

★ Roll Call Number

08-2226

Agenda Item Number

43A

Date December 22, 2008

RESOLUTION CLOSING PUBLIC HEARING AND APPROVING  
APPLICATION OF DANIEL OWEN, d/b/a OWEN AUTO,  
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 November 10, 2008, by Roll Call No. 08-2010, the City Council extended the temporary moratorium through March 10, 2009; and,

WHEREAS, on December 8, 2008, by Roll Call No. 08-2121, it was duly resolved by the City Council that the application of Daniel Owen, doing business as Owen Auto, seeking relief from the moratorium as applied to the expansion of his used car sales lot at 923 Army Post Road to include the adjoining property at 913 Army Post Road, be set down for hearing on December 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 December 11, 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 overruled, and the hearing is closed.
2. The City Council hereby makes the following findings of fact:
  - a) Daniel Owen, d/b/a Owen Auto has removed the former office building which served his used car sales lot at 923 Army Post Road and renovated a fire damaged rental dwelling on the adjoining lot at 913 Army Post Road for use as the office.

( continued )

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- b) Mr. Owen seeks to pave in front of the renovated office, and the site of the former office building for additional parking and vehicle display.
  - c) The improvements undertaken by Mr. Owen have resulted in the removal of a dilapidated building fronting on Army Post Road, and the renovation of the fire damaged rental dwelling to productive office use in conformance to the current building codes.
  - d) The temporary moratorium operates to prevent Mr. Owen from paving in front of the renovated office building, and the site of the former office building.
  - e) Completion of the renovations undertaken by Mr. Owen and the installation of additional paving in conformance with the existing standards is consistent with the goals sought to be achieved by the moratorium.
  - f) The moratorium is causing Mr. Owen undue hardship under the unique circumstances of this case.
3. The application of Daniel Owen for relief from the moratorium to permit the expansion and renovation of his used car sales lot as described above, is hereby granted. Mr. Owen may proceed with the planned renovation, subject to compliance with the applicable zoning, site plan and building code requirements.

( Council Communication No. 08- 755 )

MOVED by Hensley to adopt and approve the application for relief from the moratorium.

FORM APPROVED:

Roger K. Brown  
Roger K. Brown  
Assistant City Attorney  
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLISSIS	✓			
TOTAL	7			

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.

Diane Rauh City Clerk

MOTION CARRIED

APPROVED

T. M. Franklin  
Mayor