

★ Roll Call Number

09-103D

Agenda Item Number

63B

Date June 8, 2009

RESOLUTION CLOSING PUBLIC HEARING AND DENYING
APPLICATION OF IMPERIAL PROPERTIES, INC.,
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 June 22, 2008, by Roll Call No. 08-1145, on August 25, 2008, by Roll Call No. 08-1533, on November 10, 2008, by Roll Call No. 08-2010, and on March 9, 2009, by Roll Call No. 09-430, the City Council continued the moratorium until June 9, 2009, to allow time for the review and consideration of further amendments to the Zoning Ordinance or Site Plan Regulations to address the City Council's concerns regarding the appearance and impacts of vehicle display lots; and,

WHEREAS, on May 18, 2009, by Roll Call No. 09-850, it was duly resolved by the City Council that the application of Imperial Properties, Inc., represented by Bill Moyer, an officer, seeking relief from the moratorium as applied to the expansion of its used car sales lot at 4131 E. 14th Street to include the adjoining property at 4141 E. 14th Street, be set down for hearing on June 8, 2009, 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 May 28, 2009, 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)



Roll Call Number

09-1030

Agenda Item Number

63B

Date June 8, 2009

2. The City Council hereby makes the following findings:
 - a) Imperial Properties seeks relief from the moratorium to allow it to expand it 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) Imperial Properties illegally expanded its existing vehicle display lot onto the adjoining property at 4141 E. 14th Street with full knowledge of the illegality of its actions and commenced action to legalize the action only after commencement of enforcement proceedings.
 - d) Imperial Properties has failed to demonstrate that it is suffering any hardship by application of the moratorium.

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

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

FORM APPROVED:

Roger K Brown
Roger K. Brown
Assistant City Attorney
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(Council Communication No. 09-392)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
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.

MOTION CARRIED APPROVED
T. M. Franklin
Mayor

Diane Fauh City Clerk