

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	June 8, 2009
	Agenda Item No. 63A-1 Roll Call No. <u>09-</u> Communication No. <u>09-391</u> Submitted by: Larry Hulse, Community Development Director	

AGENDA HEADING:

Setting date of public hearing (August 10, 2009) regarding zoning ordinance text amendments, the rezoning of property associated with the proposed Vehicle Display Lot Overlay District and to extend the moratorium on vehicle display lots to August 11, 2009.

SYNOPSIS:

The City Council imposed a moratorium on the creation or expansion of vehicle display lots in the “C-2” General Retail and Highway Oriented Commercial zoning district on March 24, 2008, pending a comprehensive review of the applicable regulations and guidelines. The moratorium is set to expire on June 9, 2009. Staff has completed the comprehensive review and has prepared a draft ordinance that would create a Vehicle Display Lot Overlay District (see Exhibit “A”). If the overlay district is enacted, and if the district is applied to a specific property, the City Council would then have to rezone the property to remove the Vehicle Display Lot Overlay District designation before an application for a new vehicle display lot or expansion of a vehicle display lot could be considered by the Plan and Zoning Commission. However, due to the general effectiveness of existing site plan regulations for vehicle display lots, the general effectiveness of enhanced zoning enforcement by city staff during the past year and the current state of the nation’s economy, staff requests additional direction from City Council. At this point, staff has identified three options: Option A) the Council can determine that a Vehicle Display Lot Overlay District is not necessary and the temporary moratorium can be allowed to expire on June 9, 2009; Option B) the Council can determine that additional discussion regarding the concept of a Vehicle Display Lot Overlay District is necessary and can direct the City Manager to schedule a Council worksession discussion for July 27, 2009 and extend the temporary moratorium to August 11, 2009; or Option C) the Council can agree with the concept of the Vehicle Display Lot Overlay District in its current form and can schedule the public hearing for August 10, 2009 and extend the temporary moratorium to August 11, 2009. If the Council chooses Option C, staff should be directed to hold a public meeting with affected property owners and the Plan and Zoning Commission should be directed to hold a public hearing regarding the proposed zoning ordinance text amendment and rezoning of properties on July 16, 2009.

FISCAL IMPACT:

Amount: Indeterminate.

Funding Source: General Fund Property Tax Revenue.

ADDITIONAL INFORMATION:

The display or storage of merchandise for sale or rent is generally prohibited in the required front yard in all commercial and industrial districts. However, a special exception to this prohibition has been allowed for the display of vehicles for sale, rental or hire. This exemption may no longer be reasonable as applied to certain commercial corridors where a concentration of vehicle display lots crowding the street frontage exists in sharp visual contrast with the apparent setbacks observed by most other commercial uses. While other commercial uses may have a parking lot with a setback equal to that of a vehicle display lot, the typical daily use of the lots creates a fundamentally different view from the street. The most desirable parking spaces in a vehicle display lot are those fronting the street, and consequently the street frontages of vehicle display lots are typically occupied at all hours. The most desirable parking spaces in a parking lot are typically those parking spaces closest to the building entrances, and the parking lot is typically empty when the business is closed. When the concentration of vehicle display lots along a corridor has reached a certain level, the appearance of the corridor is fundamentally changed.

Staff has completed a comprehensive review of vehicle display lots that included review of the existing site plan regulations, City Code revisions for enhanced zoning enforcement and preparation of zoning ordinance text to establish a Vehicle Display Lot Overlay District.

Site Plan Regulations for Vehicle Display Lots

The current site plan regulations for vehicle display lots were adopted on November 19, 2001. Staff reviewed the standards in detail with the Regulation and Ordinance Subcommittee of the Plan and Zoning Commission. Generally, the standards can only be applied to new car lots or expanded portions of existing car lots. While there were discussions about revisions to individual criteria such as the minimum lot size for car lots, each revision appeared to have unintended consequences. Ultimately, no changes to the site plan standards for vehicle display lots were recommended. The Plan and Zoning Commission and the City Council have generally expressed satisfaction with the appearance of new vehicle display lots that conform to the existing site plan standards (i.e. Aztec Motors at 908 SE 14th Street).

Code Revisions and Enhanced Zoning Enforcement

On August 25, 2008 the Council approved an ordinance that allows ticketing for vehicles parked in violation of a site plan and reduces the maximum time for discontinuance of a non-conforming use to 6 months. There are 155 vehicle display lots within the Des Moines' city limits. The Zoning Enforcement staff has created a file for each existing car lot that identifies the historic zoning regulations that are applicable to the property. This has created clarity for staff and the property owner. All vehicle display lots were inspected at least once by December 31, 2008. Some of the lots were inspected multiple times. A total of 604 inspections have been completed as of June 1, 2009. One hundred fifty-seven code cases have been created (some lots have multiple code cases) and 52 notices of violation have been issued. Thirteen of the codes cases have required or will require action by the District Court. While 100 of the vehicle display lots have demonstrated compliance with applicable codes, 55 of the vehicle display lots still have varying degrees of non-compliance. Issues include but are not limited to: the need to remove illegal paving within a required setback and failure to provide required wheel stops and landscaping. The most frequent violation appears to be illegal parking within the front yard setback (52 tickets issued). Due to challenges of some of the tickets by property owners, the City is conducting right-of-way surveys to ensure accurate ticketing and zoning enforcement.

Vehicle Display Lot Overlay District

In response to concerns from the Council that segments of commercial corridors exist where the concentration of vehicle display lots has reached a level that has discouraged investment and reinvestment in other uses in the area, staff has prepared a draft ordinance that would create a Vehicle Display Lot Overlay District (see Exhibit "A").

The ordinance would generally prohibit the creation or expansion of vehicle display lots within the district. It is expected that over time, the concentration of vehicle display lots will decline through attrition and conversion to other uses, and the detrimental impact of the remaining vehicle display lots will decline as vehicle display lots are upgraded over time to the current landscaping and setback standards.

Properties could be zoned to the Vehicle Display Lot Overlay District when the City Council determines that either the concentration of vehicle display lots along a corridor has reached a level where it is discouraging, or with any increase is likely to discourage, further investment and reinvestment in other uses along the corridor; or that use of the required front yard for vehicle display is contrary to the predominant character of the corridor and would detrimentally impact that character and property values along the corridor.

After review and recommendation by the Plan and Zoning Commission, the City Council could consider removal of the Vehicle Display Lot Overlay District designation from a specific parcel, if it is determined that the conditions above no longer exist or that the proposed use demonstrates provision of exceptional setbacks, landscaping and other site amenities that mitigate the visual impact of the vehicle display lot from the corridor. The Vehicle Display Lot Overlay District designation would have to be removed from a property before the Plan and Zoning Commission could consider an application for a new vehicle display lot or expansion of a vehicle display lot on that property.

Staff analysis confirms that the highest concentration of vehicle display lots is located along E. 14th / S.E. 14th Street and E. University Avenue from E. 14th Street to the east City limits. Eighty (9.8%) of 817 total parcels along these corridors are currently utilized for vehicle display lots. These 80 parcels constitute 12,173 lineal feet (13.9%) of the 87,615 lineal feet length of these corridors. If the Council chooses to enact and apply the Vehicle Display Lot Overlay District, staff believes that it should initially be limited to these corridors.

However, due to the general effectiveness of existing site plan regulations for vehicle display lots and the general effectiveness of enhanced zoning enforcement by city staff during the past year, the Vehicle Display Lot Overlay District may or may not be necessary at this time. Staff anticipates significant opposition, subject to the rezoning, from property owners, vehicle display lot owners and the Iowa Automobile Dealers Association. Implementation of the ordinance could be viewed by some as being detrimental to small business owners, as the current economy has heightened everyone's concerns about the plight of all business owners and residents.

Since enactment of the moratorium, the City has received four applications for waivers to the moratorium. The Council has approved waivers for three of the four applications (Penske Truck Leasing, Aztec Motors and Owen Auto) on the basis that each would comply with the current site plan standards for vehicle display lots and to support local business. The fourth application (Imperial Motors) is pending a decision of the City Council on June 8, 2009. Three of the four applications are located along E.14th / S.E. 14th Street. In addition, four car lots were exempt from the moratorium due to the subject property being zoned "M-1" Light Industrial (Ruan Trucking and Enterprise Rental Car), or no

proposed increase in vehicle display area (Toyota of Des Moines and Gabus Ford). The Ruan Trucking facility is also located along E. 14th Street.

PREVIOUS COUNCIL ACTION(S):

Date: March 9, 2009

Roll Call Number: 09-430

Action: Extending the temporary moratorium on the creation or expansion of vehicle display lots through June 9, 2009, pending comprehensive review of the applicable regulations and guidelines. (Council Communication No. 09-134) Moved by Vlassis to adopt and continue the moratorium through June 9, 2009. Motion Carried 7-0.

Date: November 10, 2008

Roll Call Number: 08-2010

Action: Extending the temporary moratorium on creation and expansion of Vehicle Display lots to Tuesday, March 10, 2009 pending a comprehensive review of the applicable regulations and guidelines. (Council Communication No. 08-692) Moved by Kiernan to adopt and continue the moratorium through March 10, 2009. Motion Carried 6-1.

Date: August 25, 2008

Roll Call Number: 08-1533

Action: Extending the temporary moratorium on creation and expansion of Vehicle Display lots, pending a comprehensive review of the applicable regulations and guidelines. (Council Communication No. 08-518) Moved by Meyer to adopt and continue the moratorium through November 11, 2008. Motion Carried 7-0.

Date: June 23, 2008

Roll Call Number: 08-1145

Action: Extension of temporary moratorium on creation or expansion of vehicle display lots until August 26, 2008. Moved by Vlassis to adopt. Motion Carried 7-0.

Date: June 2, 2008

Roll Call Number: City Council Worksession

Action: Presentation by staff regarding vehicle display lot enforcement and identification of proposed code changes including a vehicle display lot prohibition overlay district. Council directed staff to prepare ordinances for consideration.

Date: March 24, 2008

Roll Call Number: 08-510A

Action: Approving temporary moratorium of 92 days (through June 24, 2008) on the creation or expansion of vehicle display lots pending a comprehensive review of applicable regulations and guidelines. Moved by Meyer to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

No anticipated actions or commitments, if Option A is selected. A worksession to be held on July 27, 2009 and possible extension of the temporary moratorium beyond August 11, 2009, if Option B is selected. A public hearing on August 10, 2009 and three readings of ordinances to adopt zoning

ordinance text for a Vehicle Display Lot Prohibition Overlay District and to rezone applicable properties, if Option C is selected.

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