



Roll Call Number

Agenda Item Number

43A

Date December 7, 2015

RESOLUTION ON REQUEST FROM IMPERIAL PROPERTIES, INC. TO AMEND THE DES MOINES' 2020 COMMUNITY CHARACTER PLAN FUTURE LAND USE DESIGNATION (4141 EAST 14TH STREET)

WHEREAS, on August 7, 2000, by Roll Call No. 00-3381, the City Council adopted the Des Moines' 2020 Community Character Land Use Plan; and

WHEREAS, on November 23, 2015, by Roll Call No. 15-_____, the City Council received a communication from the City Plan and Zoning Commission advising that at a public hearing held November 5, 2015, its members voted 9-2 to recommend **APPROVAL** of a request from Imperial Properties, Inc. (owner), represented by Bill Moyer (officer), to amend the Des Moines' 2020 Community Character Plan future land use designation for real property locally known as 4141 East 14th Street from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the proposed amendment to the Des Moines' 2020 Community Character Land Use Plan, as described above, is hereby **approved / denied**.

MOVED by _____ to adopt and **APPROVE/DENY** the proposed amendment.

FORM APPROVED:

Lawrence R. McDowell, Deputy City Attorney

(21-2015-4.20)

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

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|----------|------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| GATTO | | | | |
| GRAY | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| MOORE | | | | |
| | | | | |
| | | | | |
| TOTAL | | | | |
| MOTION CARRIED | | APPROVED | | |
| | | | | Mayor |

November 18, 2015

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 November 5, 2015, the following action was taken regarding a request from Imperial Properties, Inc. (owner) represented by Bill Moyer (officer) to rezone property located at 4141 East 14th Street.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-2 as follows:

| Commission Action: | Yes | Nays | Pass | Absent |
|---------------------|-----|------|------|--------|
| Dory Briles | X | | | |
| JoAnne Corigliano | X | | | |
| Jacqueline Easley | X | | | |
| Tim Fitzgerald | | X | | |
| Jann Freed | X | | | |
| John "Jack" Hilmes | X | | | |
| Greg Jones | X | | | |
| Sasha Kamper | X | | | |
| Brian Millard | X | | | |
| William Page | | | | X |
| Jonathan Rosenbloom | | | | X |
| Mike Simonson | | | | X |
| CJ Stephens | X | | | |
| Greg Wattier | | X | | |

APPROVAL of staff recommendation regarding Part A) that the proposed rezoning is not in conformance with the existing Des Moines 2020 Community Character Plan; Approval of Part B) to amend the Des Moines 2020 Community Character Plan existing future land use designation from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial; and Approval of Part C) rezoning of the property from "C-2" General Retail and Highway-Oriented Commercial District to Limited "M-1" Light Industrial District, subject to the following conditions:
 (21-2015-4.20 & ZON2015-00178)

- 1) Only the following uses of land and structures shall be permitted on the property:
 - a) Any use allowed in and as restricted in the "C-2" District, except the following uses which shall be prohibited upon the Property:
 - 1) Adult entertainment businesses.
 - 2) Taverns and nightclubs.
 - 3) Off-premises advertising signs.
 - 4) Liquor stores/package goods store for the sale of alcoholic beverages.
 - 5) Pawn brokerages.
 - 6) Delayed deposit services.
 - b) Warehousing and outdoor contractor storage yard.
 - c) Chrome plating provided that conditions 6, 7, & 8 are satisfied prior to closing of the City Council hearing regarding the rezoning.
- 2) Any change in occupancy for the building or the land is subject to compliance with all Building and Fire Codes.
- 3) Any outdoor storage shall comply with requirements in Sec. 134-1087(4) of the Zoning Ordinance, and shall be screened from public street views.
- 4) Any overhead doors on any principal or accessory building shall not directly face public streets, unless determined by the Community Development Director that no other reasonable location for the overhead doors exist and that they are adequately designed in such a manner that their visual impact would be minimal.
- 5) Any development of the property shall comply with the City's Landscaping Standards applicable in a "C-2" District; and
- 6) Imperial Properties, Inc. must provide a City Code compliant construction and containment plan for the existing building prepared by a licensed architect or engineer; and
- 7) Imperial Properties, Inc. must demonstrate financial security for removal, disposal and abatement of hazardous materials and processes on the Property, as applicable; and
- 8) Imperial Properties, Inc. must provide a business/financial plan for operations going forward if financial assistance is requested from the City's Office of Economic Development.

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 approval of the requested future land use amendment to General Industrial.

Part C) Staff recommends approval of the requested rezoning to the "M-1" District subject to the following conditions.

- 1) Only the following uses of land and structures shall be permitted on the property:
 - a) Any use allow in and as restricted in the "C-2" District, except the following uses which shall be prohibited upon the Property:
 - 1) Adult entertainment businesses.
 - 2) Taverns and nightclubs.
 - 3) Off-premises advertising signs.
 - 4) Liquor stores/package goods store for the sale of alcoholic beverages.
 - 5) Pawn brokerages.
 - 6) Delayed deposit services.
 - b) Warehousing and outdoor contractor storage yard.

Note: These zoning use conditions would match other "M-1" zoned property in the vicinity, but would not permit a chrome plating operation which is an intended purpose of the application.

- 2) Any change in occupancy for the building or the land is subject to compliance with all Building and Fire Codes.
- 3) Any outdoor storage shall comply with requirements in Sec. 134-1087(4) of the Zoning Ordinance, and shall be screened from public street views.
- 4) Any overhead doors on any principal or accessory building shall not directly face public streets, unless determined by the Community Development Director that no other reasonable location for the overhead doors exist and that they are adequately designed in such a manner that their visual impact would be minimal.
- 5) Any development of the property shall comply with the City's Landscaping Standards applicable in a "C-2" District.

Written Responses

2 In Favor

1 In Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking the rezoning in order to retain an existing chrome plating operation, which is not a permitted use in the "C-2" District. The rezoning is necessary to come into compliance with zoning violations for the existing use.
2. **Size of Site:** 31,222 square feet.
3. **Existing Zoning (site):** "C-2" General Retail and Highway-Oriented Commercial District, "VDL" Vehicle Display Lot Overlay District, and "FSO" Freestanding Sign Overlay District.

4. **Existing Land Use (site):** The property currently contains a 5,708 square-foot building used for warehousing and a chrome plating business operation. The chrome plating operation is currently in violation of the Zoning Ordinance and does not have a certificate of occupancy.

5. **Adjacent Land Use and Zoning:**

North – “HI” Heavy Industrial (Polk County), Use is Ruan Truck Sales.

South - “C-2”, Use is a vehicle display lot.

East – “M-1”, Use is a vehicle body and repair shop.

West – “M-1”, Use is Seneca Companies (petroleum equipment contractor)

6. **General Neighborhood/Area Land Uses:** The subject property is located along the East 14th Street commercial corridor at the northern corporate limit of the City. The highway commercial corridor transitions into industrial development to the east.
7. **Applicable Recognized Neighborhood(s):** The subject property is located in the Highland Park Neighborhood. The neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhood associations on September 11, 2015. Additionally, separate notifications of the hearing for this specific item were mailed on September 21, 2015 (10 days prior to the hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on September 25, 2015.

All agendas and notices are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Highland Park Neighborhood notices were mailed to Andy Anderson, 4011 North Union Street, Des Moines, IA 50313.

8. **Relevant Zoning History:** The applicant made a previous request for “M-1” zoning on the property which was withdrawn before the Plan & Zoning Commission consideration on April 3, 2008.

On April 23, 2012 by Roll Call No. 12-0641, the City Council denied another subsequent request to rezone to “M-1” District for the subject property, based upon the applicant and tenant inability to commit to bringing the chrome plating operation into compliance with Building and Fire Codes.

On February 10, 2014 by Ordinance No. 15,259 the City Council rezoned property across East 14th Street to the west owned by Seneca Companies to Limited “M-1” with the following conditions:

- 1) Only the following uses of land and structures shall be permitted on the property:
 - a) Any use allow in and as restricted in the "C-2" District, except the following uses which shall be prohibited upon the Property:
 - 1) Adult entertainment businesses.

- 2) Taverns and nightclubs.
- 3) Off-premises advertising signs additional to one existing 672-square foot off-premises sign with two faces which is to remain.
- 4) Liquor stores/package goods store for the sale of alcoholic beverages.
- 5) Pawn brokerages.
- 6) Delayed deposit services.
- b) Warehousing and outdoor contractor storage yard.
- 2) The existing non-conforming outdoor storage occurring on the property shall be relocated to be outside of any required front yard setback, at the earlier of the time that an additional warehouse building is built on the Property or November 1, 2014.
- 3) All overhead doors on any principal or accessory building shall not face residentially zoned property, unless determined by the Community Development Director that no other reasonable location for the overhead doors exist and that they are adequately screened and designed in such a manner that their visual impact would be minimal.
- 4) Any development of the property shall comply with the City's Landscaping Standards applicable in a "C-2" District.

9. 2020 Community Character Land Use Plan Designation: Commercial: Auto-Oriented Small-Scale Strip Development.

10. Applicable Regulations: In consideration of the criteria set forth in Chapter 18B of the Iowa Code, 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.

II. ADDITIONAL APPLICABLE INFORMATION

1. **Drainage/Grading:** Any additional development of the site must comply with the City's Stormwater Management requirements to the satisfaction of the City's Permit and Development Center. All grading is subject to an approved grading permit and soil erosion control plan. If the rezoning is approved, a Site Plan will be required for the property to be brought into conformance for a change of use. This will involve the need to provide stormwater management improvements if project area exceeds 10,000 square feet of impervious surface.
1. **Landscaping & Buffering:** The applicant has submitted a site sketch that identifies parking areas and proposed open space and landscape areas. The sketch does not identify types of landscaping.

The City's Landscaping Standards for the "M-1" District on the East 14th Street corridor 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. In this instance the total site

would require 8,015 square feet of open space and 4 overstory trees, 4 evergreens, and 4 shrubs.

- *Perimeter Lot Planting Area* with a minimum width of 10 feet with 1 overstory tree and 3 shrubs per 50 lineal feet. In this instance 3 overstory trees and 9 shrubs would be required along the perimeter of the parking lot from East 14th Street and East Aurora Avenue at the northwest corner of the site.

A submitted site sketch indicates the intent to provide a 10-foot wide perimeter lot landscape strip on the west and east with additional open space south of the existing building. The building is located near the north property line.

The applicant would be required to submit a site plan to the City's Permit and Development Center for review following any approval of the rezoning process. Plant material would be fully evaluated through that process.

2. **Access or Parking:** The site has two access drives; one from East 14th Street and one from East Aurora Avenue. The applicant has submitted a scaled site sketch that indicates existing drive entrances would be retained along with cross access to the vehicle display lot property owned by the applicant to the south.

There is sufficient area on the property to meet off-street parking minimums, which are one space per 600 square feet of the building for the current non-conforming chrome plating use.

4. **2020 Community Character Plan:** The proposed rezoning to the "M-1" District with no limitations is not compatible with the Commercial: Auto-Oriented Small-Scale Strip Development future land use designation. There is a General Industrial designation adjoining to the east. Staff believes that any a General Industrial designation for the subject property would only be appropriate if limited since it is located directly on the East 14th Street commercial corridor. Industrial uses should be limited to outdoor storage and warehousing and landscaping should be the same as "C-2" Districts are required as the corridor is predominantly "C-2" and serves as an entrance corridor to the City.
5. **Enforcement Comments:** There is a history of zoning violations since 2006 on the subject property. This includes the current violation of the presence of the chrome plating use within a district that does not permit that use. There are also past violations for outdoor storage of inoperable, unlicensed, and junk vehicles as well as display of vehicles for sale without an approved Site Plan under the vehicle display design guidelines.

In addition to zoning concerns, there are also inquiries by the City with regard to violations of compliance with occupancy under the Building and Fire Codes. The largest concern is with regard to storage and handling of large amounts of hazardous chemicals used with the chrome plating operation. It has not been demonstrated by the property owner and the operator that the building and operation meets the proper occupancy requirements to allow a use classification involving use and storage of those hazardous substances. The applicant indicates that the requested rezoning is necessary before investment to come into compliance can be justified. Staff does not

believe intensive light industrial uses such as the chrome plating business are appropriate for being located directly on the East 14th Street corridor, which is predominantly general retail and highway-oriented commercial uses.

When the City Council considered the rezoning in April of 2012, there were prior conditions that the Council had given the applicant in order to consider the possibility of rezoning:

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.

The applicant and occupants were not able to provide the information to the Council's satisfaction which prompted the Council to deny the rezoning. Currently, the Zoning Enforcement Officer is in legal proceedings with the property owner.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Sasha Kamper noted if the staff recommendation is approved, the applicant would not be able to do any chrome plating which is why the applicant was seeking a rezoning.

Jason Van Essen stated that is correct. However, the rezoning would give the applicant additional "M1" uses that they don't have today.

Sasha Kamper asked why we want to be accommodating and create more flexibility for an applicant who's had difficulties complying with rules that were already in place.

Jason Van Essen stated staff evaluated this proposal based on consistency with a recent zoning case across the street.

Mike Ludwig clarified the previous request would have allowed the plating operation but they could not meet the conditions that were proposed by the Council. Council ultimately denied it. Therefore, staff believes the end solution is to match the zoning across the street. The zoning would not permit chrome plating on the premises. They would have to cease chrome plating and abate the hazardous materials that are currently stored on the site.

CJ Stephens stated this is a business that is the only one in town that does this type of work. It's critical to some people if they are requesting this. She asked is there any way to negotiate with them, to find them some land where they can do their chrome plating.

Mike Ludwig stated when the previous rezoning was considered other options for relocation were looked at. Some of those operations would have been located in unincorporated Polk County that may have a lesser standard from either a building code or zoning regulation standpoint. The issue was the cost of moving. He noted that the hazardous materials that are currently on the site will have to be moved by a licensed company. That is why the cost was estimated nearly \$100,000 to move. This operation moved in to this location overnight, unknown to the City. Even if they move to another location there is still \$100,000 of cost associated with that cleanup. They have not come forward with any additional proposals for other locations.

Brian Millard stated this applicant knew way back then they could not run a chrome shop there. They opened up one up anyway. In 2012, they were supposed to put in sprinklers and they did not do it and they have been running since then. He asked does the City sometimes have difficulty gaining compliance with some property owners? What is the City going to do when they find that it is not in compliance in 30, 60 or 90 days after a little is given? He would prefer the site becomes 100% in compliance before any rezoning.

Sasha Kamper asked legal is there a way by which the zoning becomes effective when the nuisance is abated.

Glenna Frank stated it was possible. Her concern is that would create a cloud on the title.

Amanda Green with the Nading Law Firm representing Imperial Properties, the owners. She stated that the property is currently "C2" and they are requesting that it be zone "M1" so this chrome shop can operate. They would like it to be zoned "M1" so other potential tenants can operate their business also. They have started looking at other potential tenants so this doesn't sit empty for an extended period of time. The reason Imperial Properties is so intent on this chrome shop being there is because Chrome Reflection is a good tenant, they have been in this location for a long period of time. They are one of the only companies that does this type of work in this area. There are a lot of automobiles businesses that rely on Chrome Reflections that are really hurting right now. The funding played a major role on why the conditions weren't completed before it could be rezoned. Karl Performance is one of the main contributors and now they have partnered with Imperial properties bring this property in compliance. The only concern they have are the conditions. They would ask that this property be zoned "M1" without the conditions. She pointed out that the surrounding areas are zoned "M1". Imperial Properties is not zoned "M1". To the east is Vam Holdings vehicle, body and repair shop and Penske Trucking, so it's an environment that has this commercial and light industrial type businesses there already. There have been no complaints from any of the surrounding areas or any of the surrounding companies, even when the proposal was sent out. She believes that it would be improper to punish the owner just by way of punishment and not look at the overall community and how this would fit into the community of the property by not having those conditions on there. To address the occupancy, Chrome Reflections has not been occupying the property for 5 months. It is currently sitting empty.

Sasha Kamper asked what would be the reluctance in bringing the property into compliance and get the tenant back in if there is an understanding that the property will be rezoned once those improvements are made.

Amanda Green stated she don't believe there is reluctance or resistance to that. Their understanding is you will make it "M1" but still cannot do the chrome. She believes that if they have the condition and bring it into compliance then they can operate the chrome business, then she believes there would be no reluctance from Imperial Properties to do that.

Sasha Kamper asked if Imperial Properties ceased using this facility for the last five months as a result of City enforcement.

Amanda Green stated absolutely correct.

Mike Ludwig stated he believes several years ago they actually stopped the chrome plated. Supposedly product was being shipped out of state to be chrome plated but the hazardous materials that need to be stored appropriately remained on the site.

Sasha Kamper asked if the rezoning is granted, how can we be assured that the tenant does not come back and resume operations without these issues being addressed.

Mike Ludwig stated that would be the same question the City Council had a few years ago.

Greg Jones clarified that the applicant wants "M1" with no restrictions, but there is still no provision anywhere for chrome plating and he believes the Commission would have to add a specific condition to allow that.

Amanda Green stated it was her understanding that they would be allowed to operate the chrome plating under the "M1".

John "Jack" Hilmes asked if there is a tenant currently on site doing chrome plating.

Amanda Green stated Chrome Reflections is the tenant for that property who has always done the chrome plating over the past six years. However, due to the City enforcement the tenant has not been allowed to occupy or operate their business. Her client is not interested in doing one piece without the other.

John "Jack" Hilmes asked why chrome plating has to occur on this site.

Amanda Green stated if it was moved the same problems will still be there. It is the chemicals that would have to be moved. The tenants are already there if they bring it up to compliance with the code. There has not been any hazardous problems or conditions that have arose in the past six years.

John "Jack" Hilmes asked why it has to happen here. He believes that City Staff is saying you can have your "M1" but not the hazardous materials and chrome plating any longer.

Amanda Green stated she believes that staff is saying they can have limited "M1" zoning. They are asking for "M1" without conditions, they are not asking for a special variance.

John "Jack" Hilmes stated he believes that with the "M1" zoning chrome plating will go back to business as usual once the building is brought into compliance. With the expenditures that have been brought to the Commission's attention, it would be over \$100,000.

Amanda Green stated that is the intent. She stated her client owns this property and the proposed tenant is Chrome Reflections.

Greg Wattier asked if the concern about the use is an issue of compliance or is it a concern that we don't want hazardous materials here.

Mike Ludwig stated staff's primary concern has been the proper storage at this location or any location. The proper fire suppression system and proper storage of materials. This was the previous goal in 2012. There was no ability by the applicant at that time to present financial resources sufficient to construct those improvements. They were directed to cease all chrome plating operations at that time three years ago and Ms. Green noted they have not been operating for five months. Staff was told three years ago that chrome plating was occurring out of state. They were doing some grinding and metal work. He would like some clarification.

Amanda Green asked to consult with the co-owner and the tenant is not present, so she cannot answer that.

Greg Wattier asked if the single purpose is to get a safe compliant building and provide the function of the tenant's business. He thought he heard that the landlord would be willing to bring the building into compliance prior to getting the site rezoned to "M1". Seems like this area is appropriate for a "M1" zoning and if the building can be brought up to compliance first, they can come back.

Brian Millard asked if the property owner would agree in writing that he will have the electric and gas meters pulled until the building is in compliance. Then the applicant can't have an operation. He should also allow City inspectors to enter the building to and inspect what hazards exist.

Amanda Green stated the City has put a padlock on the doors, so they have access to the building.

CHAIRPERSON OPENED THE PUBLIC HEARING

Tammy Jacobs 2404 E. 11th Street stated she has been employed with Chrome Reflections since 1982 when they first opened. She clarified that they have not been doing any plating onsite since they moved into that building. Immediately when they moved in the City came in and said they could do polishing, grinding until the building was in compliance and they have been subcontracting the chrome plating portion of the business since. The only reason that they have not moved to a new location after working with the City and a realty company is the realtor advised them there was no place that had everything that they would be required to have and the cost of moving the chemicals would be well over

\$100,000 and that is just for the chemicals. In addition there would be cost to move all of the equipment. They physically and financially did not have the ability to do so. One of their main clients has to ship out of state to get the chrome plating done and he is not happy with their work. There are employees who have worked for Chrome Reflections for 20 years that are out of work since they were locked out. She noted out at their previous location they were given a variance. In 30 plus years they have never had an EPA violation, they have never had a violation with anyone. They are a small operation in comparison with big industrial factories. She does not believe that it is a hazard. They are contained, careful and experienced people on the site. They have always had good quality product. She would like the Commission to take into consideration that it was a money matter as to why they did not bring the building into compliance.

Brian Millard asked if the property owner represented he had the proper zoning for them to move to this property.

Tammy Jacobs stated they did not speak to the property owner about the move in. It was a situation where their lease was up at the previous property. They were advised that the previous building was too big and that they needed to downsize. It took them about 3 months to move their equipment and chemicals. They did not know the owner of Imperial properties until they moved in.

Tim Fitzgerald asked if Ms. Jacobs was an employee or a stakeholder.

Tammy Jacobs stated she is an employee.

Mike Ludwig thanked Ms. Jacobs for providing clarification about the operations in the interim. He stated staff's desire is to be assured that this was going to be operated in compliance with the building and fire codes. No matter where they go they are going to have this cost to bring a building into compliance. If they have to move then it is an additional \$100,000 of cost. Something that the Commission can consider is the original conditions from 2012 that were presented at the time of the Council hearing. Prior to rezoning, the applicant had to provide 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.

Those have not been submitted to date as part of the application for this zoning. That led to the current staff recommendation. If the Commission is comfortable with an operation

that is compliant with code, the Commissioners could propose those original conditions be met prior to rezoning.

CHAIRPERSON CLOSED THE PUBLIC HEARING

CJ Stephens moved staff recommendation with addition of chrome plating subject to conditions.

John "Jack" Hilmes asked for clarification.

Mike Ludwig clarified that staff suggests if the Commission wanted to allow the chrome plating the applicant should provide items originally requested in 2012 prior to the Council hearing on the rezoning.

Brian Millard asked staff if they do not come into compliance what will the City do.

Mike Ludwig stated the staff report noted that the City is currently in legal proceedings against the property owner so they would continue to pursue those.

Brian Millard asked the amount of time the owner is allowed before that happens.

Mike Ludwig stated he defers to the City Council direction and Legal Department for regarding that matter.

Sasha Kamper expressed concern that doing it in the manner proposed they are effectively letting the property owner and tenant who have not been in compliance dictate our zoning.

John "Jack" Hilmes stated he believed that requiring the applicant to provide information prior to rezoning was sufficient.

Mike Ludwig stated the previous conditions where the applicant had to have a construction and containment plan, they had to have financial security and they had to have a business plan. None of those three were met previously so their request was denied. Staff is giving them another chance to present those documents prior to rezoning by the City Council.

Sasha Kamper asked the motivations to change the zoning.

Greg Jones stated there is already zoning like it across the street, and the Commission down zoned a lot of "M-2" properties in the City a few years ago.

John "Jack" Hilmes stated we get a compliant property.

Sasha Kamper asked the options if they do not come into compliance.

CJ Stephens stated it is already in legal proceedings. She would like to see a timeframe on compliance.

Mike Ludwig stated the City Council could place any timeline that they wanted. He suggested to the applicant that they provide the construction and containment plan, financial security and the business plan prior to the Council hearing.

John "Jack" Hilmes clarified that the Commission is advisory on zoning matters to the City Council and they are providing free advice to the applicant and the Council of what the Commission thinks need to happen. The City Council will make the ultimate decision based on the presentation there.

COMMISSION ACTION:

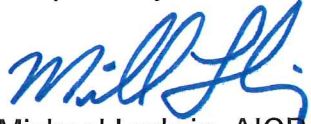
CJ Stephens moved staff recommendation Part A) that the proposed rezoning is not in conformance with the existing Des Moines 2020 Community Character Plan; approval of Part B) to amend the Des Moines 2020 Community Character Plan existing future land use designation from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial; and approval of Part C) rezoning of the property from "C-2" General Retail and Highway-Oriented Commercial District to Limited "M-1" Light Industrial District, subject to the following conditions:

- 1) Only the following uses of land and structures shall be permitted on the property:
 - a) Any use allow in and as restricted in the "C-2" District, except the following uses which shall be prohibited upon the Property:
 - 1) Adult entertainment businesses.
 - 2) Taverns and nightclubs.
 - 3) Off-premises advertising signs.
 - 4) Liquor stores/package goods store for the sale of alcoholic beverages.
 - 5) Pawn brokerages.
 - 6) Delayed deposit services.
 - b) Warehousing and outdoor contractor storage yard.
 - c) Chrome plating provided that conditions 6, 7, & 8 are satisfied prior to closing of the City Council hearing regarding the rezoning.
- 2) Any change in occupancy for the building or the land is subject to compliance with all Building and Fire Codes.
- 3) Any outdoor storage shall comply with requirements in Sec. 134-1087(4) of the Zoning Ordinance, and shall be screened from public street views.
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- 5) Any development of the property shall comply with the City's Landscaping Standards applicable in a "C-2" District; and
- 6) Imperial Properties, Inc. must provide a City Code compliant construction and containment plan for the existing building prepared by a licensed architect or engineer; and

- 7) Imperial Properties, Inc. must demonstrate financial security for removal, disposal and abatement of hazardous materials and processes on the Property, as applicable; and
- 8) Imperial Properties, Inc. must provide a business/financial plan for operations going forward if financial assistance is requested from the City's Office of Economic Development.

Motion passed 9-2 (Greg Wattier and Tim Fitzgerald voted in opposition)

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael Ludwig".

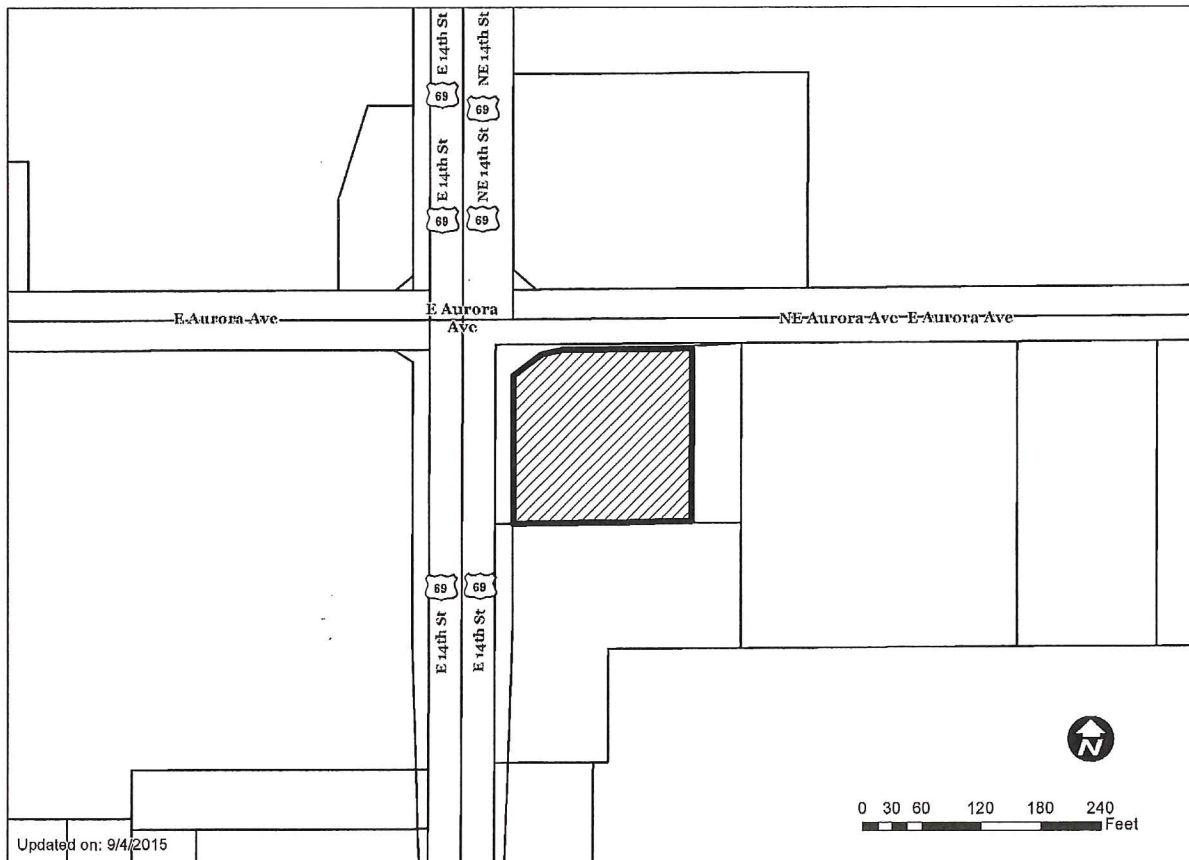
Michael Ludwig, AICP
Planning Administrator

MGL:clw
Attachment

| | | | | | |
|---|---|--|---------------------------------------|--------------|--------------|
| Request from Imperial Properties, Inc. (owner) represented by Bill Moyer (officer) regarding property located at 4141 East 14 th Street. | | | | File # | |
| | | | | 21-2015-4.20 | |
| Description of Action | Approval of request to amend the Des Moines 2020 Community Character Plan existing future land use designation from Commercial: Auto-Oriented, Small-Scale Strip Development to General Industrial. | | | | |
| 2020 Community Character Plan | | Current: Commercial: Auto-Oriented, Community Commercial Proposed: General Industrial | | | |
| Mobilizing Tomorrow Transportation Plan | | US 69/East 14 th widening from 4 lanes to 5 lanes (2025-2034). | | | |
| Current Zoning District | | "C-2" General Retail and Highway-Oriented Commercial District and "FSO" Freestanding Signs Overlay District. | | | |
| Proposed Zoning District | | Limited "M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District. | | | |
| Consent Card Responses | | In Favor | Not In Favor | Undetermined | % Opposition |
| Inside Area | | 2 | 1 | | |
| Outside Area | | | | | |
| Plan and Zoning Commission Action | Approval | 9-2 | Required 6/7 Vote of the City Council | Yes | |
| | Denial | | | No | X |

Imperial Properties, Inc, 4141 E 14th Street

21-2015-4.20

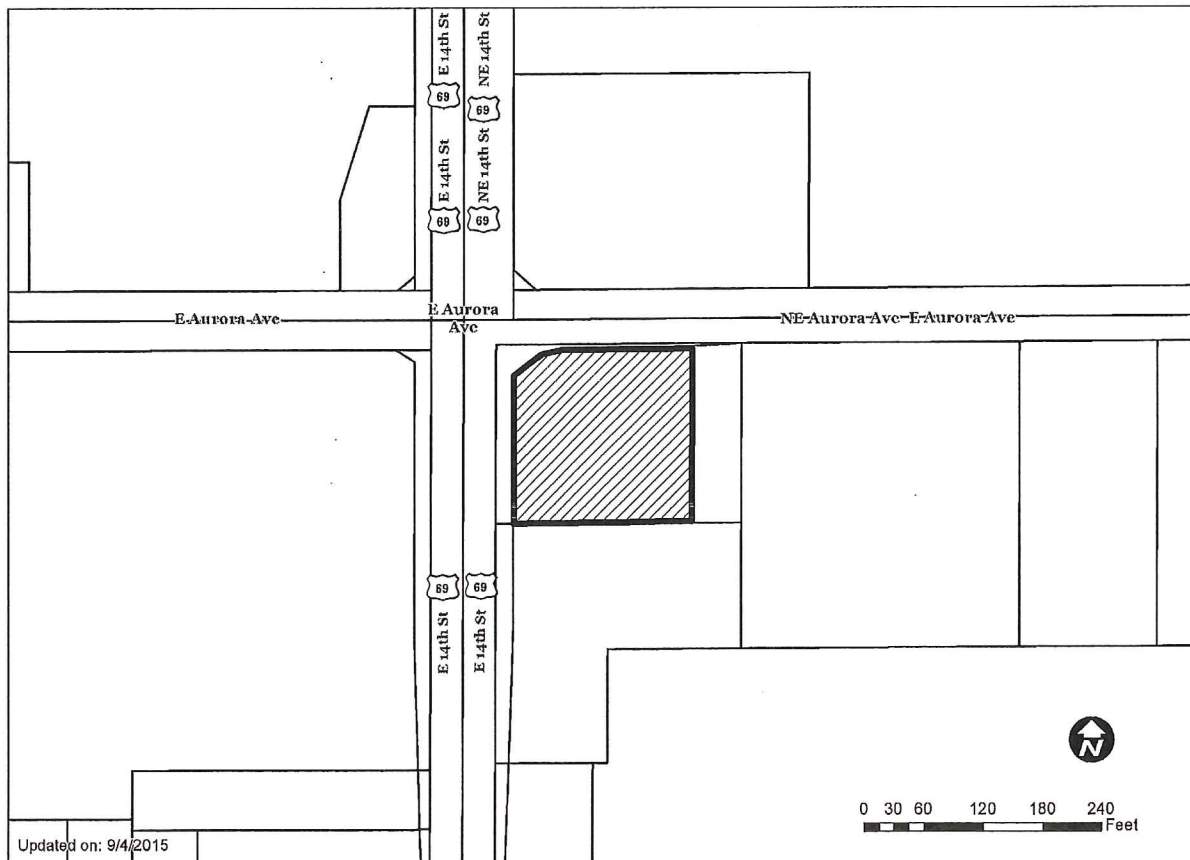


1 inch = 113 feet

| | | | | | | |
|---|--|--|--------------|---------------------------------------|--------------|---|
| Request from Imperial Properties, Inc. (owner) represented by Bill Moyer (officer) regarding property located at 4141 East 14 th Street. | | | | File # | | |
| | | | | ZON2015-00178 | | |
| Description of Action | | Approval of request to rezone property from "C-2" General Retail and Highway-Oriented Commercial District to Limited "M-1" Light Industrial District to allow use of the property for light industrial uses subject to conditions. | | | | |
| 2020 Community Character Plan | | Current: Commercial: Auto-Oriented, Community Commercial Proposed: General Industrial | | | | |
| Mobilizing Tomorrow Transportation Plan | | US 69/East 14 th widening from 4 lanes to 5 lanes (2025-2034). | | | | |
| Current Zoning District | | "C-2" General Retail and Highway-Oriented Commercial District and "FSO" Freestanding Signs Overlay District. | | | | |
| Proposed Zoning District | | Limited "M-1" Light Industrial District and "FSO" Freestanding Signs Overlay District. | | | | |
| Consent Card Responses | | In Favor | Not In Favor | Undetermined | % Opposition | |
| Inside Area | | 2 | 1 | | | |
| Outside Area | | | | | | |
| Plan and Zoning Commission Action | | Approval | 9-2 | Required 6/7 Vote of the City Council | Yes | |
| | | Denial | | | No | X |

Imperial Properties, Inc, 4141 E 14th Street

ZON2015-00178



ZON2015-00178

Item

Date

9-24-15

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

Print Name

HIGHLAN PARK ASSOCI

SEP 28 2015

Signature

Andy Anderson

DEPARTMENT

Address

4011 N UNION DM 50313

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

ZON2015-00178

Item

Date

9-29-15

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT

Print Name

GREGG MOYER

Signature

Gregg Moyer

Address

4131 E-14th Can City

OCT 05 2015

DEPARTMENT

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

I approve of the Crime Plotting Shop next
door because they have been there for over
6 years & we ~~don't~~ have had no problem
this Crime Plotting Shop is the only one in town
We need this Business
Gregg Moyer

ZON2015-00178

Item

Date

9/30/15

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

RECEIVED

COMMUNITY DEVELOPMENT

Print Name

Shane Smith (Billboard Company)

Signature

Shane Smith

Address

1421 S. Bell Ave, Suite 106
Ames, IA 50010

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

Zoning land commercial allows more
billboards to be built, I work with
Fairway outdoor Advertising.

ZON2015-00178

Item

Date

9-23-15

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

RECEIVED

COMMUNITY DEVELOPMENT

Print Name

MELVIN R. THOMAS

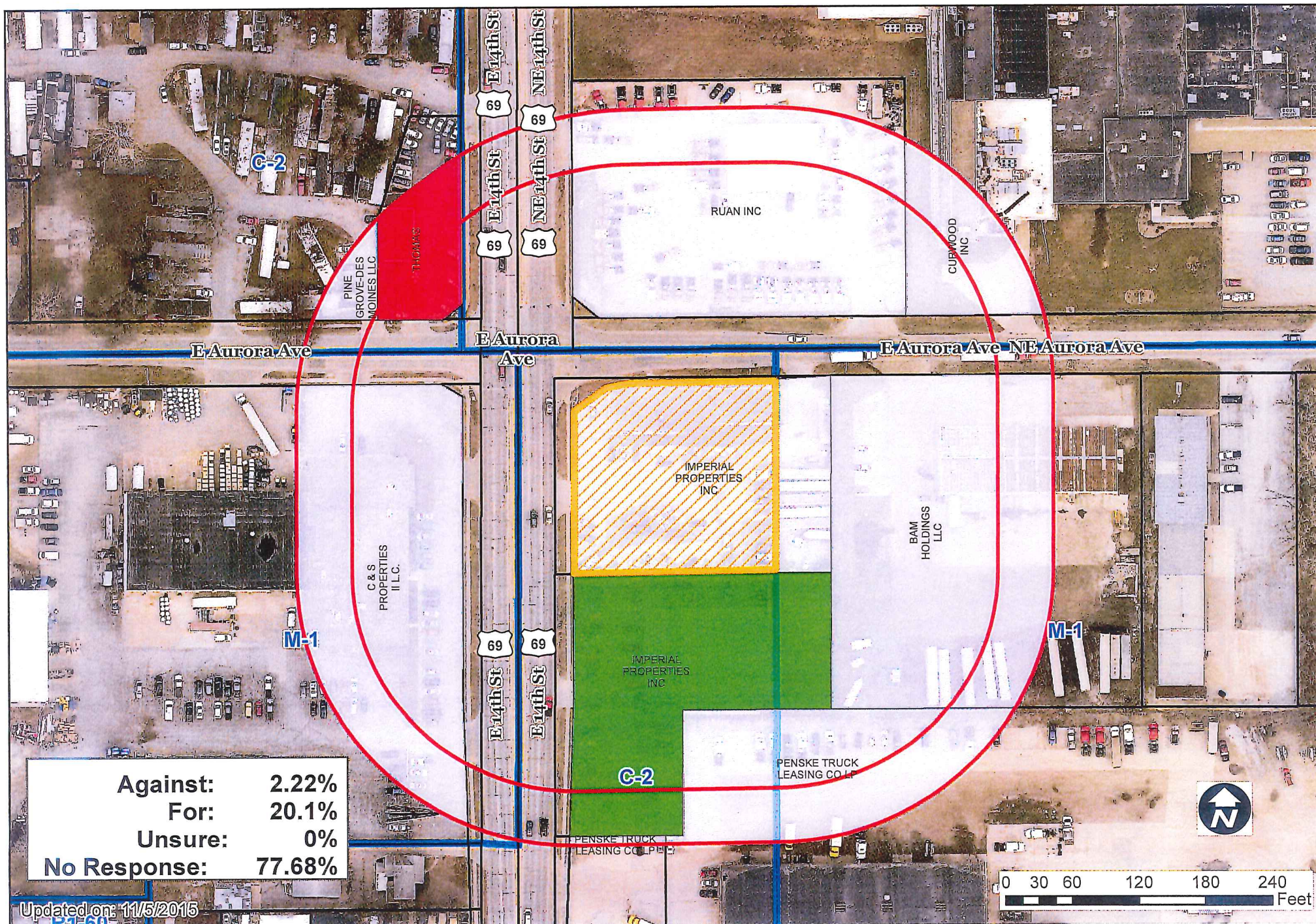
Signature

Melvin R. Thomas

Address

4200 E 14th St

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



NOV 23 2015

19-1
15-1962
4BA

ORDER No. 9422 Roll Call Legal Bulletin Board Follow Up

NOTICE OF MEETING OF THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA
ON THE MATTER OF THE PROPOSED AUTHORIZATION OF A LEASE WITH CAPITOL
CENTER, LLC FOR THE RENTAL OF OFFICE SPACE AT 400 EAST COURT AVENUE,
AND OF PUBLIC HEARING ON THE AUTHORIZATION AND EXECUTION THEREOF

PUBLIC NOTICE is hereby given that the City Council of the City of Des Moines, Iowa, will hold a public hearing on the 7th day of December, 2015, at 5:00 p.m., in the Council Chambers, City Hall, Des Moines, Iowa, at which meeting the Council proposes to discuss the proposed Lease Agreement with Capitol Center, LLC, for the lease of real estate consisting of a 23,089 square feet located at 400 East Court Avenue, Suites 114, 116, 118 and 200 in Des Moines.

This Agreement, if exercised by the City, would require the City to pay a total of \$982,052.13 in estimated lease payments, as follows:

- a) \$366,653.32 for the first twelve months (12) of the Lease Agreement,
- b) \$368,500.44 for months thirteen through twenty four (13-24) of the Lease Agreement,
and
- c) \$246,898.37 for months twenty five through thirty two (25-32) of the Lease Agreement.

The lease payments for this property shall be payable from the City's General Fund of the City of Des Moines.

At the above meeting, the City Council of the City of Des Moines, Iowa, shall receive oral or written objections from any resident or property owner of the city to the above action. After all objections have been received and considered, the Council will at this meeting, or at any adjournment thereof, take additional action for the authorization of said Lease Agreement or will abandon the proposal.

This Notice is given by order of the Council of Des Moines, Iowa, as provided by Sections 364.4 384.25 of the Code of Iowa, as amended.

PUBLISHED IN THE DES MOINES REGISTER ON NOVEMBER 30, 2015.