

★ Roll Call Number

09-1031

Agenda Item Number

63B-1

Date June 8, 2009

(Alternative Resolution)

RESOLUTION CLOSING PUBLIC HEARING AND APPROVING
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 overruled, and the hearing is closed.

(continued)



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2. The City Council hereby makes the following findings:

- a) The temporary moratorium operates to prevent Imperial Properties from completing its redevelopment of the adjoining property for an expansion of its used car sales business.
- b) Redevelopment of the adjoining property to the current standards to match the existing used car sales lot at 4131 E. 14th Street is consistent with the goals sought to be achieved by the moratorium.
- c) The moratorium is causing Imperial Properties an undue hardship under the unique circumstances of this case.

3. The application of Imperial Properties for relief from the moratorium to permit the expansion of its used car sales lot to include the adjoining property at 4141 E. 14th Street, is hereby granted.

(Council Communication No. 09- **392**)

MOVED by _____ 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				
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