and

WHEREAS, Policy 11-03-03 of the Pacific Ridge Element of the Comprehensive Plan states that the City should "encourage land uses that promote long-term residency and activity during both daytime and nighttime hours, such as mixed-use buildings and condominium dwellings," and

WHEREAS, Policy 11-03-06 of the Pacific Ridge Element of the Comprehensive Plan states that the City should "ensure that development requirements, land use review procedures, and mitigation measures do not unnecessarily hinder redevelopment," within the Pacific Ridge, and

WHEREAS, Policy 11-03-07 of the Pacific Ridge Element of the Comprehensive Plan states that the City should "promote redevelopment of Pacific Ridge properties to attract new or expanded businesses and commercial development to Pacific Ridge," and

WHEREAS, Policy 11-03-17 of the Pacific Ridge Element of the Comprehensive Plan states that the City should "encourage new development to include public benefit features such as plazas and courtyards with outdoor seating, hill-climbs, overhead weather protection, public art, etc," and

WHEREAS Section 18.31.010 states that the objective and purpose of the Pacific Ridge zone is "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," and

WHEREAS Section 18.31.010 states that the "redevelopment of Pacific Ridge is appropriate because this area has excellent access to transportation facilities," 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 City adopted a SEPA Planned Action for the Pacific Ridge under Ordinance No. 1298, and

WHEREAS, the SEPA Planned Action was based on the adopted Pacific Ridge Neighborhood Improvement Plan and Comprehensive Plans, and

WHEREAS, the City has adopted zoning regulations which are codified in the Des Moines Municipal Code to facilitate the implementation of the SEPA Planned Action, the Pacific Ridge Neighborhood Improvement Plan, the Comprehensive Plan, and

WHEREAS, the proposed textual code amendment is consistent with the range of impacts studied under the SEPA Planned Action Environmental Impact Statement, the Pacific Ridge Neighborhood Improvement Plan, the Comprehensive Plan, and

WHEREAS, the Des Moines Planning, Building and Public Works director acting as the SEPA responsible official adopted the existing environmental documentation entitled "Pacific Ridge Neighborhood Improvement Plan and Integrated Draft Environmental Impact Statement" dated May 24, 2000 pursuant to WAC 197-11-600 and DMMC 16.04.108, and

WHEREAS, the Des Moines Planning, Building and Public Works director acting as the SEPA responsible official adopted the existing environmental documentation entitled "Pacific Ridge Neighborhood Improvement Plan and Integrated Final Environmental Impact Statement" dated July 5, 2000 pursuant to WAC 197-11-600 and DMMC 16.04.108, and

WHEREAS, the Des Moines Planning, Building and Public Works director acting as the SEPA responsible official reviewed this proposed non-project action and determined that the proposed textual code amendments are within the scope of the existing environmental documents, and

WHEREAS, the Des Moines Planning, Building and Public Works director acting as the SEPA responsible official determined that the existing environmental documentation fulfilled the SEPA requirements established by Chapter 197-11 WAC and Chapter 16.04 DMMC pursuant to WAC 197-11-600 and DMMC 16.04.108; and

WHEREAS, notice of the public hearing was given to the public in accordance with law and a public hearing was held on September 13, 2007, and all persons wishing to be heard were heard, and

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

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

Sec. 1. DMMC 18.31.080 and section 2(part) of Ordinance No. 1267 are each amended as follows:

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) Onsite 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 forty (40) square feet for buildings over thirty-five (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 the previous paragraph, 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 forty (40) square feet for buildings over thirty-five (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 area 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.

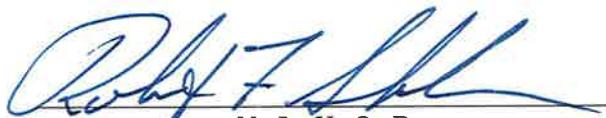
Section 2. Severability - Construction.

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

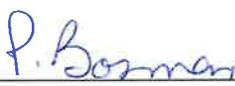
(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this ordinance is deemed to control.

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

PASSED BY the City Council of the City of Des Moines this 13th day of September, 2007 and signed in authentication thereof this 13th day of September, 2007.

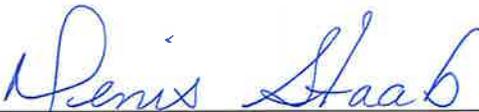

M A Y O R

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Clerk

Published: September 20, 2007

LEGAL NOTICE

SUMMARY OF ADOPTED ORDINANCE

CITY OF DES MOINES

ORDINANCE NO. 1410, Adopted September 20, 2007.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance relates to the private recreation area requirements established for the Pacific Ridge by chapter 18.31 of the Des Moines Municipal Code.

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

Denis Staab
City Clerk

Published: September 20, 2007