

★ Roll Call Number  
08-2227

Agenda Item Number  
43 B

Date December 22, 2008

Alternative Resolution

RESOLUTION CLOSING PUBLIC HEARING AND DENYING  
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 sustained, and the hearing is closed.

( continued )

December 22, 2008

Date

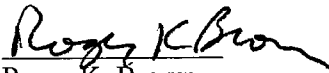
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2. The City Council hereby makes the following findings:
  - a) Daniel Owen seeks relief from the moratorium to allow him to expand his used car sales lot to include adjoining property.
  - b) The proposed action constitutes the expansion of a vehicle display lot within the intended meaning of the moratorium.
  - c) Daniel Owen has failed to demonstrate that he is suffering any hardship by application of the moratorium and the temporary prohibition against the expansion of his vehicle display area.
  - d) Daniel Owen has further failed to demonstrate that the proposed expansion of his vehicle display area will be completed in compliance with the standards that are expected to adopted prior to the expiration of the moratorium.
  
3. The application of the Partnership for relief from the moratorium is hereby denied.

(Council Communication No. 08-755)

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