ORDINANCE NO. 3988

AN ORDINANCE of the City Council of the City of Kent, Washington, amending the Downtown Design Review Guidelines; amending chapters 15.03, 15.04, and 15.09 of the Kent City Code; and creating a Downtown Commercial Enterprise - Transitional Overlay all relating to transition between Single Family residential zoning districts and the Downtown Commercial Enterprise zoning district.

RECITALS

A. The City of Kent (the "City") received a docket item requesting that the City's Downtown Commercial Enterprises (DCE) zoning district be amended to include a height restriction equivalent to the height limit in single-family residential zoning districts when a parcel zoned DCE is located within three hundred (300) feet of a parcel zoned single-family residential.

B. The close proximity of DCE to Single-Family Residential raises issues regarding view protection, mixing of land uses, solar access impacts, and appropriate scale of development. Establishing a Downtown Commercial Enterprise - Transitional Overlay (DCE-T) within a portion of the DCE district addresses some of these concerns. The DCE-T would

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DCE - Transitional Overlay
include a height limit and mandatory, rather than optional, imposition of certain elements of the Downtown Design Review Guidelines.

C. The City's State Environmental Policy Act (SEPA) responsible official issued a Determination of Nonsignificance on September 3, 2010.

D. On June 24, 2010, notice requesting expedited review was received by the Washington State Department of Commerce. On October 6, 2010, the City was granted expedited review and was informed that it had met the Growth Management Act notice requirements under RCW 36.70A.106.

E. Community meetings were held to consider this matter on February 10, 2010 and May 12, 2010. The Land Use & Planning Board held workshops on June 14, 2010, July 12, 2010, and August 23, 2010. The Board also held public hearings on July 26, 2010 and September 27, 2010 regarding this issue. The Economic & Community Development Committee considered this matter at its meetings on November 8, and December 13, 2010.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. - Recitals Incorporated as Findings. The foregoing recitals are incorporated by this reference.

SECTION 2. - Amendment. Section 15.03.010 of the Kent City Code is amended as follows:

2 DCE - Transitional Overlay
15.03.010

Downtown Commercial Enterprise District

The purpose of this district is to encourage and promote higher density development and a variety and mixture of compatible retail, commercial, residential, civic, recreational, and service activities in the downtown area, to enhance the pedestrian-oriented character of the downtown, and to implement the goals and policies of the 1989 downtown plan, the Kent comprehensive plan, and the downtown strategic action plan.

Downtown Commercial Enterprise District – Transitional Overlay

Within the Downtown Commercial Enterprise District, a transitional overlay addresses compatibility of higher intensity mixed use development with nearby single-family residential zones through height limits and required application of certain downtown design review elements.

SECTION 3. - Amendment. Chapter 15.04 of the Kent City Code is amended as follows:
### 15.04.190 Commercial and industrial zone development standards

<table>
<thead>
<tr>
<th>Zoning Districts</th>
<th>NC-CC Neighborhood Convenience</th>
<th>CC Community Commercial District</th>
<th>CC Downtown Commercial District</th>
<th>CC Downtown Commercial Enterprise District</th>
<th>OMA Commercial Manufacturing District</th>
<th>OMA Commercial General District</th>
<th>O Office District</th>
<th>MI Industrial Park District</th>
<th>MI Industrial Park-Commercial District</th>
<th>MI Limited Industrial District</th>
<th>PD General Commercial District</th>
<th>AD Agricultural Commercial District</th>
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<td>10,000 sq ft</td>
<td>5,000 sq ft</td>
<td>6,000 sq ft</td>
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<td>Maximum site coverage, percent of site</td>
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<td>Side yard</td>
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<td>Side yard on flanking street of corner lot</td>
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<td>Yards, transitional conditions</td>
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<td>Additional setbacks</td>
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<td>Signs</td>
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<td>Loading areas</td>
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<td>Off-street parking</td>
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**DCE - Transitional Overlay**
15.04.195 Commercial and industrial land use development standard conditions.

1. Minimum lot of record or five thousand (5,000) square feet, whichever is less.

2. None, except as required by landscaping, or if off-street parking is provided onsite. See the downtown design review criteria outlined in KCC 15.09.046.

3. No minimum setback is required. If a rear and/or side yard abuts a residential district, a twenty (20) foot rear and/or side yard setback may be required. See the downtown design review criteria outlined in KCC 15.09.046. See the downtown design review criteria outlined in KCC 15.09.046.

4. For properties abutting on West Valley Highway, the frontage on West Valley Highway shall be considered the front yard.

5. The minimum front yard setback shall be related to the classification of the adjacent street. This classification shall be determined by the city transportation engineer. The setbacks are as follows:
   a. Properties fronting on arterials and collector streets shall have a minimum setback of twenty (20) feet.
   b. Properties fronting on local access streets shall have a minimum setback of twenty (20) feet.

6. The minimum front yard setback shall be related to the classification of the adjacent street. This classification shall be determined by the city transportation engineer. The setbacks are as follows:
   a. Properties fronting on arterials and collector streets shall have a minimum setback of forty (40) feet.
   b. Properties fronting on local access streets shall have a minimum setback of thirty (30) feet.

DCE - Transitional Overlay
7. The front yard shall be ten (10) percent of the lot depth. Regardless of lot size, the yard depth need not be more than thirty-five (35) feet.
8. No side or rear yard is required, except when abutting a district other than NCC, and then the yard shall be not less than five (5) feet in width, unless the abutting district or use is residential and then the yard shall be ten (10) feet in width and fully landscaped.
9. No side yard is required, except when abutting a more restrictive district, and then the side yard shall be not less than twenty (20) feet in width.
10. No side yard is required, except abutting a residential district, and then the side yard shall be twenty (20) feet minimum.
11. An aggregate side yard of thirty (30) feet shall be provided. A minimum of ten (10) feet shall be provided for each side yard. On a corner lot the side yard setback shall be a minimum of twenty (20) feet from the property line.
12. The side yards shall have an aggregate width of ten (10) percent of the lot width, but the aggregate width need not be more than forty (40) feet. There shall be a minimum of fifteen (15) feet on each side.
13. The side yards shall have an aggregate width of ten (10) percent of the lot width, but the aggregate width need not be more than thirty (30) feet. There shall be a minimum of ten (10) feet on each side.
14. The side yards shall have an aggregate width of ten (10) percent of the lot width, but the aggregate width need not be more than twenty-five (25) feet. There shall be a minimum of ten (10) feet on each side.
15. A side yard of at least five (5) feet in depth shall be provided along the side property lines, except no side yard shall be required between adjacent properties where a common, shared driveway with a perpetual cross-access easement is provided to serve the adjoining properties.
16. Where a side yard abuts a residential district, a side yard of at least twenty (20) feet shall be provided.
17. The minimum side yard on the flanking street of a corner lot shall be related to the classification of the adjacent street. This classification shall be determined by the city transportation engineer. The setbacks are as follows:
   a. Properties fronting on arterial and collector streets shall have a minimum setback of forty (40) feet.
   b. Properties fronting on local access streets shall have a minimum setback of thirty (30) feet.
18. The side yard on the flanking street of a corner lot shall be at least ten (10) percent of the lot width, unless the ten (10) percent figure would result in a side yard of greater than twenty (20) feet, in which case the side yard need not be more than twenty (20) feet.
19. No rear yard is required, except abutting a residential district, and then the rear yard shall be twenty (20) feet minimum.
20. No rear yard is required, except as may be required by other setback provisions of this section.
21. No rear yard is required, except as may be required by transitional conditions.
22. A rear yard of at least five (5) feet in depth shall be provided, except when a rear yard abuts a residential district, and then a rear yard of at least twenty (20) feet in depth shall be provided.
23. Transitional conditions shall exist when an industrial park M1 or M1-C district and AG district adjoins a residential district containing a density of two (2) dwelling units or more per acre or a proposed residential area indicated on the city comprehensive plan. Such transitional conditions shall not exist where the separation includes intervening use such as a river, freeway, railroad main line, major topographic differential, or other similar conditions, or where the industrial properties face on a limited access surface street on which the housing does not face. When transitional conditions exist as defined in this subsection, a yard of not less than fifty (50) feet shall be provided.

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24. Transitional conditions shall exist when an M2 district adjoins a residential district containing a density of two (2) dwelling units or more per acre or a proposed residential area indicated on the city comprehensive plan. Such transitional conditions shall not exist where the separation includes an intervening use such as a river, freeway, railway main line, major topographic differential, or other similar conditions, or where the industrial properties face on a limited access surface street on which the housing does not face. When transitional conditions exist as defined in this subsection, a yard of not less than fifty (50) feet shall be provided.

25. Transitional conditions shall exist when an M3 district adjoins a residential district containing a density of two (2) dwelling units or more per acre or a proposed residential area indicated on the city comprehensive plan. Such transitional conditions shall not exist where the separation includes an intervening use such as a river, railroad main line, major topographic differential, or other similar conditions, or where the industrial properties face on a limited access surface street on which the housing does not face. When transitional conditions exist as defined in this subsection, a yard of not less than fifty (50) feet shall be provided.

26. Structures for feeding, housing, and care of animals shall be set back fifty (50) feet from any property line.

27. Transitional conditions shall exist when an MA district adjoins a residential district containing a density of two (2) dwelling units or more per acre or a proposed residential area indicated on the city comprehensive plan. Such transitional conditions shall not exist where the separation includes an intervening use such as a river, railroad main line, major topographic differential, or other similar conditions, or where the industrial properties face on a limited access surface street on which the housing does not face. When transitional conditions exist as defined in this subsection, a yard of not less than fifty (50) feet shall be provided.
28. Industrial development in the MA district abutting the Green River, or Russell Road or Frager Road where such roads follow the river bank, shall be set back from the ordinary high-water mark of the river a minimum of two hundred (200) feet. Such setbacks are in accordance with the city comprehensive plan and are in accordance with the high quality of site development required for the industrial parks area of the city, which MA areas are designated to become in the city plan, and are in accordance with the state Shoreline Management Act of 1971, and shall be no more restrictive than, but as restrictive as, the Shoreline Management Act.

29. Development in the M1 or M1-C district and AG district abutting the Green River, or Russell Road or Frager Road where such roads follow the river bank, shall be set back from the ordinary high-water mark of the river a minimum of two hundred (200) feet. Such setbacks are in accordance with the state Shoreline Management Act of 1971, and shall be no more restrictive than, but as restrictive as, the Shoreline Management Act.

30. The planning manager shall be authorized to grant one (1) additional story in height, if during development plan review it is found that this additional story would not detract from the continuity of the area. More than one (1) additional story may be granted by the planning commission.

31. The downtown design review requirements of KCC 15.09.046 shall apply.

32. No maximum height limit is required, except for parcels located within a Downtown Commercial Enterprise-Transitional Overlay (DCE-T), where the height limit is thirty-five (35) feet. See also the downtown design review criteria outlined in KCC 15.09.046.

33. Beyond this height, to a height not greater than either four (4) stories or sixty (60) feet, there shall be added one (1) additional foot of yard for each additional foot of building height.

34. The planning manager shall be authorized to approve a height greater than four (4) stories or sixty (60) feet, provided such height does not...
detract from the continuity of the area. When a request is made to exceed the building height limit, the planning manager may impose such conditions, within a reasonable amount of time, as may be necessary to reduce any incompatibilities with surrounding uses.

35. Beyond this height, to a height not greater than either four (4) stories or sixty (60) feet, there shall be added one (1) additional foot of yard for each one (1) foot of additional building height. The planning manager shall be authorized to approve one (1) additional story, provided such height does not detract from the continuity of the industrial area, and may impose such conditions as may be necessary to reduce any incompatibility with surrounding uses. Any additional height increase may be granted by the land use and planning board.

36. Design review for mixed use development is required as provided in KCC 15.09.045(E).

37. The height limitation is two (2) stories or thirty-five (35) feet. Beyond this height, to a height not greater than either four (4) stories or sixty (60) feet, there shall be added one (1) additional foot of yard for each two (2) feet of additional building height. The planning manager shall be authorized to approve one (1) additional story, provided such height does not detract from the continuity of the industrial area, and may impose such conditions as may be necessary to reduce any incompatibility with surrounding uses. Any additional height increases may be granted by the planning commission.

38. The height limitation is three (3) stories or forty (40) feet. An additional story or building height may be added, up to a maximum of five (5) stories or sixty (60) feet, with one (1) additional foot of building setback for every additional foot of building height over forty (40) feet.

39. Outdoor storage areas are prohibited.

40. Outdoor storage areas shall be fenced for security and public safety by a sight-obscuring fence unless it is determined through the development plan review that a sight-obscuring fence is not necessary.

DCE - Transitional Overlay
41. Any unfenced outdoor storage areas shall be paved with asphaltic concrete, cement, or equivalent material to be approved by the city engineer.

42. Outdoor storage (for industrial uses) shall be at the rear of a principally permitted structure and shall be completely fenced.

43. Outdoor storage or operations yards in the M1 or M1-C district and AG district shall be permitted only as accessory uses. Such uses are incidental and subordinate to the principal use of the property or structure. Outdoor storage or operations yards shall be confined to the area to the rear of the principal building or the rear two-thirds (2/3) of the property and reasonably screened from view from any property line by appropriate walls, fencing, earth mounds, or landscaping. Outside storage exceeding a height of fifteen (15) feet shall be so placed on the property as to not detract from the reasonably accepted appearance of the district.

44. Outside storage or operations yards shall be confined to the area to the rear of a line which is an extension of the front wall of the principal building, and shall be reasonably screened from view from any street by appropriate walls, fencing, earth mounds, or landscaping.

45. Outside storage or operations areas shall be fenced for security and public safety at the property line.

46. Wherever feasible, drive-up/drive-through facilities shall be accessed from the rear of a site and run along an interior lot line or building elevation. Landscaping, sufficient to soften the visual impact of vehicle stacking areas, may be required.

47. Loading areas must be located in such a manner that no loading, unloading, or maneuvering of trucks associated therewith takes place on public rights-of-way.

48. Earth berms and landscaping shall be provided along street frontages as necessary to screen dock-high loading areas from public rights-of-way. Berms shall be a minimum of thirty-six (36) inches and a maximum of

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DCE - Transitional Overlay
forty-two (42) inches in height. Landscaping located on the berm shall conform to type III landscaping as described in KCC 15.07.050.

49. Earth berms and landscaping shall be provided along street frontages as necessary to screen dock-high loading areas from public rights-of-way. Berms shall be a minimum of thirty (30) inches in height. Landscaping located on the berm shall conform to type III landscaping described in KCC 15.07.050 pertaining to visual buffers.

50. Development plan approval is required as provided in KCC 15.09.010.

51. Earth berms and landscaping shall be provided along street frontages as necessary to screen dock-high loading areas from public rights-of-way. Berms shall be a minimum of twenty (20) inches in height. Landscaping located on the berm shall conform to type III landscaping described in KCC 15.07.050 pertaining to visual buffers.

52. Where building walls face adjacent streets and are unfenestrated for more than forty (40) feet at any point along the facade, additional landscaping shall be required to reduce visual impacts. In such circumstances, type II landscaping, as defined in KCC 15.07.050, shall be required; provided, that evergreen trees shall be at least ten (10) feet in height and deciduous trees shall be a minimum of two (2) inch caliper at the time of planting.

53. Predominant activities and operations shall be completely enclosed within buildings or structures, except for customary appurtenances such as loading and unloading areas, or where special conditions exist as a result of a conditional use public hearing. The planning manager shall be authorized to determine the reasonable application of this provision in cases of operational hardship or other showing of uncommon circumstances.

54. Multitenant buildings shall be permitted.

55. All required yards, parking areas, storage areas, operations yards, and other open uses on the site shall be maintained in a neat and orderly manner appropriate for the district at all times. The planning manager
shall be authorized to reasonably pursue the enforcement of this subsection where a use is in violation, and to notify the owner or operator of the use in writing of such noncompliance. The property owner or operator of the use shall be given a reasonable length of time to correct the condition.

56. The performance standards as provided in KCC 15.08.050 shall apply.

57. Off-street parking may be located in required yards except in areas required to be landscaped.

58. Those areas not required to be landscaped may be used for off-street parking.

59. Outdoor storage is allowed only as an accessory use to small scale, light industrial, or manufacturing operations where the building, structure, or total operation, including all indoor and outdoor storage areas, does not encompass more than ten thousand (10,000) square feet of total area.

60. Signage on commercial uses in the M1-C zone shall be as specified in KCC 15.06.050(B). Signage on industrial uses in the M1-C zone shall be as specified in KCC 15.06.050(E).

61. Any eating establishment with a drive-through/drive-in facility shall be located a minimum of one thousand (1,000) feet from any other restaurant with a drive-through/drive-in facility.

62. Parking should be located either next to or behind the building. Parking should not be placed between the street and the building.

63. A direct pedestrian connection shall be provided from the street to the building.

64. Screening by either an enclosure and/or evergreen landscaping shall be provided for mechanical equipment, service doors, and garbage areas. Rooftop equipment shall be enclosed with a parapet or similar design feature.

65. Structures shall be designed to maintain the residential character of the surrounding neighborhood. Modulating the building mass, adding
dormer windows, covered entryways, or porches are ways to enhance the human scale and provide a residential dimension to structures.

66. Minimum lot area requirements do not apply to multifamily development in the Kent downtown planning area identified in KCC 15.09.046.

67. Within the Downtown Commercial Enterprise-Transitional Overlay (DCE-T), Downtown Design Review Guidelines regarding balconies and/or upper floor setbacks (sections III.B and III.C) are required elements, not optional elements.

SECTION 4. - Amendment. Section 15.09.046 of the Kent City Code is amended as follows:

15.09.046 Downtown design review.

D. Downtown design guidelines – Adoption. The downtown design review committee shall use the downtown design guidelines in the evaluation and/or conditioning of applications under the downtown design review process. The downtown design guidelines, entitled “Kent Downtown Design Guidelines,” initially prepared by the city of Kent planning services in collaboration with MAKERS, Architecture and Urban Design and Mark Hinshaw of LMN Architecture, dated September 19, 2000, and subsequent amendments thereto are hereby adopted by this reference as authorized pursuant to RCW 35A.12.140 and shall be placed on file in the offices of the city clerk and planning services.

SECTION 5. - Amendment. The Downtown Design Review Guidelines are amended as provided in Exhibit A, which is attached and incorporated herein.

SECTION 6. - Adopt. The Zoning District Map designation for the Downtown Commercial Enterprise District Transitional Overlay (DCE-T) is

DCE - Transitional Overlay
established within a portion of the Downtown Commercial Enterprise District as shown on Exhibit B attached and incorporated herein.

**SECTION 7. - Savings.** The existing Chapters 15.03, 15.04, and 15.09 of the Kent City Code; the Downtown Design Review Guidelines; and the Zoning District Map, which are amended by this ordinance, shall remain in full force and effect until the effective date of this ordinance.

**SECTION 8. - Severability.** If any one or more sections, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance and the same shall remain in full force and effect.

**SECTION 9. - Corrections by City Clerk or Code Reviser.** Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

**SECTION 10. - Effective Date.** This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.
APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: 4th day of January, 2011.
APPROVED: 4th day of January, 2011.
PUBLISHED: 7th day of January, 2011.

I hereby certify that this is a true copy of Ordinance No. 3988 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER, CITY CLERK

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