

Date November 7, 2011

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on October 6, 2011, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Mayorga & Mayorga Partners (owner) represented by Efrain Mayorga (officer) to rezone property located at 1800 Southeast 14<sup>th</sup> Street from C-2 General Retail and Highway Oriented Commercial District with a VDL Vehicle Display Lot Overlay to remove the Overlay and to rezone to a Limited C-2 District classification, to allow for expansion of the existing vehicle display lot adjoining to the south onto the subject property subject to the following conditions:

1. Any future use of the site for a vehicle display lot shall be operated as an expansion of the existing vehicle display lot at 1902 Southeast 14<sup>th</sup> Street. A new stand-alone vehicle display lot shall not be permitted.
2. Any future use of the site for a vehicle display lot shall be in accordance with a Site Plan under the design guidelines for vehicle display lots as approved by the Plan & Zoning Commission and shall adhere to all landscaping and setback requirements. This Site Plan shall include both the existing vehicle display lot at 1902 Southeast 14<sup>th</sup> Street and the expansion area at 1800 Southeast 14<sup>th</sup> Street.
3. The parcels currently known as 1800 Southeast 14<sup>th</sup> Street and 1902 Southeast 14<sup>th</sup> Street shall be combined by the Polk County Assessor to form one tax parcel.
4. The vehicle display lot, including the existing lot and any expansion, shall be limited to one (1) freestanding sign along the Southeast 14<sup>th</sup> Street frontage.
5. The existing freestanding sign at 1800 Southeast 14<sup>th</sup> Street shall be removed immediately.
6. The existing canopy structure at 1902 Southeast 14<sup>th</sup> Street shall be removed immediately.
7. Only one drive approach shall be permitted along Southeast 14<sup>th</sup> Street and shall align with the median opening in Southeast 14<sup>th</sup> Street at East Edison Avenue. All abandoned drive approaches shall be removed and a full height curb shall be restored along Southeast 14<sup>th</sup> Street.
8. Any outdoor trash collection container shall be within an enclosure constructed with concrete block or masonry materials and 100% opaque steel gates and shall not be located within any required setbacks.
9. Prior to issuance of a Certificate of Occupancy for any use of the property as a vehicle display lot, the entire site shall be brought into conformance with the Site Plan as approved by the Plan & Zoning Commission.

Date November 7, 2011

The subject property is more specifically described as follows (the "Property"):

Beginning 50 feet West of the Southeast corner, thence West 140 feet, thence North 199.2 feet, thence East 130.3 feet, thence Southeast 200.02 feet to Point of Beginning, Lot 1, Official Plat of the Southeast ¼, Section 10, Township 78 North, Range 24 West of the Fifth P.M., all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

WHEREAS, on October 24, 2011 by Roll Call No. 11-1784, the City Council of the City of Des Moines, Iowa, duly resolved to hold a public hearing on the proposed rezoning of the Property at 5:00 p.m. on November 7, 2011 in Council Chambers at City Hall; and

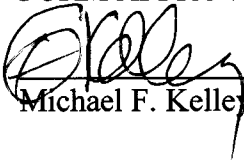
WHEREAS, due notice of the public hearing was published in the Des Moines Register on October 27, 2011 pursuant to Iowa Code Sections 362.3 and 414.4; and

WHEREAS, pursuant to the notice, those persons both in favor of and opposed to the proposed rezoning have had the opportunity to be heard and have made their views known to the City Council.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the Property are hereby overruled, the hearing is closed and the proposed rezoning of the Property from C-2 General Retail and Highway Oriented Commercial District with a VDL Vehicle Display Lot Overlay to a Limited C-2 District classification with the VDL Overlay removed is hereby APPROVED.

MOVED by \_\_\_\_\_ to adopt and approve the rezoning.

FORM APPROVED:

  
 \_\_\_\_\_  
 Michael F. Kelley, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**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.

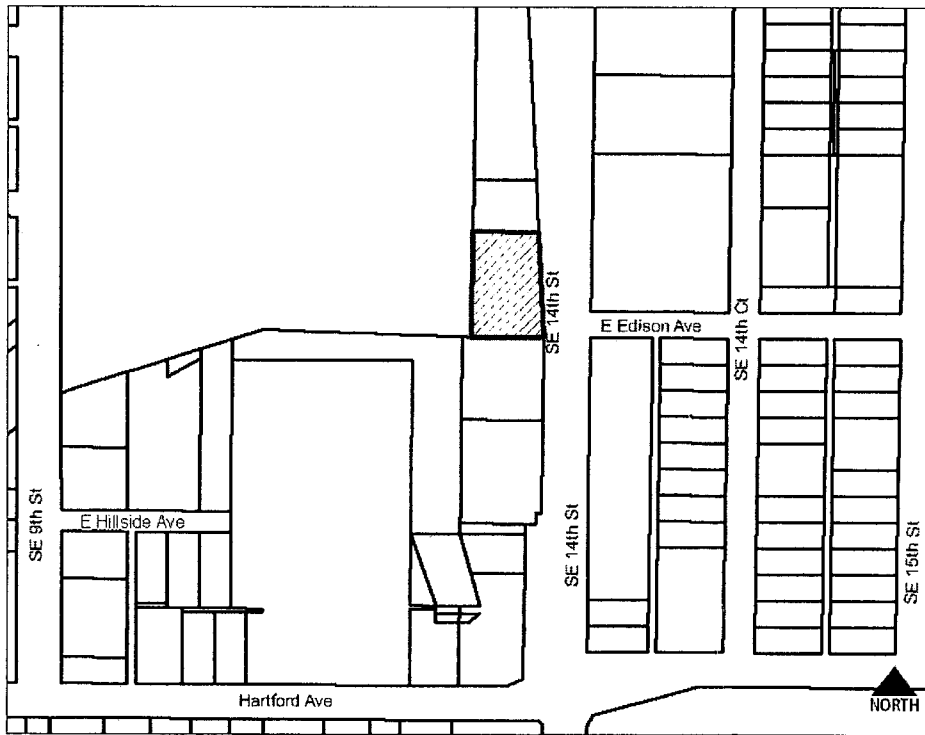
\_\_\_\_\_ City Clerk

48

Request from Mayorga & Mayorga Partners (owner) represented by Efrain Mayorga (officer) to rezone property located at 1800 Southeast 14 <sup>th</sup> Street.		File #	
		ZON2011-00171	
<b>Description of Action</b>	Review and approval to rezone the property zoned "C-2" General Retail and Highway Oriented Commercial District with a "VDL" Vehicle Display Lot Overlay to remove the Overlay, to allow for expansion of the existing vehicle display lot adjoining to the south onto the subject property.		
<b>2020 Community Character Plan</b>	Commercial: Auto-Oriented Small-Scale Strip Development		
<b>Horizon 2035 Transportation Plan</b>	Southeast 14 <sup>th</sup> Street from Court Avenue to East 15 <sup>th</sup> Street Extension to convert to one-way		
<b>Current Zoning District</b>	"C-2" General Retail and Highway-Oriented Commercial District with "VDL" Vehicle Display Lot Overlay		
<b>Proposed Zoning District</b>	"C-2" General Retail and Highway-Oriented Commercial District without "VDL" Vehicle Display Lot Overlay		
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined
Inside Area	1		
Outside Area			
<b>Plan and Zoning Commission Action</b>	Approval	11-0	<b>Required 6/7 Vote of the City Council</b>
	Denial		
			Yes
			No
			X

Mayorga & Mayorga Partners - 1800 SE 14th Street

ZON2011-00171



October 12, 2011

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held October 6, 2011, the following action was taken:

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 11-0 as follows:



CITY PLAN AND ZONING COMMISSION  
ARMORY BUILDING  
602 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309 -1881  
(515) 283-4182

ALL-AMERICA CITY  
1949, 1976, 1981  
2003

Commission Action:	Yes	Nays	Pass	Absent
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley				X
Tim Fitzgerald	X			
Dann Flaherty	X			
John "Jack" Hilmes	X			
Joel Huston				X
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
Mike Simonson				X
Kent Sovern	X			
CJ Stephens	X			

**APPROVAL** of a request from Mayorga & Mayorga Partners (owner) represented by Efrain Mayorga (officer) Part A) to find the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan; and Part B) to rezone property located at 1800 Southeast 14<sup>th</sup> Street to remove the "VDL" Vehicle Display Lot Overlay District, subject to the following conditions: ZON2011-00171

1. Any future use of the site for a vehicle display lot shall be operated as an expansion of the existing vehicle display lot at 1902 Southeast 14<sup>th</sup> Street. A new stand-alone vehicle display lot shall not be permitted.
2. Any future use of the site for a vehicle display lot shall be in accordance with a Site Plan under the design guidelines for vehicle display lots as approved by the Plan & Zoning Commission and shall adhere to all landscaping and setback requirements. This Site Plan shall include both the existing vehicle display lot at 1902 Southeast 14<sup>th</sup> Street and the expansion area at 1800 Southeast 14<sup>th</sup> Street.

3. The parcels currently known as 1800 Southeast 14<sup>th</sup> Street and 1902 Southeast 14<sup>th</sup> Street shall be combined by the Polk County Assessor to form one tax parcel.
4. The vehicle display lot, including the existing lot and any expansion, shall be limited to one (1) freestanding sign along the Southeast 14<sup>th</sup> Street frontage.
5. The existing freestanding sign at 1800 Southeast 14<sup>th</sup> Street shall be removed immediately.
6. The existing canopy structure at 1902 Southeast 14<sup>th</sup> Street shall be removed immediately.
7. Only one drive approach shall be permitted along Southeast 14<sup>th</sup> Street and shall align with the median opening in Southeast 14<sup>th</sup> Street at East Edison Avenue. All abandoned drive approaches shall be removed and a full height curb shall be restored along Southeast 14<sup>th</sup> Street.
8. Any outdoor trash collection container shall be within an enclosure constructed with concrete block or masonry materials and 100% opaque steel gates and shall not be located within any required setbacks.
9. Prior to issuance of a Certificate of Occupancy for any use of the property as a vehicle display lot, the entire site shall be brought into conformance with the Site Plan as approved by the Plan & Zoning Commission.

Written Responses

1 In Favor

0 In Opposition

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the proposed rezoning be found in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of the request to rezone the property to remove the "VDL" Vehicle Display Lot Overlay District, subject to the following conditions:

1. Any future use of the site for a vehicle display lot shall be operated as an expansion of the existing vehicle display lot at 1902 Southeast 14<sup>th</sup> Street. A new stand-alone vehicle display lot shall not be permitted.
2. Any future use of the site for a vehicle display lot shall be in accordance with a Site Plan under the design guidelines for vehicle display lots as approved by the Plan & Zoning Commission and shall adhere to all landscaping and setback requirements. This Site Plan shall include both the existing vehicle display lot at 1902 Southeast 14<sup>th</sup> Street and the expansion area at 1800 Southeast 14<sup>th</sup> Street.

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8. Any outdoor trash collection container shall be within an enclosure constructed with concrete block or masonry materials and 100% opaque steel gates and shall not be located within any required setbacks.
9. Prior to issuance of a Certificate of Occupancy for any use of the property as a vehicle display lot, the entire site shall be brought into conformance with the Site Plan as approved by the Plan & Zoning Commission.

## **STAFF REPORT**

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is seeking to have the "VDL" Vehicle Display Lot Overlay District removed from the subject property in order to allow the existing Aztec Motors vehicle display lot at 1902 Southeast 14<sup>th</sup> Street to expand onto the subject property. The applicant has submitted a site sketch that demonstrates that the existing building (recently occupied as a liquor store) would be removed from the site. The site sketch also indicates that the vehicle display lot expansion area would comply with all current setback and landscaping requirements. In addition, a 48-foot by 55-foot (2,640 square feet) canopy has already been removed from the site.

The "VDL" District regulations prohibit creation of a new vehicle display lot or any expansion of an existing vehicle display lot unless the expansion is on property owned in common at the date the rezoning to "VDL" District (September 28, 2009) and so long as the existing vehicle display lot is brought into conformance with all current site plan requirements.

In accordance with City Code Section 134-1261(b), the City Council, after review and recommendation by the Plan and Zoning Commission, may consider removal of the "VDL" Vehicle Display Lot Overlay District designation from a specific parcel, if 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".

Should the proposed rezoning be approved, any future use of the site for a vehicle display lot would be subject to review and approval of a Site Plan under the design guidelines for vehicle display lots by the Plan & Zoning Commission. A site plan is not being considered by the Plan & Zoning Commission at this time.

2. **Size of Site:** The subject property measures 200 feet by 140 feet or 27,000 square feet (0.62 acres). The adjacent vehicle display lot measures 153 feet by 158 feet or 24,174 square feet (0.55 acre) so the resulting vehicle display lot would total 51,174 square feet (1.17 acres).
3. **Existing Zoning (site):** "C-2" General Retail and Highway-Oriented Commercial District and "VDL" Vehicle Display Lot Overlay District Regulations.
4. **Existing Land Use (site):** The site was originally developed as a gas station and more recently used for a liquor store. The site contains a 40-foot by 24-foot (960 square feet) one-story building and a paved for off-street parking area. A 48-foot by 55-foot (2,640 square feet) canopy was recently removed from the site.
5. **Adjacent Land Use and Zoning:**
  - North** – "C-2" & "VDL"; Use is an unoccupied property with two garage structures.
  - South** - "C-2" & "VDL"; Use is the Aztec Motors vehicle display lot and Smoke Shop.
  - East** - "C-2"; Use is the Sahota liquor store.
  - West** - "U-1"; Use is the City of Des Moines' Jackson Stormwater Basin.
6. **General Neighborhood/Area Land Uses:** The subject property is located along the Southeast 14<sup>th</sup> Street commercial corridor just south of the Des Moines River.
7. **Applicable Recognized Neighborhood(s):** McKinley/Columbus Park Neighborhood.
8. **2020 Community Character Land Use Plan Designation:** Commercial: Auto-Oriented Small-Scale Strip Development.
9. **Relevant Zoning History:** On September 28, 2009, the City Council adopted ordinance #14,897 to apply the "VDL" Vehicle Display Lot Overlay District designation to all properties fronting Southeast 14<sup>th</sup> Street and East 14<sup>th</sup> Street.
10. **Vehicle Display Lot Overlay District Regulations:** The following are the "VDL" Vehicle Display Lot Overlay District as provided in the City's Zoning Ordinance:

*Sec. 134-1260. Statement of Intent.*

*There exist within the City of Des Moines segments of commercial corridors wherein the concentration of vehicle display lots has reached a level that has discouraged investment and reinvestment in other uses in the area. As retail and service businesses close and property values within the affected corridors decline or fail to rise with the overall market, the most profitable use of the vacant properties is often for*

*additional vehicle display lots. This further increases the concentration of vehicle display lots and their impact on other properties.*

*The creation or expansion of vehicle display lots is generally prohibited in the VDL vehicle display lot overlay 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.*

*Sec. 134-1261. Application of VDL Vehicle Display Lot Overlay District.*

- (a) Property may be zoned to the VDL vehicle display lot overlay district when the City Council has made a determination that at least one of the following conditions exist within the corridor along which the property is located:
  - (1) The corridor or portion thereof to be rezoned to the VDL overlay district contains a high concentration of vehicle display lots and the concentration of vehicle display lots 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.*
  - (2) The use of the required front yard for vehicle display is contrary to the predominant character of the corridor or portion thereof to be rezoned to the VDL overlay district, and would detrimentally impact that character and property values along the corridor.**
- (b) The City Council, after review and recommendation by the Plan and Zoning Commission, may consider removal of the VDL vehicle display lot overlay district designation from a specific parcel, if the Council finds that the above conditions 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.*

*Sec. 134-1262. Limitations on Permitted Uses.*

- (a) Property in the VDL vehicle display lot overlay district shall continue to be subject to all the zoning regulations applicable in the underlying zoning district, except as otherwise specifically provided in this division. Where this division identifies a more restrictive requirement than is otherwise applicable in the underlying zoning district, the more restrictive requirement of this division shall control. Any property used in common with property in the VDL district shall be subject to the limitations of the VDL district as provided in section 134-1276(h).*
- (b) Except as provided in paragraph (c), no vehicle display lot shall be created or expanded and no site plan shall be approved for the creation or expansion of a vehicle display lot within the VDL overlay district.*
- (c) An vehicle display lot which was a lawful use when rezoned to the VDL overlay district and has not been discontinued for more than six (6) months or abandoned, may be redeveloped or expanded provided that: i) such redevelopment or expansion is entirely upon adjoining land or upon land separated only by an intervening alley, which is owned of record by the owner of the portion of such land devoted to the vehicle display lot when such land was rezoned to the VDL overlay district; and, ii) the entire vehicle display lot as so redeveloped or expanded conforms with the applicable zoning and site plan requirements.*



- 11. Applicable Regulations:** The Commission reviews all proposals to amend zoning boundaries or regulations within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in 414.3 of the Iowa Code. The Commission may make recommendations to the City Council on conditions to be made in addition to the existing regulations so long as the subject property owner agrees to them in writing. The recommendation of the Commission will be forwarded to the City Council.

Should the proposed rezoning be approved, any future use of the site for a vehicle display lot would be subject to review and approval of a Site Plan under the design guidelines for vehicle display lots by the Plan & Zoning Commission, including the following: In acting upon any site plan application that includes improvements to property used for display, hire, rental or sales of motor vehicles in a commercial zoning district, the Plan and Zoning Commission shall apply the design standards in section 82-213 and the additional standards set forth below. The decision to approve, approve subject to conditions or disapprove a proposed site plan shall be based upon the conformance of the site plan with such design standards:

- 1) The construction and use of the site will have no significant detrimental impact on the use and enjoyment of adjoining residential uses, if any.
- 2) The proposed development shall satisfy the open space and bufferyard requirements for development in the "C-2" district set forth in the Landscape Standards in the adopted site plan policies.
- 3) Any portion of the property to be used for outside storage, display or parking of vehicles shall:
  - a) contain at least one-half acre of land.
  - b) conform with the parking lot/display lot requirements for development in the "C-2" district set forth in the landscape standards in the adopted site plan policies.
  - c) be surfaced with an asphaltic or Portland cement binder pavement as shall be approved by the city engineer, so as to provide a durable and dustless surface and shall be so graded and drained as to dispose of all surface water accumulation within the area.
  - d) incorporate curbs or other substantial permanent barriers to prevent encroachment of the vehicles into the required setback and landscape areas. Precast wheel stops and other barriers that can be readily moved are not acceptable.
- 4) There shall be no elevated display of motor vehicles in any required front yard.
- 5) The employee and customer parking area shall be clearly designated and shall not be used for the parking, storage or display of motor vehicles for sale, rental or hire.
- 6) All portions of the property used for the outside parking, display or storage of motor vehicles for sale, rental or hire shall be identified on the site plan and the perimeter shall be striped or otherwise conspicuously marked on the parking surface.

## II. ADDITIONAL APPLICABLE INFORMATION

1. **Staff Rationale:** Staff believes that removing the “VDL” from 1800 Southeast 14<sup>th</sup> Street is appropriate only if it leverages significant site improvements to the existing adjacent vehicle display lot at 1902 Southeast 14<sup>th</sup> Street. Staff recommends a number of conditions of approval, including requiring any use of the property for a vehicle display lot to be as an expansion of an existing vehicle display lot and requiring that existing portion of the vehicle display lot to be brought into conformance with all current zoning, site plan, and landscaping regulations. Staff also recommends requiring immediate removal of the existing 44-foot by 54-foot canopy structure at 1902 Southeast 14<sup>th</sup> Street and immediate removal of the freestanding sign at 1800 Southeast 14<sup>th</sup> Street.
2. **2020 Community Character Land Use Plan:** The proposed conversion of the property to a vehicle display lot is consistent with the 2020 Community Character Plan’s future land use designation of Small-Scale Commercial Corridor.
3. **Landscaping & Buffering:** Should the rezoning to remove the “VDL” Overlay District be approved, any use of the subject property for a vehicle display lot must be in accordance with a Site Plan under the design guidelines for vehicle display lots. Staff recommends that the site plan also include the existing vehicle display lot at 1902 Southeast 14<sup>th</sup> Street. The entire site must be in accordance with all landscaping and setback requirements of the “C-2” District. This would require a mix of overstory trees, ornamental trees, and shrubs, including provision of 1 overstory tree and 3 shrubs per 50 lineal feet Southeast 14<sup>th</sup> Street.
4. **Access or Parking:** The site sketch demonstrates that the proposed expansion of the vehicle display lot at 1902 Southeast 14<sup>th</sup> Street onto the property at 1800 Southeast 14<sup>th</sup> Street would include consolidation of three existing drive approaches into a single approach that aligns with the median opening in Southeast 14<sup>th</sup> Street at East Edison Avenue. The two abandoned drive approaches would be removed and a full height curb shall be restored along Southeast 14<sup>th</sup> Street.
5. **Dumpster Enclosure :** Staff recommends that any outdoor trash collection container shall be within an enclosure constructed with concrete block or masonry materials and 100% opaque steel gates and shall not be located within any required setbacks.

## SUMMARY OF DISCUSSION

Bert Drost presented the staff report and recommendation.

Mike Simpson 2195 SE 78<sup>th</sup> Street, Runnels, IA employed by Aztec Motors, sales manager stated that the applicant has done a nice job with his present lot north of the proposed expansion. If the applicant is allowed to move forward it would be a nice improvement for the area.

Greg Jones asked if the applicant is in agreement with staff recommendation.

Mike Simpson stated yes the applicant is in agreement with staff recommendation.

JoAnne Corigliano asked is the applicant going to remove the raised display.

Mike Simpson stated yes the raised display will be removed.

### **CHAIRPERSON OPENED THE PUBLIC HEARING**

*There was no one to speak in favor or in opposition of the applicant's request*

### **CHAIRPERSON CLOSED THE PUBLIC HEARING**

JoAnne Corigliano stated that she believes if the applicant can do everything that he said he will do then this would be a great improvement.

Tim Fitzgerald stated that the applicant takes pride in their lot.

Mike Ludwig stated that Mr. Mayorga's existing lot to the north of the proposed request has made a significant improvement along SE 14<sup>th</sup> Street.

### **COMMISSION ACTION:**

"John "Jack" Hilmes moved staff recommendation Part A) to find the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan; and Part B) to approve the request to rezone the property to remove the "VDL" Vehicle Display Lot Overlay District, subject to the following conditions:

1. Any future use of the site for a vehicle display lot shall be operated as an expansion of the existing vehicle display lot at 1902 Southeast 14<sup>th</sup> Street. A new stand-alone vehicle display lot shall not be permitted.
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9. Prior to issuance of a Certificate of Occupancy for any use of the property as a vehicle display lot, the entire site shall be brought into conformance with the Site Plan as approved by the Plan & Zoning Commission.

Motion passed 11-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Ludwig". The signature is stylized and cursive.

Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment

Item 2011 00171

Date 9.28.11

(am)  (am not) in favor of the request.

(Circle One)

**RECEIVED**  
**COMMUNITY DEVELOPMENT**

Print Name

Galinsky Family Real Estate  
Larry Galinsky

Signature

SEP 30 2011

Address

3900 Vandavia Rd Des Moines  
IA 50317

Reason for opposing or approving this request may be listed below:

**DEPARTMENT**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

