



Roll Call Number

08-1685

WITHDRAWN

Agenda Item Number

45B

Date

September 22, 2008

Alternative Resolution

RESOLUTION CLOSING PUBLIC HEARING AND DENYING APPLICATION OF EFRAIN MAYORGA, d/b/a AZTEC MOTORS, FOR RELIEF FROM TEMPORARY MORATORIUM

WHEREAS, on March 25, 2008, by Roll Call No. 08-510A, the City Council approved a temporary moratorium which provides in relevant part as follows:

1. 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, at any location within the City of Des Moines that is zoned to the "C-2" General Retail and Highway Oriented Commercial District. The City Staff shall not issue any permit for any development which is prohibited by this section. This moratorium shall not apply to the completion and use of a vehicle display lot or expansion of a vehicle display lot which has been commenced under a valid permit and is diligently pursued to completion.

WHEREAS, on August 25, 2008, by Roll Call No. 08-1533, the City Council extended the temporary moratorium through November 11, 2008; and,

WHEREAS, on September 8, 2008, by Roll Call No. 08-1583, it was duly resolved by the City Council that the application of Efrain Mayorga, representing Mayorga & Mayorga Partners, d/b/a Aztec Motors (the "Partnership"), for relief from the moratorium as applied to the expansion of its used car sales lot at 908 SE 14th Street to include the adjoining property at 824 SE 14th Street, be set down for hearing on September 22, 2008, at 5:00 P.M., in the Council Chambers at City Hall; and,

WHEREAS, due notice of said hearing was published in the Des Moines Register on September 12, 2008, setting forth the time and place for such hearing; and,

WHEREAS, in accordance with said notice those interested in the application, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; NOW THEREFORE,

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

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the application for relief from the moratorium are hereby sustained, and the hearing is closed.

(continued)

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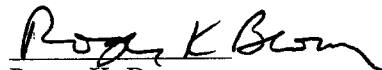
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2. The City Council hereby makes the following findings:
 - a) Mayorga & Mayorga Partners seeks relief from the moratorium to allow it to expand its used car sales lot to include an adjoining lot.
 - b) The proposed action constitutes the expansion of a vehicle display lot within the intended meaning of the moratorium.
 - c) The Partnership has failed to demonstrate that it is suffering any hardship by application of the moratorium and the temporary prohibition against the expansion of its vehicle display area.

3. The application of the Partnership for relief from the moratorium is hereby denied.

MOVED by _____ to adopt and DENY the request for relief from the moratorium.

FORM APPROVED:


 Roger K. Brown
 Assistant City Attorney
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
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