

RESOLUTION NO. 1049

A RESOLUTION OF THE CITY OF DES MOINES, WASHINGTON affirming existing City Comprehensive Plan strategies, setting out the Des Moines City Council's vision and preferred land use mix, proposing changes to the First Development Agreement, clarifying the entitlement and approval process, and committing to a schedule to execute the Second Development Agreement for the Port of Seattle's proposed Des Moines Creek Business Park (DMCBP).

WHEREAS, the Port owns property located in the City of Des Moines on which the DMCBP is to be located that is bounded by South 216th Avenue on the south, 24th Avenue South on the east, South 208th on the north, and the former SR-509 right-of-way to the west, and

WHEREAS, the property is currently vacant and the Port and the City share the goals of creating an attractive and safe community asset, a vibrant employment center, a new source of direct and indirect long-term revenue for both the Port and the City, and increasing trade opportunities for the region, and

WHEREAS, the "First Development Agreement" executed by the Port and the City in July 2005 envisioned a Second Development Agreement that would approve a DMCBP Conceptual Master Plan (CMP) followed by the approval by the City of a developer-submitted Master Plan in accordance with DMMC 18.25, and

WHEREAS, the CMP completed in April 2006 represents two potential development scenarios for the DMCBP site that do not yet align with the Council's vision for the highest and best use of that site, and

WHEREAS, the DMCBP represents the City's chief economic development priority, and in light of which the City would like to facilitate the Port making the property available for commercial development as soon as possible, and

WHEREAS, to these ends, the City Council hereby commits to a City review and approval approach for the DMCBP that provides a clear, efficient and predictable process conducive to improving the site's marketability and return on investment and that helps achieve a commercially successful business park development; now therefore,

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

Sec. 1. Affirmation of existing Comprehensive Plan strategies. The City Council hereby affirms its commitment to the following Des Moines Comprehensive Plan strategies that support prompt development of the DMCBP:

(1) Strategy 1-04-04(2) (f) states that the City should "provide for economic development that meets regional employment needs and a local balance of jobs and housing."

(2) Strategy 1-04-03(2) states that the City will "review and amend as appropriate the Zoning Code, Subdivision Code and other development regulations to establish development standards that are clear and predictable, and simplify the review process."

Sec. 2. Vision and preferred land use mix. The City Council supports a land use mix that better balances Des Moines' community development goals including the desire to increase City revenue to support the growing demand for City services and those that support the Port's air cargo mission and role in enhancing broader regional economic development.

(1) Recognizing that market forces will ultimately dictate the tenant demand in the DMCBP, the City Council prefers development of a vibrant business park that:

(a) Results in economic benefits substantially similar to those described in the December 2006 Economic Benefits Study, which estimated that a mix of light manufacturing, logistics and office/research and development uses would generate 1,200 to 2,100 direct jobs, \$209 to \$337 million per year of gross receipts, and \$3.3 to \$6.0 million of ongoing annual tax revenues.

(b) Contains a use mix that is more similar to EIS Alternative 2 (which included 25% logistics, 25% manufacturing and 50% office/research and development) but that also includes some large scale retail use, which was not analyzed in the EIS.

(2) The Council's optimal development plan for the site should build on the First Development Agreement between the Port and City, the CMP, and the Environmental Impact Statement (EIS) completed in March 2007, but also address the following key concerns of the Council:

(a) Integrate the DMCBP with the surrounding neighborhoods and contiguous property to the west in a manner that can accommodate future access directly from adjacent properties to and from the DMCBP site and recognizes the potential for adjacent properties to be developed in the future in a coordinated development along South 216th Street.

(b) Maintain South 216th Street as a primary entrance to the City and access road to downtown Des Moines by directing truck access to and from the DMCBP site to 24th Ave South and north to South 208th Street and eventually directly to SR 509 and I-5.

(c) Balance excavation and fill on the site to the greatest extent possible.

(3) The Council acknowledges that the detailed transportation analysis of the DMCBP land use alternatives as part of the CMP and the Draft and Final EIS (November 2006 and March 2007) identified measures to mitigate potential traffic impacts associated with the DMCBP that may be inconsistent with Council's preferences for the DMCBP expressed in Section 2(1) and 2(2) above, and that the final developer master plan for this site may require additional expense associated with new environmental review analysis to identify potential impacts and mitigation if large-scale retail uses are added.

Sec. 3. Proposal to amend the First Development Agreement. The City Council proposes to the Port that the two (2) step review and approval process set out in the First Development Agreement be modified as follows:

(1) Approval of the "conceptual" master plan will not be included in the Second Development Agreement for reasons noted in Section 2 above, and because it is unclear at this point exactly what the market place will propose to develop at the site.

(2) Business details that will provide developer finalists a better understanding of development requirements,

cost and risk will be set out in a Memorandum of Agreement as an addendum to the First Development Agreement to be executed by the Port and the City by October 1, 2007, and incorporated into the developer master plan and ultimately the Second Development Agreement. These details may include but are not limited to the term of the agreement, vesting of the City's development regulations, right of way purchase, sale and exchange, public access to the Des Moines Creek Trail, and other matters of mutual interest to the parties. This MOU may be further refined, if necessary and the parties agree, when the final developer is selected.

(3) Approval of the developer's 18.25 master plan will be by resolution as further outlined in Section 4(4)(b) of this Resolution. The CMP may be incorporated into this master plan as appropriate.

(4) Execution of the Second Development Agreement will follow approval of the developer's 18.25 master plan.

(5) Additional City administrative approvals after the Second Development Agreement is executed, such as short subdivisions, additional environmental review and approval of civil plans will be in accordance with the DMMC.

(6) The Council acknowledges that by adoption of this Resolution the City staff is authorized to present the necessary amendments or modifications to the First Development Agreement to the Port of Seattle in writing pursuant Section 8(4) "Agreement Modification" Section of the First Development Agreement.

Sec. 4. Entitlement and approval process. The Council acknowledges the Port has made a substantial financial investment to date that totals over \$750,000 in completing the First Development Agreement, the CMP, and EIS for the DMCBP. In consideration thereof, the Council commits to the following expedited review and approval process for the DMCBP project that (i) reflects the DMCBP being the City's principal economic development priority, (ii) accounts for the Council's vision expressed in Section 2 above not being entirely consistent with the CMP and EIS, (iii) facilitates the Port's developer selection process, and (iv) makes the site as attractive to the development community as possible to hasten realization of the Port's and City's shared goals for the DMCBP:

(1) The City Council will complete vacation of the existing plats and rights of way on the DMCBP site prior to final developer selection.

(2) The City Council will hold a public hearing to consider an ordinance amending the permitted uses in DMMC 18.25.020 in July 2007 so that these permitted uses are consistent with the First Development Agreement.

(3) The City Council will hold a public hearing to consider an ordinance amending the parks requirement in DMMC 18.25.080 in July 2007.

(4) In order to expedite the approval of the developer's master plan, the City Council will hold the following public hearings beginning within sixty (60) days of the receipt of a complete application, development regulation amendment request, and required SEPA review and appeal periods (if any):

(a) Consider additional ordinances requested by the developer for necessary textual code amendments to the City's development regulations. The textual code amendments may deal with permitted uses, the approval process, height bonuses within specifically identified areas, structured parking requirements, or other areas covered by the City's development regulations.

(b) Consider adoption of a resolution approving the developer's proposed master plan for the site within forty-five (45) days of the adoption of the textual code amendments in 4(4)(a) above. Approval of the developer's proposed master plan may require additional conditions that shall be set out in the resolution approving the master plan.

(c) An application will be considered complete when it contains the required information as defined in DMMC 18.56.130 and DMMC 18.25.030(3) and (4). The developer's proposed master plan may incorporate applicable sections of the CMP and EIS but must clearly identify substantive deviations from the CMP and City development regulations.

Sec. 5. Execution of the Second Development Agreement. The City Council will hold a public hearing to approve the Second Development Agreement within forty-five (45) days of Council's approval of the resolution approving the master plan.

Sec. 6. Distribution of resolution following council action. Certified or conformed copies of this resolution shall be delivered to the following:


- (1) City of Des Moines Planning, Building and Public Works Department;
- (2) City Clerk of the City of Des Moines; and
- (3) The Port of Seattle.

Sec 7. Distribution of resolution by planning official. Within five days following adoption of this resolution, the planning official shall distribute the resolution to each person who submitted timely written or oral testimony to the City Council for inclusion in the record.

ADOPTED BY the City Council of the City of Des Moines, Washington this 5th day of July, 2007 and signed in authentication thereof this 5th day of July, 2007.

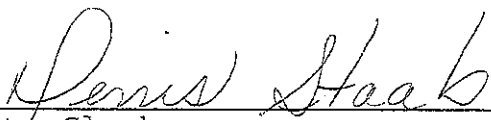

M A Y O R

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Clerk

I, Denis Staab, City Clerk, do hereby certify that the foregoing is a true and correct copy of the original instrument on file and of record in my office in Des Moines, WA 98198.

