

Date..... July 11, 2011

WHEREAS, on January 24, 2011 by Roll Call No. 11-0110, the city Council duly resolved to implement a temporary moratorium, to expire on April 12, 2011, such that no gas station or other businesses engaged in the retail sale of fuels for motor vehicles should be commenced, no structures should be constructed and no site plans or building permits should be approved or issued by City staff for the commencement of any use or construction of any improvements for such businesses within the C-3 Central Business District Commercial District nor the C-3A Central Business District Support Commercial District. Roll Call No. 11-0110 also included provisions for requesting relief from the moratorium and directed Community Development Department staff and the Plan and Zoning Commission to initiate an amendment to the Zoning Ordinance to prohibit gas stations and other businesses engaged in the retail sale of fuels for motor vehicles to locate in the C-3 or C-3A districts; and

WHEREAS, the City Plan and Zoning Commission advised that at a public hearing held on February 17, 2011, its members voted in support of a motion to recommend **APPROVAL** of a request for Zoning Text Amendments including amendments to Municipal Code Chapter 134-982 C-3A Central Business District Support Commercial Regulations and Chapter 134-1017 C-3 Central Business Regulations to prohibit gas stations and fuel retail sales businesses as permitted uses in these districts; and

WHEREAS, on February 28, 2011 by Roll Call No. 11-0308, the City Council duly resolved that the proposed Zoning Text Amendments to the Municipal Code be set down for hearing in Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on March 14, 2011, at which time the City Council would hear both those who oppose and those who favor the proposal; and

WHEREAS, due notice of the hearing was published in the Des Moines Register on March 3, 2011, as provided by law, setting forth the time and place for hearing on the proposed amendments to the Zoning Ordinance; and

WHEREAS, the C-3A and C-3 districts encompass the entire downtown core and many fringe areas of the core. While no existing gas stations or businesses engaged in the retail sale of fuels for motor vehicles are found with the C-3 and C-3A districts currently, development has now been proposed that is incompatible with, or may impede redevelopment opportunities in or near the downtown core and the Western Gateway Redevelopment area. Incompatible, predominantly auto-oriented uses such as gas stations by the very nature of their function do not preserve or enhance the existing traditional urban development pattern that is prevalent in downtown Des Moines. Further, such uses threaten to jeopardize the extensive investment the City and many private landowners and businesses have made throughout downtown, including the Western Gateway Redevelopment area, which has now transitioned from the City's former "Auto Row" to a dynamic, modern urban neighborhood and extension of the core business district.

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WHEREAS, on March 10, 2008, by Roll Call No. 08-432, the City Council adopted the downtown comprehensive plan titled "What's Next Downtown". Encouraging appropriately scaled development consisting of high quality materials, mixing uses on single sites and adding to the building and population densities are listed as several of the crucial conventions of the 'District Planning and Design Guidelines' section of the plan. New development that caters predominantly to the motor vehicle, like gas stations, rarely exhibits the urban design qualities as described in the adopted plan.

WHEREAS, City-initiated consideration of a proposal to amend the Zoning Ordinance to no longer allow gas stations and other businesses engaged in the retail sale of fuel in the C-3 and C-3A districts is a logical step needed to prevent similar uses found contrary to the development pattern of downtown from locating in or immediately near the downtown core.

WHEREAS, the Legal Department prepared Text Amendments including amendments to the Municipal Code Sections 134-982 district regulations and 134-1017 district regulations prohibiting gas stations and fuel retail sales businesses as permitted uses in the C-3A and C-3 districts; and

WHEREAS, on March 14, 2011 by Roll Call No. 11-0466, the City Council duly resolved to continue the hearing on this matter to April 11, 2011 and to refer the matter to the City Manager to conduct a comprehensive review and to make a recommendation regarding appropriate uses in the C-3 and C-3A districts; and

WHEREAS, by Roll Call No. 11-0625 on April 11, 2011 the City Council continued the hearing on this matter until July 11, 2011; and

WHEREAS, staff recommends that the hearing and temporary moratorium be extended to at least October 10, 2011 in order to accommodate code drafting, public information meetings, public hearing and at least first reading by City Council, pursuant to the schedule suggested by the Council Communication accompanying this resolution.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa as follows:

1. The hearing on this matter is continued until October 11, 2011 at 5:00 p.m. in Council Chambers at City Hall in Des Moines, Iowa.

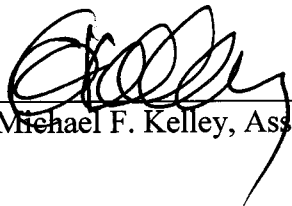
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2. No gas station and other business engaged in the retail sale of fuels for motor vehicles shall be commenced, no structures shall be constructed and no site plans or building permits shall be approved or issued for the commencement of any use or construction of any improvements for such a business within the C-3 Central Business District Commercial District or the C-3A Central Business District Support Commercial District. The City staff shall not issue any permit or site plan approval for any development which is prohibited by this section.
  
3. Any party may by written application to the City Clerk request relief from the effect of this moratorium to avoid unnecessary hardship. The application shall identify the basis for the applicant's contention that the moratorium is causing unnecessary hardship. The application shall be presented for consideration by the City Council at the first regularly scheduled Council meeting more than ten days following the date such application is filed with the City Clerk. If the City Council determines that the application of this moratorium is causing the applicant unnecessary hardship, the City Council shall allow such relief from this moratorium as is necessary to remedy such unnecessary hardship.
  
4. This moratorium shall take effect immediately upon the adoption of this resolution and shall expire on October 11, 2011 unless terminated or extended by further action of the City Council. The City Council hereby expresses its intent to immediately terminate this moratorium if the City Council determines at any time that the proposed amendment to the Zoning Ordinance should be rejected.

FORM APPROVED:

MOVED by \_\_\_\_\_ to adopt.



Michael F. Kelley, Assistant City Attorney

(Council Communication No. 11-449)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk