

## REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

November 15, 2007

The regular meeting of the Des Moines City Council was called to order at 7:31 p.m. by Mayor Sheckler in the Council Chambers, 21630 11<sup>th</sup> Avenue South, #B.

PLEDGE OF ALLEGIANCE to the Flag was led by Councilmember Kaplan.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Scott Thomasson, Councilmembers Dave Kaplan, Ed Pina and Carmen Scott. Absent: Councilmembers Dan Sherman and Susan White. Also in attendance were City Manager Tony Piasecki, City Attorney Pat Bosmans, Finance Director Paula Henderson, Land Use Planner II Jason Sullivan and City Clerk Denis Staab.

MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina and passed unanimously, to excuse Councilmembers Sherman and White.

### BOARD & COMMITTEE REPORTS & COUNCILMEMBER COMMENTS

#### Holiday Season Happenings

Councilmember Scott reminded everyone of the upcoming events:

- December 1<sup>st</sup> - Victorian Christmas Concert at the Des Moines Theater
- December 7<sup>th</sup> - Tree Lighting at 7 p.m. with Santa, entertainment begins at 6 p.m. just north of QFC Store, Twilight Christmas Shopping where stores have a decorating contest
- December 8<sup>th</sup> - Breakfast with Santa

#### Citizens Against SeaTac Expansion (CASE)

Councilmember Kaplan reported attending a CASE meeting last night to speak on the resolution of the Court case involving the investors behind the conveyor belt. Other topics covered in their meeting included:

- State's Citing Committee - future air transportation needs in the State
- Water quality in local streams

#### Des Moines Food Bank - Donation

Councilmember Pina advised that the local Food Bank can always use help.

MOTION was made by Councilmember Pina, seconded by Councilmember Scott, that the Council donate \$100.00 to the Food Bank from its personal "Hearts & Flowers Fund". Motion passed unanimously.

#### Preliminary 2008 Budget Discussions

Councilmember Pina remarked that Council's upcoming Futures lists item to approve the 2008 budget ordinance at an upcoming meeting, he encouraged this be delayed until Council finishes its preliminary budget review process.

City Manager Piasecki suggested the following options:

- Start the November 29<sup>th</sup> meeting early - 6 p.m. or 6:30 p.m. or,
- December 1<sup>st</sup> - Have a Special Saturday meeting

Mayor Sheckler stated he will schedule some extra time for budget review.

Letter from City of Normandy Park to Governor Gregoire Re. Wildlife Attractants Task Force

Councilmember Pina suggested that City Manager Piasecki send a similar letter on behalf of the City of Des Moines.

Mayor Sheckler requested input be given to the City Manager to follow-up.

ADMINISTRATION REPORTS

Powell v City of Des Moines, et al - Law Suit

City Manager Piasecki stated this item dealt with owners of a piece of property that was essentially land-locked, and their assertion that the City owed them access to their property across some sensitive areas that we owned, which also included questions regarding notice for a short plat, etc. He reported, that thanks to the work by the City Attorney, the City has been dismissed from this law suit.

CEO David Johnson of Highline/West Seattle Mental Health Center - Briefing

Mr. Johnson advised that this health center serves Des Moines' residents who have serious and persistent mental illnesses and live at or near poverty because of their illness, along with children or families who need counseling or family services. He noted the center is private/non-profit founded in 1966, and is one of the two largest health providers in King County, one of the three largest in the State. He informed Council that the Burien center will be moving and described the center and some of the services provided:

- Provide over 200 residential units for people who might otherwise be homeless
- Child & Family Therapy
- Adult Outpatient
- Domestic Violence Treatment
- Job Training & Placement
- Wellness & Recovery Program
- On Site Pharmacy

Mr. Johnson stated the new campus site is in Burien at Ambaum and 136<sup>th</sup> Street, providing a mental health professional services facility and apartment complex with 15 units of safe and affordable housing, with improved access by public transportation. In conclusion, he requested the City provide a general endorsement letter for the project to accompany grant applications to private sources and for regional, state and federal sources.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the regular minutes of October 25, and the special and regular meetings of November 1, 2007.
2. Motion is to approve the agreement with King County Water District No. 54 to provide engineering and design services related to relocating the main water line in the Marina, in the amount of \$54,100 plus a contingency of \$5,000, and authorize the City Manager to sign the agreement substantially in the form as submitted.
3. Motion is that the City of Des Moines contribute \$20,000 to the National Pollutant Discharge Elimination System fund for the City's share of litigation fees and costs and to authorize the City Manager to sign an amended Interlocal Agreement reflecting the additional contributions of all the coalition members and increased litigation expenditures.

Upon questioning by Councilmember Pina regarding consent item 3, City Attorney Bosmans responded that the contribution of \$20,000 is per City, not based on population.

Councilmember Pina stated this is a project that needs to be done, but he would prefer the contributions were based upon population. Mayor Sheckler expressed concurrence.

In regards to consent item 2, Mayor Pro Tem Thomasson stated he would have preferred that the City be responsible for its own design. He advised it is important that the pipe be placed where we determine, not where the Water District thinks it should be.

City Manager Piasecki advised that the Water District's engineering firm is the one that will be doing the actual work, with their engineer overseeing the work. Also, he noted that the cost is less to us by having the District do the work.

Councilmember Kaplan advised he supports item 3, but only for this appeal through the Pollutions Control Hearings Board, so unless they change the funding formula for anything beyond that he would be hard pressed to say yes.

**MOTION** was made by Councilmember Pina, seconded by Mayor Pro Tem Thomasson and passed unanimously, to approve the Consent Calendar as read.

## PUBLIC HEARING

### Draft Resolution 07-117 [ASSIGNED RESOLUTION NO. 1058] Development Agreement - SSI Pacific Place

Mayor Sheckler inquired of the City Attorney as to whether this item is quasi judicial in nature.

City Attorney Bosmans stated after her review this matter is considered a matter under the City's police powers and is a contract. Furthermore, she advised there is no application pending in this matter that would place it in the quasi judicial status.

Mayor Sheckler introduced the subject and declared the hearing Open. He advised that Matthew Chan and Kim Nakamura have signed up to speak and he requested that they along with any others who may wish to speak, raise their right hand and he administered an oath that under penalty of perjury their testimony will be true and accurate. He requested staff make a presentation.

Land Use Planner II Sullivan advised that the agreement has been developed over the past six months with the applicant, City staff and the Council's Finance and Economic Committee, which represents the first step in realizing the Pacific Ridge vision that Council established almost 10 years ago. He advised of the following:

- Located along Pacific Highway, bounded on the south by S 220<sup>th</sup>, 29<sup>th</sup> Avenue S on the east, and approximately S 218<sup>th</sup> on the west.
- Encompasses approximately 11 acres, including 3 of the 4 mobile home parks in the area.

He further advised that this developer will have a difficult time marketing these new residential and commercial spaces as there are no amenities or services to support the proposed new uses and the concept of high rise residential structures in this area is relatively new. At this time the Pacific Ridge area is perceived as an undesirable location for development, which was identified

in the market analysis for the Pacific Ridge Neighborhood Improvement Plan. He further advised that the Plan identified the property in question as important to the future development in this area as it will dramatically influence the character and future of the Pacific Ridge area. He reminded Council that the Market Analysis noted that without the implementation of significant incentives the market will likely support a more moderate density of development that is in keeping with the distance between Pacific Ridge and the major economic centers in the region. Therefore the staff has worked hard to think outside the box, the City Manager has developed a separate fee schedule for the first three million square feet of residential and 5500 units, however there still needs to be a partnership with developers and the development community to establish a larger vision for Pacific Ridge. The City has worked with the applicants Sunway Services and Rushforth Taylor Construction, to develop an agreement for the project now called "SSI Pacific Place". The proposed project is composed of:

- 11 acre assemblage of land
- View-oriented
- Cornerstone Project
- The proposed project will include:
  - 89 Townhomes/Ground Related Apartments
  - 1098 Residential Units
  - 200 Senior Housing Units
  - 320 Room Hotel + Amenities
  - 155,000 Sq. Ft. of Office & Retail

He further described the development agreement terms as follows:

- SEPA Planned Action Reservation
- Traffic Impact Fees - Waived
- Building Permit Fees - Capped
- Parking Reduction - Only for Low Income Senior Housing
- Infrastructure Design Standards
- Green Building Standards
- Mass Transit Provisions
- Adult Uses - Restrict Any Such Use
- Expedited Review
- Milestones for Redevelopment - In Order to Maintain Incentives in Agreement

City Manager Piasecki pointed out by entering into this proposed agreement, Council agrees to vest the developer with all of the current development regulations that are now in place, except for those the City has no control over.

Mayor Sheckler requested public speakers.

Matthew Chan, 20601 2<sup>nd</sup> Avenue SW, Normandy Park, WA, of Sunway Services

Mr. Chan informed Council he has been a developer and real estate investor for his whole career. He advised that the proposed site is somewhat blighted and in need of commercial revitalization and it is their goal, working with Council and staff, to bring a quality project to this area.

Kim Nakamura, 3008 Holm Road East, Fife, WA

Mr. Nakamura stated he feels the development agreement is a very important aspect to the Pacific Ridge redevelopment, which he believes in. He stated it is important to make the economics of the development work for today, as opposed to tomorrow and help turn the City's

vision for the area into reality. He stated in his experience public private partnerships are very important and it will only be successful with everyone working together.

Mayor Sheckler called for any additional speakers three times. There was no response. He inquired of staff as to whether there has been misstatements of fact or if they wish to alter any recommendations. Administrative responded in the negative. He questioned if Councilmembers had any questions.

Upon questioning, Land Use Planner II Sullivan confirmed the reduced parking is for the low income senior housing only. The rest of the project must conform to Municipal Code parking standards.

Councilmember Pina commented this is the opening development in the Pacific Ridge area that the City has wanted for a long time and how well it does will help other developers decide whether to invest in this area. He advised he is encouraged by what he has heard and feels the benefits the City will receive in future taxes, will far exceed our concessions to move this project forward.

In regards to prohibiting adult uses, Councilmember Kaplan questioned if down the road State law allowed such a use, but the development agreement does not, which would prevail. Land Use Planner II Sullivan advised it will be the Development Agreement, as the owner is personally restricting the use of his property through a covenant and this will be recorded on the title of each property.

Mayor Pro Tem Thomasson referenced page 9 of the Agreement, item G, Mass Transit Provisions. He remarked that the adopted policy of Council is that the light rail route should not be on Highway 99, but closer to the Freeway. Therefore he questioned why this element is in the agreement. He stated it does not seem appropriate to preempt Council's policies.

Land Use Planner II Sullivan noted this project has frontage on the east side. He advised that we are not saying the light rail stop has to be along Highway 99, but only saying we need to look and talk with Sound Transit in case their ultimate alignment does not align along I-5, but somewhere in between, so we have the provisions to allow for negotiations.

City Manager Piasecki stated he does not believe this pre-empts Council's policy, but as the route may veer over to the northeast corner of this development, it will be satisfying the Council's policy position that it be near I-5.

Upon questioning what "expedited review" means, Land Use Planner II Sullivan advised that the City is committing that if there are two projects on the same time line, and a decision must be made on a priority level, the permit for the SSI Project would be picked up first. He stated staff's goal is never to delay review, but to expedite reviews and get permits out the door as fast as possible.

In regards to Section 7. Vested Rights of Developer, Mayor Pro Tem Thomasson expressed some concern regarding vesting the Storm Water Management Practice Regulations when we are controlled by the State and the permit we receive. He felt it is not clear if we should spell out that "it is what it is at the time" or if it should say the vesting is held unless there is something that is health, safety and welfare driven. He questioned what does this paragraph actually say

and whether there might be some edits that might make it clearer. He pointed out that the City is preparing to update the Street Standards as they are inadequate, and to him it is important to make sure we get the right things built as part of this development. He felt there may be some regulations that we do not want to agree to vest.

Land Use Planner II Sullivan advised that part of vesting the storm water management rules is part of the economy of scale on a development this large. One of the developers plans at this point is to actually go in and build all of the infrastructure, including the detention facilities. If they are not vested in the level of detention, then all that work is for naught if in 3 or 4 years the City changes our storm water management procedures, because they would have to tear up a vault they already built and redo it. The agreement goes on to say that if the State forces the City to change a rule, the vesting goes away because we cannot vest if we are pre-empted by the State or King County.

City Attorney Bosmans explained that the notion behind the vested rights clause is to provide certainty and consistency for the developer. So this just says in regards to the ordinances that Des Moines' has control over, there is going to be consistency throughout the project, and for those we do not have authority over, it will be consistent as to the date of the application.

In regards to termination Mayor Pro Tem Thomasson felt it would be better to tie it to completion of items, rather than just issuance of a building permit, especially in steps 2 and beyond.

Mayor Pro Tem Thomasson questioned whether there is a need for Section 14 - Development Regulations as he feels this was covered in the vested rights section.

City Attorney Bosmans reminded Council this was a negotiated agreement between both sides, and the intent was not to add verbiage just for verbiage sake.

In regards to item H on page 7, Mayor Pro Tem Thomasson commented that he did not feel Council has seen anything to evaluate whether the project complies with all our development standards. He felt it may be better to word it "The Project shall be" . . . instead of 'is consistent'.

In reference to Section 6.A - Reservation, Mayor Pro Tem Thomasson felt reserving a lot of development that cannot be put in this area, would not be in the City's best interest. He questioned why we would reserve 1/3 of the EIS capacity, which was thought to be the Pacific Ridge build-out, for a piece of property that is only 5% of the area.

Mr. Chan responded that it has taken him 2 years to assemble the property, consisting of five different parcels. He further noted that he is in discussion with other sites that he may be able to incorporate into this project. He pointed out that under the current Pacific Ridge zoning he would have the right to build up a much more intensive complex than what they are proposing. He also noted they have provided extra open space and a development that is sensitive to the environment. He respectively requested Council approve the agreement as requested.

In regards to waiving traffic impact and building permit fees, City Manager Piasecki noted in the past 11 years there has only been one project in the Pacific Ridge neighborhood, and there is potentially 3 other projects coming up. He felt to really kick start the process of redeveloping the area, the City needs something that is a very large showplace type development. Since Mr.

Chan's project is the first one with such a development, it was felt it was appropriate to put this agreement together as it is. He advised that based on the square footages that Mr. Chan has proposed and the type of building construction he is going to do, staff anticipates that the permitting fees, with no reduction, would be about \$3.9 million. With the incentive fee program we are going to do, those figures will be about \$3.1 million. In regards to transportation impact fees it is estimated to be \$3.8 million impact fees without any waiver, however the impact fee ordinance allows for a credit when you build frontage improvements and that credit is estimated to be about \$3.2 million. Taxes the City will receive on a one time basis - Sales tax from new construction is estimated to be about \$1.7 million. The one time revenues are about \$4.8 million dollars. Ongoing taxes: Current annual taxes are about \$7,500, estimated at full build out property taxes will be \$300,000 per year. Sales taxes are estimated to be \$155,000 a year, B & O taxes \$40,000, business license fees at \$3,900 and utility taxes \$600,000 for a total ongoing other taxes around \$800,000 a year. In conclusion he noted that for fee incentives of about \$1.4 million the City sees one time fee revenue of \$4.8 million and ongoing of about \$1.1 million a year.

As there were no further questions, Mayor Sheckler CLOSED the public hearing.

**MOTION** was made by Councilmember Kaplan, seconded by Councilmember Scott, to adopt draft Resolution No. 07-117, approving the Development Agreement By and Between the City of Des Moines SSI Pacific Place, LLC, and authorizing the City Manager to sign said Development Agreement with SSI Pacific Place, LLC.

Mayor Pro Tem Thomasson stated he has a physiological problem with the expedited review provision. He felt that to say somebody always gets to the front of the line, does not seem right for the people who are just trying to do their normal work. While this project is important to the City, for him it is a service issue.

Councilmember Kaplan felt this is a matter of prioritization and we need to trust staff to prioritize all the things they have to do. He stated he does not have a problem with what not only is a corner stone of Pacific Ridge, but the first step to help our economic future and the sustainability of the services we already provide. He felt this project will come to staff in pieces, not all on one day.

City Manager Piasecki noted expedited review does not guarantee that the moment any piece of paper from SSI comes in the door that it will be immediately worked on and everything else is dropped. It does mean that when staff is prioritizing its work, this project will get slotted into a spot a little bit higher than it normally would have, but it does not mean other permits will go right to the bottom.

Councilmember Pina suggested with the high permitting fees, we should be able to hire extra staff to get this project going.

Councilmember Scott voiced the opinion that if something needs extra attention, it should get it, and if that means hiring extra staff or working extra hours then it should be authorized. She noted that Pacific Ridge has a history of criminal activity and other developers have informed Council this area will not be developed for another 10 to 20 years. She stated that Mr. Chan is the only one that has come along with the vision to actually do something with a large enough piece that will have a impact and cause others to see the possibilities in Pacific Ridge and create

the beginnings of a much better situation for everybody in that area. She felt Council should cooperate in every way possible to see this development occur.

Mayor Sheckler commented that the Planning, Building and Public Works department reads the Council very well and knows what Council's message is, therefore he has no problem with the expedited process.

VOTE ON MOTION: Motion passed unanimously.

Mayor Sheckler read the resolution by title into the record.

Mayor Sheckler stated he felt this is probably the best example of private/public partnership he has seen in all his years on Council or in private life. He commented Mr. Chan and Mr. Nakamura and advised he is looking forward to this vision come to fruition soon.

8:58 p.m. Mayor Sheckler called for a 10 minute break.

## PUBLIC HEARING

### 2008 Budget

Mayor Sheckler introduced the topic and declared the hearing open.

Finance Director Henderson advised that the purpose of the public hearing is to open the hearing and take any public testimony that may be available. Staff is recommending after any public testimony, the Mayor close the public hearing testimony portion, and continue Council budget discussions at the November 29, 2007 meeting. After discussions have concluded a draft ordinance will be prepared.

City Manager Piasecki informed Council that State law requires a public hearing on the budget prior to or on November 15<sup>th</sup>.

Mayor Sheckler inquired three times if there was anyone in the audience who wished to address Council on this issue. There was no response

**MOTION** was made by Councilmember Kaplan, seconded by Councilmember Scott, to continue the public hearing to the November 29, 2007 Council meeting. Motion passed unanimously.

## PUBLIC HEARING

### Draft Ordinance No. 07-223 and Draft Resolution No. 07-222 Crestwood Park Planned Unit Development - 1<sup>st</sup> Reading

Mayor Sheckler introduced the subject.

Land Use Planner II Sullivan informed Council that the applicant has assembled 13 acres of property to do a 67 lot planned unit development, bounded on the north by South 272<sup>nd</sup> Street, east by 16<sup>th</sup> Avenue South and the west by 12<sup>th</sup> Place South. The property is primarily vacant. He described surrounding land uses as single family to the south, and commercial and mobile home park across the street in Federal Way. He informed Council that there has been calls for

service in this area and complaints filed through the Code Enforcement officer due to the large area of open vacant property. He advised that the subdivision would connect out to 16<sup>th</sup> Avenue providing a second connection to some properties in the area, that right now only have one access. He pointed out a small panhandle of Lakehaven Utility District property and noted that as part of the application the portion of the panhandle in the applicant's property will be rezoned to RS 7200 so it will be consistent with surrounding zoning, which is the purpose of draft Ordinance No. 07-223. He further advised the large wetland is about 6,900 sq. ft. and its buffer are placed in an environmentally sensitive area tract to be deeded to the City upon recording of the PUD. He referenced the layout/development plans noting the 'four-pack' designs which were developed to allow a singular lot to back up to a singular lot in Redondo Riviera, and it also eliminates the number of driveway cuts in the primary street. He noted these are private streets with no deviation and meet all Code requirements. He pointed out the townhomes provide diversity for different income levels. They have provided for a large park, approximately 3,400 sq. ft. and it will contain a large detention pond to serve the area and prevent additional erosion that has been occurring downstream from the site. Additionally, our Surface Water Engineer has stated this will lessen some of the flooding impacts that have occurred during large storms in the Redondo Riviera subdivision. In conclusion, he pointed out a trail network that winds through the park and out to S. 272<sup>nd</sup> for approximately 1/3 of a mile for more pedestrian amenities, open space tracts and a large landscaping buffer along 16<sup>th</sup> Avenue S. He advised that the PUD is a way to create a sub-division that is better than a standard lot by lot subdivision, allows for flexibility in design and allows for the clustering of open space. He noted that the cul-de-sac roads will have pavement width reduced to 24 feet in order to give it more of a neighborhood feel and parking will be restricted to prevent impacts between vehicular access and parking. The primary through street has been reduced from standard 60 foot right-of-way to 52 feet, however all the standard improvements will be included. He advised there will be 67 residential units, which is consistent with the limited density transfer, and below the number allowed for a PUD.

Mayor Sheckler called for speakers. Several individuals raised their hands and were administered an oath by Mayor Sheckler to tell the truth.

Ken Lawson, representing Crestwood Park, LLC, 25 Central Way, #400, Kirkland, WA

Mr. Lawson informed Council that they have been working on the project over a year and a half. He pointed out the roadway connection from 12<sup>th</sup> Avenue to 16<sup>th</sup> Avenue South, along Crestwood's frontage on South 272<sup>nd</sup> and stated they will provide a sidewalk which continues to connect with existing sidewalk, and a bike pedestrian trail over to 16<sup>th</sup> Avenue South. In addition, there is a trail system throughout the project that connects S. 272 to the cul-de-sacs and then out to 16<sup>th</sup> Avenue South. They have added a storm detention vault that will help other areas, including flooding issues south of the project. He noted they will be providing a variety of housing units and they will leave as many trees as possible to provide natural screening. He felt the project will fit in well with the existing community, and concluded by advising that they agree with all the conditions of approval as listed.

Mayor Sheckler called for additional speakers three times and there was no response. He questioned staff as to whether there was any misrepresentation of facts and staff's response was negative.

Upon questioning, Land Use Planner II Sullivan stated the rezone only applies to the 900 feet of the District's road access which cuts through the proposed PUD, and does not apply to the rest of Lakehaven's property.

Upon questioning, Land Use Planner II Sullivan noted that there is a 10' utility easement on both sides of the 52' street right-of-way for all of the utilities which will be recorded for each of the lots on the final plat. Transportation Engineer Brewer further advised this is standard for PUD submittals where the utility easement is located outside of the public road right-of-way. The 52' is because of the planter strip that is proposed, which is slightly larger than normal.

SWM Engineer Reinhold advised that there is a shallow flat pipe that snakes through this proposed development over to S 272<sup>nd</sup> and one feature that he feels will help is a structure that engineering will have access to. He noted this will help the flooding problem, but not necessarily total eliminate flooding.

In response to Councilmember Scott's concern over the low water table in this area, SWM Engineer Reinhold noted they may install a new storm pipe under S 272<sup>nd</sup> that will drain to 14<sup>th</sup> Avenue South to provide the gravity flow needed from the vault. Crestwood's engineer added that the problem now is that the existing pipe is undersized and not properly sloped so by putting in a new pipe adjacent to the old one, that is larger and at the proper slope, it will definitely help with elevating some of the flooding problems. He further stated they will be doing "wetland recharge" to insure there is surface flow going toward the wetland, and the remainder of the water will flow towards the vault, which will be designed to a Level II, a higher standard than normal.

Further Council questions prompted the following responses:

- Lot coverage, per Code, is 50% maximum
- The Native Growth Protection Tract includes both the wetland and corresponding buff. Onsite portion of the wetland is 69,610 sq. ft. Native Growth Protection Tracts includes 115,869 sq. ft. The difference in the square footage of the wetland and the tract is the area dedicated to the wetland buffer
- The storm water pond was dedicated to the City, which means we do not own the land underneath. The applicant is the actual majority owner and is requesting the change in the dedication in tonight's public hearing.
- The Park Master Plan identified the south Des Moines area as deficient in active and passive park space. This eventually will be an active park but not for a few years and taxes from the developed property will pay for the improvements.
- When the City looks at the design of 16<sup>th</sup> Avenue S project, we will look at a comprehensive drainage plan for the PUD frontage improvements at the same time. Partially funded by applicants in-lieu fees.
- All easements will be established at the time of the final plat filling.

10:21 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Pina, to extend the meeting until 10:45 p.m. Motion passed 4 to 1 with Mayor Sheckler opposed.

Continued responses to Council questions:

- Road B, Condition of Approval #2.A requires front of garage to be a minimum of 8 feet from front porch and a minimum of 3 feet from the front of the building. This allows for 18 feet, a standard depth of a parking stall.
- Lots 9, 10, 11 & 12 are narrow and long, will be built as townhomes.
- Four Pack Design with 10' rear setback allows for one lot backing up to one lot. Since less use for recreation there will be less impact on neighboring properties.

- Landscaping plan, will be developed to Code specifications assuring consistency throughout development.

Councilmember Scott expressed the feeling that the City should not own small recreational areas in new plats. In this case the play areas are due to the small yards and feels the recreational areas should be the responsibility of the Home Owners' Association. She also noted if she were a home owner in the plat she would be concerned about the path that leads back through the wetlands and trees to an area that you cannot see what might be going on in the children's play area. She also felt it is important to have a back yard large enough to hold at least a picnic table and a barbecue.

In regards to lack of radius on 12<sup>th</sup> Place South, Mayor Pro Tem Thomasson noted the development owns enough land to increase the radius and this could be accomplished if it was made a condition of approval.

10:40 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Mayor Pro Tem Thomasson, to extend the meeting to 11 p.m. Motion passed 4 to 1 with Mayor Sheckler opposed.

Upon questioning about making the play area a private park, Land Use Planner II Sullivan noted the challenges are it is public property since the City owns the vault underneath and it has been deeded to us, and basically we would be requiring the developer to build 2 parks and there is no way to require this.

Mayor Pro Tem Thomasson stated that if Council decides there should not be a City park over a vault, then the in-lieu fees for park land and development would kick in. He felt alternatives are to say it is a City park and it gets developed as such, or we can say it is a City park but only open space, then the developer may owe improvement fees, or we can say it is only a storm drainage facility and the developer would have to mitigate the park. He also felt there could be liability issues or concerns with a privately owned and maintained play ground equipment on City owned property.

Mayor Sheckler declared the Public Hearing CLOSED.

**MOTION** was made by Councilmember Kaplan, seconded by Councilmember Pina, to suspend Council Rule 26(b) to enact Draft Ordinance No. 07-223 on a first reading.

Mayor Pro Tem Thomasson felt the draft ordinance needs a second reading as there is no exhibit map attached.

**VOTE ON MOTION:** Motion passed 4 to 1 with Mayor Pro Tem Thomasson opposed.

**MOTION** was made by Councilmember Kaplan, seconded by Councilmember Pina, to adopt Draft Ordinance No. 07-223 amending Section 18.80.010 of the DMMC amending the official zoning map of the City of Des Moines in order to rezone 24,685 square feet of property from R-SE to RS-7200 further identified in Exhibit A of the Draft Ordinance. (Later withdrawn.)

Mayor Pro Tem Thomasson again stated he cannot support since Exhibit A is not attached and there is a potential for a mistake in another area, and by adopting the ordinance we would change that zoning too. It adopts the entire zoning map, not just this small strip.

Councilmember Kaplan noted the zoning change is making it consistent with the surrounding property.

The MAKER and SECONDER WITHDREW THE MOTION.

**MOTION** was made by Mayor Pro Tem Thomasson, seconded by Councilmember Pina, to pass Draft Ordinance No. 07-223 to a second reading on December 6, 2007. Motion passed unanimously.

**MOTION** was made by Mayor Pro Tem Thomasson, seconded by Councilmember Kaplan, to continue the agenda item of Crestwood Park PUD to December 6, 2007. Motion passed unanimously.

Mayor read draft Ordinance 07-223 by title into the record.

#### NEW BUSINESS

#### Draft Ordinance No. 07-215 Amending B & O Taxes & Draft Ordinance No. 07-216 B & O Administrative Provisions for B & O Taxes - 1<sup>st</sup> Readings

**MOTION** was made by Mayor Pro Tem Thomasson, seconded by Councilmember Kaplan to move the draft ordinances 07-215 and 07-216 be moved to a second reading to be scheduled by the Mayor.

#### NEXT MEETING DATE

Mayor Sheckler announced the next regular meeting will be November 29, 2007.

#### ADJOURNMENT

At 10:58 p.m. MOTION was made by Councilmember Kaplan, seconded by Councilmember Pina and passed unanimously to adjourn.

Respectfully submitted,

Denis Staab  
City Clerk