

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: April 23, 2012
	Agenda Item No. 41 Roll Call No. <u>12-641</u> Communication No. <u>12-191</u> Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Public Hearing on request from Imperial Properties, Inc., to rezone 4141 E. 14th Street from “C-2” (General Retail and Highway Oriented Commercial) to “M-1” (Light Industrial) for a chrome plating operation. Plan and Zoning Commission recommends DENIAL, (Roll Call contains alternatives for Denial of the zoning or Continuance of hearing).

SYNOPSIS:

Staff recommends denial of the proposed “M-1” zoning on the basis that no evidence has been provided indicating the intent or the presence of financial resources to comply with current zoning, building, and fire codes.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

The current tenant (Chrome Reflections) has occupied the building in violation of City zoning, building, and fire codes since October 2009. The first action by the City to address this violation was taken on October 22, 2009, and resulted in the issuance of a decree by District Court Judge Karen Romano in the City’s favor against the building owner (Imperial Properties) on January 21, 2011. Imperial Properties was enjoined from illegal use of the property for the chrome plating or any other unlawful use without a Certificate of Occupancy in violation of the Municipal Code of the City of Des Moines. All costs associated with the cause of action inclusive of abatement costs and enforcement costs incurred by the City are to be assessed as a judgment against the Defendant and assessed against the real estate property. Imperial Properties, transferees, and successors in interest are also bound by the terms of the decree. Chrome Reflections has ceased chrome plating operations at the site, but chemicals associated with the chrome plating process are still stored on the property. Any chemicals in the building must be removed by a qualified contractor or company pursuant to Iowa DOT laws and procedures, and the Des Moines Fire Department is to be notified of the date and time for the removal and be allowed on the premises when such removal events occur.

Staff met with the building tenant (Chrome Reflections) on January 5, 2012 per Council directive. The City Council continued the zoning hearing until April 23, 2012 to allow the tenant and/or building owner the opportunity to submit the following:

1. A code compliant construction and containment plan for the existing building prepared by a licensed architect or engineer. Staff believes the construction costs for required improvements to the site and building could exceed \$100,000.

2. Financial security for removal, disposal and abatement of hazardous materials and processes on the property. A preliminary estimate by City staff indicates that removal, disposal, and abatement costs of \$100,000 are possible based upon estimated types and quantities of hazardous materials on the site.

3. A business/financial plan for all operations going forward. Such information is necessary for the Economic Development staff to determine if any programs exist to provide financial assistance for the project.

Staff contacted the owners of Chrome Reflections monthly since January 9, 2012 for progress updates. In February, the owners indicated they were looking at other potential locations in unincorporated Polk County. In March, the owners indicated interest to relocate to their previous business location at 1940 Easton Boulevard. Staff advised Chrome Reflections that continued operations at their present location or relocation to any other site within the City of Des Moines will require compliance with current Building and Fire Codes. The applicant has not provided any additional information to staff to address items 1 and 2 above.

In March, Chrome Reflections met with the City's Office of Economic Development (OED) staff regarding possible financial assistance programs and assistance in identifying alternative sites within the City. Company management provided a business plan absent financial information. OED staff requested financial information that is needed to determine eligibility and level of possible financial assistance. The requested financial information has not yet been provided. Additionally, OED staff compiled a listing of alternative sites within the City for the company to review. Thirty months have lapsed since issuance of the initial citation by City staff. Fifteen months have lapsed since issuance of the decree by Judge Romano. Staff believes there has been ample opportunity for the property owner and tenant to bring operations into compliance with current zoning, building, and fire codes. While customers have testified that Chrome Reflections provides quality workmanship and service, it is imperative that such operations comply with current zoning, building, and fire codes for protection of surrounding property owners, the general public, and the environment.

Staff recommends denial of the proposed "M-1" zoning on the basis that no evidence has been provided indicating the intent or the presence of financial resources to comply with current zoning, building, and fire codes. If the Council desires to approve the zoning, the hearing should be continued as the property owner (currently Imperial Properties) will need to sign a letter of acceptance for any zoning conditions deemed necessary upon review of items 1-3 described above, prior to any future hearing.

PREVIOUS COUNCIL ACTION(S):

Date: January 9, 2012

Roll Call Number: [12-0062](#)

Action: Public hearing on request from Imperial Properties, Inc., to rezone 4141 E. 14th Street from "C-2" (General Retail and Highway Oriented Commercial) to "M-1" (Light Industrial) for a chrome plating operation. (Council Communication No. 12-021) Moved by Mahaffey to adopt and to continue the public hearing to April 23, 2012 at 5:00 PM. Motion Carried 7-0.

Date: December 19, 2011

Roll Call Number: [11-2146](#)

Action: Public hearing [on](#) request from Imperial Properties, Inc., to rezone 4141 E. 14th Street from “C-2” (General Retail and Highway Oriented Commercial) to “M-1” (Light Industrial) for a chrome plating operation. Plan and Zoning Commission recommends DENIAL, (Roll Call contains alternatives for Denial or Approval). Moved by Mahaffey to continue the public hearing to January 9, 2012 at 5:00 PM. Staff to work with business owners to identify needs and possible solutions. Motion Carried 7-0.

Date: December 5, 2011

Roll Call Number: [11-2050](#)

Action: Setting date of public hearing on request from Imperial Properties, Inc. to rezone 4141 E. 14th Street from “C-2” (General Retail and Highway Oriented Commercial) to “M-1” (Light Industrial) for a chrome plating operation, (12-19-11). Plan and Zoning Commission recommends DENIAL. Moved by Mahaffey to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Plan and Zoning Commission

Date: November 17, 2011

Resolution Number: ZON2011-00193 and 21-2011-4.14

Action: Plan and Zoning Commission recommended denial of the land use plan amendment and zoning request by a vote of 13-0.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

For more information on this and other agenda items, please call the City Clerk’s Office at 515-283-4209 or visit the Clerk’s Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk’s Office on Thursday afternoon preceding Monday’s Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk’s Office or sending their request via email to cityclerk@dmgov.org.