

June 25, 2012

Date

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on May 17, 2012, its members voted 13-0 in support of a motion to recommend **DENIAL** of a request from Alawi Habib (purchaser) and Daybreak Family Worship Center, Inc. (owner) to rezone property located at 2410 Hickman Road from Limited C-2 General Retail and Highway-Oriented Commercial District to C-2 General Retail and Highway-Oriented Commercial District, to allow for use of the property for a vehicle display lot; and

WHEREAS, on June 11, 2012 by Roll Call No. 12-0887, the City Council set a public hearing on the proposed rezoning for June 25, 2012 at 5:00 p.m. in Council Chambers, City Hall, Des Moines, Iowa;

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

(Except an irregular piece being North 37 feet on East Line and North 25.4 feet on West Line) the West 410 feet of the East 785 feet Lot 1, Duhigg Place, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

WHEREAS, notice of the public hearing was published in the Des Moines Register according to law on June 14, 2012, setting forth the time and place for hearing on the proposed rezoning; and

WHEREAS, in accordance with the notice those interested in the proposed rezoning, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to City Council.

Date June 25, 2012

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

Alternative A

_____ Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed rezoning of the property from Limited C-2 General Retail and Highway-Oriented Commercial District to C-2 General Retail and Highway-Oriented Commercial District are accepted, the hearing is closed and the proposed rezoning is hereby DENIED.

Moved by _____ to adopt and to DENY the proposed rezoning.

Alternative B

_____ Moved by _____ to continue the public hearing until the _____ Council meeting at 5:00 p.m. and to direct the City Manager and Legal Department to prepare the necessary legislation to approve the rezoning subject to the conditions acceptable to the City and the applicant.

Moved by _____ to adopt and to continue the public hearing to _____ at 5:00 p.m.

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

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.

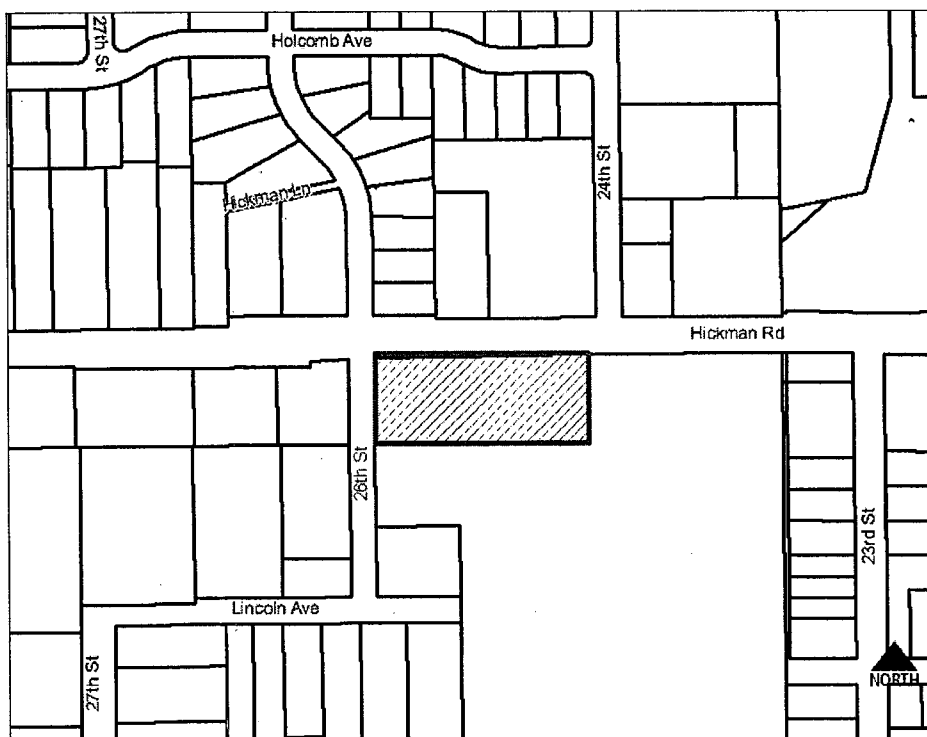
Mayor

City Clerk

Request from Alawi Habib (purchaser) to rezone property located at 2410 Hickman Road in order to eliminate a zoning condition that prohibits use of the property as a vehicle display lot. The subject property owned by Daybreak Family Worship Center, Inc.				File # ZON2012-00062	
Description of Action	Review and approval to rezone from Limited "C-2" General Retail and Highway-Oriented Commercial District to "C-2" General Retail and Highway-Oriented Commercial District, to allow for use of the property for a vehicle display lot.				
2020 Community Character Plan	Medium-Density Residential				
Horizon 2035 Transportation Plan	No Planned Improvements				
Current Zoning District	Limited "C-2" General Retail and Highway-Oriented Commercial District				
Proposed Zoning District	"C-2" General Retail and Highway-Oriented Commercial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area		4			
Outside Area					
Plan and Zoning Commission Action	Approval		Required 6/7 Vote of the City Council	Yes	X
	Denial	11-0		No	

Alawi Habib - 2410 Hickman Road

ZON2012-00062



Date _____

May 23, 2012

Agenda Item 54

Roll Call # _____

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 May 17, 2012, the following action was taken regarding a request from Alawi Habib (purchaser), Daybreak Family Worship Center, Inc. (owner) to rezone property located at 2410 Hickman Road:

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			
Ted Irvine				X
Greg Jones	X			
William Page				X
Christine Pardee	X			
Mike Simonson	X			
CJ Stephens	X			
Vicki Stogdil	X			

APPROVAL of motion to find the requested rezoning **not** in conformance with the existing Des Moines' 2020 Community Character Plan

By separate motion Commissioners recommended 11-0 as follows:

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			
Ted Irvine				X
Greg Jones	X			
William Page				X
Christine Pardee	X			
Mike Simonson	X			
CJ Stephens	X			
Vicki Stogdil	X			

DENIAL of request to amend the Des Moines' 2020 Community Character Plan future land use designation from to revise the existing future land use designation from Medium Density Residential to Auto-Oriented Small-Scale Strip Development; and denial of the requested rezoning (21-2012-4.04 & ZON2012-00062)

Written Responses

- 0 In Favor
- 4 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find the requested rezoning not in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends denial of the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Medium Density Residential to Auto-Oriented Small-Scale Strip Development.

Part C) Staff recommends denial of the requested rezoning.

STAFF REPORT

I. GENERAL INFORMATION

- 1. Purpose of Request:** The applicant wishes to redevelop the site for use as a vehicle display lot. The existing parking lot and 750-square foot building would be utilized. A new 1,728-square foot building and an additional 2,916 square feet of pavement would be constructed. The western 160 feet of the property is zoned a Limited "C-2" District that restricts permitted uses to those allowed in the "R-3" District and parking lots. The eastern balance of the site is zoned "C-2" District with no limitations.
- 2. Size of Site:** 163.3 feet by 410 feet (67,660 square feet or 1.553 acres). The zoning conditions apply to the western 160 feet of the property.
- 3. Existing Zoning (site):** Limited "C-2" District and "C-2" District.
- 4. Existing Land Use (site):** The site was originally developed as a miniature golf course and used most recently for a religious assembly use.
- 5. Adjacent Land Use and Zoning:**
 - North* – "R1-60" & "C-2"; Uses are a duplex dwelling and retail.
 - South* – "R-3" & "C-2"; Use is multiple-family residential.
 - East* – "C-2"; Use is multiple-family residential.
 - West* – "R-3"; Use is a single-family dwelling.
- 6. General Neighborhood/Area Land Uses:** The subject property is located on the southeast corner of the Hickman Road and 26th Street intersection. This area consists

of a mix of single-family and multiple-family dwellings with commercial uses focused near the Martin Luther King, Jr. Parkway and Hickman Road intersection.

7. **Applicable Recognized Neighborhood(s):** None.
8. **Relevant Zoning History:** On March 7, 1988 the City Council approved Ordinance number 11,125 rezoning the western 160 feet of the subject property from "R-3" District to a Limited "C-2" District limiting uses to those allowed in the "R-3" District and parking lots.
9. **2020 Community Character Land Use Plan Designation:** Medium Density Residential.
10. **Applicable Regulations:** The Commission reviews all proposals to amend zoning regulations or zoning district boundaries 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 recommend that certain conditions be applied to the subject property if the property owner agrees in writing, in addition to the existing regulations. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Vehicle Display Lot Design Guidelines:** If the rezoning is approved the applicant would be required to submit a site plan for review and approval by the Plan and Zoning Commission in accordance with Section 82-213.03 of the City Code.

Section 82-213.03. Design guidelines for vehicle display lots.

Any site plan application which includes improvements to property used for display, hire, rental or sales of motor vehicles shall be denied by the plan and zoning commission unless the commission determines that the construction and use of the site will have no significant detrimental impact on the use and enjoyment of adjoining residential uses, and that the proposed site plan conforms with the design regulations in section 82-213 and the following additional design guidelines:

- (1) 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.
- (2) 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 which can be readily moved are not acceptable.
- (3) There shall be no elevated display of motor vehicles in any required front yard.
- (4) 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.
- (5) 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.

2. Landscaping & Buffering: The City's Landscaping Standards for the "C-2" District require the following.

- Open Space equal to 20% of the site with 1 overstory tree, 1 evergreen tree and 1 shrub per 2,500 square feet of required open space.
- Bufferyard with a minimum width of 10 feet with a 6-foot tall opaque fence/screen, and 2 overstory trees and 6 evergreen trees per 100 lineal feet.
- Parking, Display & Maneuvering Perimeter Planting Area with a minimum width of 10 feet with 1 overstory tree and 3 shrub per 50 lineal feet.

The applicant would be required to submit a site plan for review if the rezoning is approved. Plant material will be fully evaluated through that process. Existing plant material is counted toward meeting the Landscaping Standards if it meets the intent of the standards. Any development of the site is subject to the City's Tree Removal and Mitigation Ordinance (Section 42-550 of the City Code) regardless of zoning.

- 3. Parking:** The proposed use would require 4 off-street parking spaces based on the combined area of the existing and the proposed buildings (one per 600 square feet of gross floor area). The submitted site sketch shows 4 off-street parking spaces in addition to vehicle display area.
- 4. Traffic/Street System:** Hickman Road is a minor arterial street and carries a significant amount of traffic. Staff believes that the proposed rezoning would have minimal impact on the capacity of the street system.
- 5. 2020 Community Character Plan:** The subject site is designated for Medium Density Residential use on the Future Land Use Map. The 2020 Community Character Plan describes this designation as areas developed with multi-family units including those over 8 units and up to 17 units per net acre.

The requested "C-2" District is not in conformance with the Medium Density Residential future land use designation. An amendment to Auto-Oriented Small-Scale Strip Development was requested by the applicant. This amendment is necessary for the requested rezoning to be found in conformance with the 2020 Community Character Plan.

Auto-Oriented Small-Scale Strip Development is described as commercial areas in which the site orientation is primarily focused on the needs and convenience of

motorist. In the future, developments will have a strong orientation to motorists with necessary accommodations on site for pedestrians. Small-Scale Strip Development consists of small-to-moderate commercial in a linear pattern that serves the passing motorist. Individual buildings may be over 35,000 square feet with individual modules from 2,000 to 20,000 square feet.

Staff believes that a highway commercial designation is not appropriate given the residential character of the surrounding area. The intense commercial uses allowed in the "C-2" District, including vehicle sales, would have a negative impact on the surrounding residential area. The existing permitted use limitations were adopted in recognition of this concern and should be retained.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Vince Piagentini Associated Engineering Company of Iowa, 2917 Martin Luther King Jr. Pkwy., stated that they are trying to make use of the site as it has been vacant for awhile. They plan to add parking and an addition with a bay for cleaning cars. The trees in the easterly part of the site would not be disturbed.

Alawi Habib stated that before he purchased the property he went to City Hall to see what it could be used for. Stated he was told that there were no restrictions and that it was zoned for commercial use including vehicle display. Noted that he sent a letter to neighbors inviting them to a meeting and that only two people showed up and that one of them did not live in the neighborhood.

Muqtar Habib 3121 Kingman Blvd., stated he agreed with his brother's comments and that they want to make the place look nice.

JoAnne Corigliano asked if they have already purchase the property or if the sale is pending.

Muqtar Habib replied yes, they have purchased the property. Stated they purchased the property after researching what they could do with it. They were told that there were no restrictions and that the property could be used as a vehicle lot. They purchased the property and then found they needed to seek rezoning and go through the site plan review process.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one to speak in favor of the applicant's request.

The following spoke in opposition of the applicant's request:

Nancy Saunders 2305 26th Street expressed opposition to the request as she believes it would negatively impact neighborhood safety and security, and would increase noise and traffic in the neighborhood. She noted that the applicant currently does not have a dealer license and does not meet the requirements to get a license.

Jacqueline Easley asked if she attended the neighborhood meeting.

Nancy Saunders stated the neighborhood meeting was to be on the lot at 5:00 p.m. and that there were no phone numbers, addresses or contact information on the letter for the applicant. It was a short note stating that they purchased the property and if there were any questions to meet them at 5:00 p.m. on Tuesday night. Stated that she works evenings and that she did not think that she should share her concerns with them so that they could come in and rebut those points.

Rebuttal

Alawi Habib expressed his belief that a vehicle sales business would be safer than the current conditions. Noted that the area is dark and that there are children going back and forth in the area and that there is no way to know what they are doing.

CHAIRPERSON CLOSED THE PUBLIC HEARING

John "Jack" Hilmes stated that it is too bad that someone has invested in property that is derelict and then cannot use it.

COMMISSION ACTION:

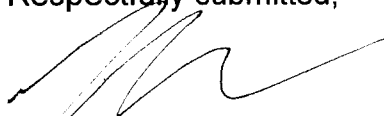
Shirley Daniels moved staff recommendation Part A) to find the requested rezoning not in conformance with the Des Moines' 2020 Community Character Plan.

Motion passed 11-0

Shirley Daniels moved staff recommendation Part B) to deny the requested amendment to the Des Moines' 2020 Community Character Plan future land use designation from Medium Density Residential to Auto-Oriented Small-Scale Strip Development; and Part C) to deny the requested rezoning.

Motion passed 11-0

Respectfully submitted,



Jason Van Essen, AICP
Sr. Planner

MGL:clw

Attachment

Item 2012 00062 Date 5-10-12

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

(Circle One)

DEPARTMENT

MAY 11 2012

Print Name Nancy Saunders

Signature Nancy Saunders

Address 2305 26th Ave PMIA 50322

COMMUNITY DEVELOPMENT

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

RECEIVED
Neighborhood Safety Do Not have Dealers

Neighborhood Security License at Present.

Environment noise/traffic

The type of business will not be Social Economical

suitable for Neighborhood.

Item 2012 00062-4 Date 5/9/12

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

RECEIVED
(Circle One)
COMMUNITY DEVELOPMENT

MAY 14 2012 ✓

DEPARTMENT

Print Name

Signature

Address



Ms. Jeanette Webb
12826 Hickory Ct.
Clive, IA 50325

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

the 26th + Hickman area struggles with attracting commercial properties that "look good". While the falling down property is an eye soar, I do not feel car lot is an improvement in the long term.

Item 2012 00062-4 Date 5-12-12

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

RECEIVED
(Circle One)
MAY 14 2012 ✓
CITY OF DES MOINES
PERMIT AND DEVELOPMENT CENTER

Print Name

Signature

Address

Armando Falcon

Armando Falcon

2600 Hickman Rd

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

Does not fit in with the family community setting would bring in un wanted traffic and noise thoughts of gas oil getting into the water smells from car not wanted

Item 2012 00062 Date May 15, 2012

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

RECEIVED
COMMUNITY DEVELOPMENT
MAY 21 2012
DEPARTMENT

Print Name Laura Rettig

Signature Laura Rettig

Address 2535 24 St

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

Please do not turn Hickman into a commercial property street. Used car lots are unsightly. The lighting needed for a car lot would greatly impact the neighbors. A new Childrens Center would be more beneficial to our area and community. We do not need another used car lot in this area. **MARTIN-HICKMAN NEIGHBORHOOD ASSOC.**

Item 2012 00062nd Date 5-8-2012

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

RECEIVED
COMMUNITY DEVELOPMENT
MAY 11 2012
DEPARTMENT

Print Name ELDON VAN SYOC

Signature Eldon Van Syoc

Address 2359 Watsons Chitonspe 60049

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



Lundy, Bill <wblundy@dm.gov.org>

re:

1 message

mschilling83@q.com <mschilling83@q.com>
To: EMLundy@dmgov.org
Cc: laura rettig <ljjr101@hotmail.com>

Mon, May 14, 2012 at 10:11 PM

May 14, 2012

Dear Mr. Lundy,

Our neighborhood association has made me aware of a potential re-zoning issue near me. I understand you will be discussing this at a meeting Thursday, but I cannot attend the meeting. This is regarding the property at 2410 Hickman, currently a mini-golf course, that could potentially become re-zoned for a used car lot; another option would be for Freedom for Youth to buy it.

Our neighborhood association president wrote us:

"I did receive some information from Freedom for Youth. They would like to purchase the property and construct a Children's Center for our elementary children. This would greatly expand the number of children they reach and keep them from having to cross Hickman, which is so dangerous."

I must admit, I am not usually the type to write my city officials, but this time I feel compelled to do so. This neighborhood has enough challenges without adding a used car lot. First, there are already two just to the north, on the corner of MLK and Douglas. Do we really need yet another one just around the corner? Second, I am always struck by how cheap and yucky all those many used car lots look when I drive around the south side of Des Moines. (Don't see ones like that in the nice parts of West Des Moines, do you?) Third, Freedom for Youth does good work with the at-risk kids around here. If they could add an elementary program building there, it would be a great asset to our neighborhood. They have built a very attractive, useful complex at their current location and built a brand new, attractive house nearby for transitional housing. It stands to reason that any more expansion on their part would be equally attractive, not to mention beneficial. And lastly, there are lots of kids in our neighborhood and I get the impression that many do not get a lot of "parental oversight." This re-zoning is about whether we'll have a positive place for them to go and receive some additional adult guidance, or a cheap used car lot that will invite additional vandalism. Now which would you chose for YOUR neighborhood? Thank you for your time and attention.

Sincerely,
Wendy Herink-Schilling
2700 Holcomb Ave.
Des Moines, IA 50310



Wendy Schilling <mschilling83@dm.gov>

RE: Notice of Public Hearing May 17 6:00 PM Regarding 2410 Hickman

1 message

laura rettig <ljjr101@hotmail.com>

Mon, May 14, 2012 at 9:17 PM

To: Wendy Schilling <mschilling83@q.com>, "Lundy, Erik M." <emlundy@dm.gov.org>

Hi Wendy,

You can direct your response to Erick Lundy, Senior City Planner. His email address is EMLundy@dm.gov.org. I'll be sending an email shortly regarding a letter I received from the new property owners. They also own the property at 2500 MLK, a multi-business building, which hasn't had any updating. I'd hate to see them own a used car lot, which is what it is going to be.

Thanks for your support, Wendy.

Date: Mon, 14 May 2012 22:07:15 -0400

From: mschilling83@q.com

To: ljjr101@hotmail.com

Subject: RE: Notice of Public Hearing May 17 6:00 PM Regarding 2410 Hickman

Do you have an e-mail address for the Community Development Dept. so we can voice our opinion if we can't attend the meeting?

–Wendy Herink-Schilling
2700 Holcomb

— Original Message —

From: laura rettig <ljjr101@hotmail.com>

Sent: Mon, 14 May 2012 17:49:37 -0400 (EDT)

Subject: RE: Notice of Public Hearing May 17 6:00 PM Regarding 2410 Hickman

Hello All,

I've received the definition of 'vehicle display lot' and here it is.....

"Vehicle display could mean a new or used car lot, farm implement, vehicle rental business such as U-haul or Avis, display of motorcycles, ATVs, RVs, boats, trailers of all types, and outdoor rental equipment for construction, landscaping, etc.

The request for 2410 Hickman is intended for used vehicle display, so that an Iowa DOT dealers license may be obtained."

I did receive some information from Freedom for Youth. They would like to purchase the property and construct a Children's Center for our elementary children. This would greatly expand the number of children they reach and keep them from having to cross Hickman, which is so dangerous. I think, as they do also, that this is a much better option for our community than a used car lot. I encourage everyone to vote against this zoning change.

Remember the meeting is this Thursday but feel free to contact the Community Development department if you would like to provide any feedback. I'll pass along any additional information I may receive.

Thanks Everyone and take care.



Lundy, Erik <emlundy@dmgov.org>

Re: Rezoning Request for Property located at 2410 Hickman

1 message

Lundy, Erik <emlundy@dmgov.org>
To: laura rettig <ljjr101@hotmail.com>

Wed, May 9, 2012 at 8:43 AM

Vehicle display could mean a new or used car lot, farm implement, vehicle rental business such as U-haul or Avis, display of motorcycles, ATVs, RVs, boats, trailers of all types, and outdoor rental equipment for construction, landscaping, etc.

The request for 2410 Hickman is intended for used vehicle display, so that an Iowa DOT dealers license may be obtained.

Erik Lundy, AICP, CPM
senior city planner
community development
602 Robert D. Ray Drive
Des Moines IA 50309
515.283.4144 voice
emlundy@dmgov.org

On Tue, May 8, 2012 at 6:19 PM, laura rettig <ljjr101@hotmail.com> wrote:

Hi Erik,
I received the notification of the public hearing but could you tell me what 'vehicle display lot' is? I'm assuming a car lot but want to be sure so I can let the residents know.
Appreciate your time. Thanks so much!

Laura Rettig
President, Martin-Hickman Neighborhood Assn

5/17/12

City of Des Moines Mail - Rezoning Request for Property located at 2410 Hickman

54



Lundy, Erik M. <emlundy@dmgov.org>

Rezoning Request for Property located at 2410 Hickman

1 message

laura rettig <ljjr101@hotmail.com>

Tue, May 8, 2012 at 6:19 PM

To: "Lundy, Erik M." <emlundy@dmgov.org>

Hi Erik,

I received the notification of the public hearing but could you tell me what 'vehicle display lot' is? I'm assuming a car lot but want to be sure so I can let the residents know.

Appreciate your time. Thanks so much!

Laura Rettig

President, Martin-Hickman Neighborhood Assn