

★ Roll Call Number
09-1697

Agenda Item Number
64

Date September 14, 2009

RESOLUTION CLOSING PUBLIC HEARING AND DENYING
APPLICATION OF ANGEL GROFF
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 10, 2009, by Roll Call No. 09-1458, the City Council extended the temporary moratorium through September 29, 2009; and,

WHEREAS, Angel Groff seeks to establish a vehicle display lot for the sale of used cars at 4109 SE 14th Street; and,

WHEREAS, on August 24, 2009, by Roll Call No. 09-1545, it was duly resolved by the City Council that the application Angel Groff for relief from the moratorium to allow the redevelopment of the parcel at 4109 SE 14th Street for used as a vehicle display lot be set down for hearing on September 14, 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 September 3, 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)

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2. The City Council hereby makes the following findings:
 - a) Angel Groff seeks relief from the moratorium to allow her to develop a used car sales lot at 4109 SE 14th Street.
 - b) The proposed action constitutes the creation of a vehicle display lot within the intended meaning of the moratorium.
 - c) Angel Groff has failed to demonstrate that she is suffering any hardship by application of the moratorium.
 - d) The City Council has on this date scheduled a public hearing, to be held on September 28, 2009, to consider the enactment of an amendment to the Zoning Ordinance to establish a "VDL" Vehicle Display Lot Overlay District, and to rezone the SE 14 Street corridor to at overlay district.
 - e) The proposed new vehicle display lot is contrary to the intent and purpose of the "VDL" Vehicle Display Lot Overlay District, which would operate to prohibit the redevelopment of 4109 SE 14th Street for use as a vehicle display lot.

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

MOVED by _____ to adopt and DENY the request for relief from the moratorium.
 (Council Communication No. 09-642)

FORM APPROVED:

Roger K. Brown

Roger K. Brown

Assistant City Attorney

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If the City Council desires to grant the request to waive the moratorium, an appropriate motion would be "to find that the Applicant has demonstrated the moratorium is causing her undue hardship, and to grant the request to release the property at 4109 SE 14th Street from the moratorium."

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