



Agenda Item:

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## **COUNCIL COMMUNICATION**

### **City Manager's Office**

#### **GENERAL INFORMATION**

Agenda Date: 11/22/04  
04-599

Communication No.:

Agenda Item Type: Resolution  
No.:

Roll Call

Submitted by: Larry Hulse, Community Development Director

#### **SUBJECT—**

Hearing on the application of Carl Guiffre (officer), on behalf of Pick N Payless, Inc., for relief from the temporary moratorium on the commencement or expansion of "M-2" Heavy Industrial uses, to permit a new auto salvage business in the vicinity of 1701 Maury Street.

#### **SYNOPSIS—**

On October 26, 2004, Carl Guiffre filed an application with the City Clerk seeking relief from the moratorium on behalf of Pick N Payless, Inc., which seeks to open an auto salvage business at 1701 Maury Street. Notice of the public hearing was given to the applicant and published in the Des Moines Register as provided by law and a public hearing should be held in accordance with the published notice, and all persons interested in the matter should be given an opportunity to be heard. Alternate resolutions have been prepared to either approve the relief requested or deny the relief requested. Staff recommends denying relief to the temporary moratorium.

#### **FISCAL IMPACT—**

None

#### **RECOMMENDATION—**

Approval

#### **BACKGROUND—**

On October 11, 2004, by Roll Call No. 04-2193, the City Council established a temporary moratorium extending until January 11, 2005, on the commencement or expansion of any use within the "M-2" Heavy Industrial District which is not a permitted use within the "M-1" Light

Industrial District. Roll Call No. 04-2193 further provides that any party may, by written application to the City Clerk, request relief from the effect of the moratorium where necessary to avoid undue hardship.

The application for relief submitted by Mr. Guiffre on behalf of Pick N Payless, Inc. alleges that a hardship exists on the following basis: "An application was sent for the Board of Adjustment meeting of September 22, 2004. Due to a mistake by the Zoning Board, not our company, it was suggested by the Zoning Board, for our best interests to hold our application over to the October 27, 2004."

The application originally filed for the September 22, 2004, Board of Adjustment meeting identified the subject property address as 1701 Maury Street but included a legal description for the adjoining parcel to the west, which is not addressed. City staff used the subject property address identified by the applicant on the application to generate maps for notices to adjoining property owners.

After notices were mailed out, the City was notified that the maps identified the wrong parcel. The applicant agreed to a continuation to the October 27, 2004, Board of Adjustment meeting so that adjoining property owners could be properly notified.

The staff recommendation to the Board of Adjustment was for approval of the conditional use application based upon existing regulations until the moratorium was adopted by the City Council on October 11, 2004.

The moratorium was adopted by the City Council based upon the City's recognition that the Southeast and Southwest Connector Corridors, the SE Agribusiness Park and Riverpoint Areas, and the major corridors into those areas contain substantial amounts of land zoned to the "M-2" District, and that the "M-2" District regulations in the Zoning Ordinance permit uses of land and structures incompatible with the proposed and adopted plans for the redevelopment of those areas and corridors. In addition, the amount of land in the City of Des Moines zoned to the "M-2" District classification far exceeds the amount of land actually needed to serve the present and future need for heavy industrial uses in the City of Des Moines.

The moratorium was enacted in order to enable the Community Development Department and Plan and Zoning Commission to diligently proceed with a review of the "M-2" Heavy Industrial District to identify what land, if any, should be rezoned to a more restrictive district classification, and what amendments to the "M-2" Heavy Industrial District regulations are necessary to assure that heavy industrial uses are developed and used in a manner compatible with the existing and planned uses of adjoining property.

The Community Development Department and Plan and Zoning Commission shall endeavor to make a report and recommendation to the City Council on appropriate changes to the "M-2" District boundaries and regulations and a schedule for their implementation prior to January 11, 2005. The City Council may need to extend the moratorium beyond January 11, 2005 in order to implement the recommended actions.