



**CITY COUNCIL
COMMUNICATION:**

ITEM _____

02-266

**OFFICE OF THE CITY MANAGER
CITY OF DES MOINES, IOWA**

AGENDA:

MAY 20, 2002

SYNOPSIS -

The proposed zoning text amendments would establish two separate zoning overlay districts that restrict the maximum height of structures constructed in the area generally located east of the Des Moines River, south of Interstate 235 (I-235), west of SE 14th Street, and north of the future Martin Luther King, Jr. (MLK) Parkway extension.

SUBJECT:

ZONING TEXT
AMENDMENTS
ESTABLISHING
CAPITOL
DOMINANCE
OVERLAY
DISTRICTS

Pursuant to the 28E Agreement, the State General Services Administration (GSA) agreed to pursue funding from the legislature for design work to re-open Locust Street up to Finkbine Drive. The GSA's request was approved by the State Appropriations Committee (House File 2614) and was signed by the Governor on May 10, 2002.

FISCAL IMPACT -

TYPE:

None.

RESOLUTION
ORDINANCE
RECEIVE/FILE

RECOMMENDATION -

SUBMITTED BY:

JIM GRANT
COMMUNITY
DEVELOPMENT
DIRECTOR

Staff recommends that a 75-foot height limit be established for Overlay District "A". Staff recommends that a 55-foot height limit be established for Overlay District "B" provided, however, that if the portion of the structure over 55 feet in height is devoted entirely to a residential use, the maximum building height shall be 75 feet. Finally, staff recommends prohibiting the authority of the Zoning Board of Adjustment to grant an exception to permit a structure more than 75 feet in height in any Capitol Dominance Overlay District.

BACKGROUND -

The Iowa Legislature has recognized the statewide importance of preserving and protecting the dominance of the Iowa State Capitol Building and the view of the Capitol from prominent public viewing

areas by its enactment of legislation specifically delegating to the City of Des Moines authority to protect such dominance and view by regulating and restricting height and size of buildings and structures within the City.

On October 25, 2001, the Des Moines City Manager and the Director of the Iowa Department of General Services entered into a Memorandum of Understanding acknowledging their agreement to pursue their shared goals and proposed actions to preserve the dominance of the dome of the Capitol Building and the view of the Capitol Building from prominent public viewing points.

On December 17, 2001, the City Council adopted Roll Call No. 01-3738 initiating amendments to the Zoning Ordinance and the Metro Center Urban Renewal Plan to protect the dominance and views of the Iowa State Capitol Building.

Utilizing the document titled "Proposed Capitol View Protection Plan" created by the Planning and Urban Design Division in December of 1995 as a base, City staff have spent the last three months analyzing existing building heights, consulting the Des Moines Capitol Gateway East Urban Design Plan, and meeting with the leadership of the East Village Neighborhood and Merchants Association in an effort to establish Capitol Dominance Overlay Districts.

On April 4, 2002, the Plan and Zoning Commission voted 10-0-1 to recommend the following for adoption by the City Council:

- The Capitol Dominance Overlay Districts will establish maximum heights for structures from the existing grade of adjoining streets and relative to the elevation of prominent features of the State Capitol Building.
- Overlay District "A" is generally located north and east of the State Capitol Building. The maximum height for any structure in Overlay District "A" shall be 75 feet.
- Overlay District "B" is generally located south and west of the State Capitol Building. The maximum height for a 100 percent commercial use structure in Overlay District "B" shall be 55 feet. The maximum height for a mixed-use structure that includes residential shall be 75 feet.
- Chimneys, cooling towers, elevator bulkheads, antennas, and necessary mechanical appurtenances extending above the roof of a building may exceed the maximum height established for a District by

not more than 15 feet provided they are set back at least 15 feet from all faces of the building adjacent to a street.

Pursuant to Section 134-1326(18) of the Municipal Code:
"Freestanding stacks, ornamental towers and spires, and private electric and light poles in excess of that otherwise allowed in the district in which they are located" are permitted subject to special permit review by the Zoning Board of Adjustment.

In addition, the Planning Commission recommended that the Zoning Ordinance be amended such that any relief to the height requirements imposed by the Capitol Dominance Overlay Districts be subject to site plan and building elevation review by the Planning and Zoning Commission.

Rather than amending the Code as requested by the Planning Commission, staff recommends that the Code be amended to prohibit the authority of the Zoning Board of Adjustment to grant an exception to permit a structure more than 75 feet in height in any Capitol Dominance Overlay District. If the Code is amended in this manner, the only relief to the height limits would be through a variance process which requires the applicant to demonstrate a hardship and that the applicant is being denied all reasonable economic use of the property.

The proposed ordinance will cause seven existing structures to become legal non-conforming structures:

600 East 5th Street:	Heather Manor exceeds 75-foot height limit of Overlay District "A".
500 East Walnut:	Portion of Capitol Center exceeds 55-foot height limit of Overlay District "B".
215 East 7th Street:	Building owned by the State of Iowa exceeds 55-foot height limit of Overlay District "B".
511 Des Moines Street:	Portion of First Lutheran Church exceeds 55-foot height limit of Overlay District "B". Would also exceed a 75-foot height limit.
101 East Locust:	Embassy Suites exceeds 55-foot height limit of Overlay District "B". Would also exceed a 75-foot height limit.
500 East Locust:	Teachout Building exceeds 55-foot height limit of Overlay District "B".
600 East Locust:	State Historical Building exceeds 55-foot height limit of Overlay District "B".

Legal non-conforming structures are governed by Section 134-1352(c) of the Zoning Ordinance. Use of the existing structures can continue for any current or future use allowed by the underlying zoning district. However, no such structure may be enlarged or altered in a way that increases its nonconformity. Furthermore, if such structure is destroyed by any means to an extent of 60 percent or more of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with this chapter. Relief to the non-conforming structure regulations may be granted by the Zoning Board of Adjustment.
