

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date</b>	December 7, 2009
	<b>Agenda Item No.</b> <b>54</b> <b>Roll Call No.</b> <b><u>09-</u></b> <b>Communication No.</b> <b><u>09-856</u></b> <b>Submitted by:</b> <b>Larry Hulse,</b> <b>Community Development Director</b>	

**AGENDA HEADING:**

Public hearing on appeal by Casey’s Marketing Company regarding conditions of site plan approval for 6120 Douglas Avenue.

**SYNOPSIS:**

Staff has prepared alternate resolutions for the Council’s consideration. Resolution “A” would uphold the Plan and Zoning Commission’s decision that a 24-foot wide access shall be provided to the property to the west, at a mutually agreed upon location between the two property owners, should the adjoining site to the west be redeveloped based upon the City’s existing Site Plan Policies and Traffic Department and Circulation Policies. Resolution “B” would overturn the Plan and Zoning Commission’s decision to require a 24-foot wide access between the properties due to surface water and detention issues, and potential conflicts between vehicles utilizing a future 24-foot wide access drive and fuel delivery trucks that will be accessing underground storage tanks along the west property line. Staff recommends approval of Resolution “A”.

**FISCAL IMPACT: NONE**

Amount: N/A

Funding Source: N/A

**ADDITIONAL INFORMATION:**

On November 5, 2009, the City Plan and Zoning Commission approved a site plan submitted by Casey's Marketing Company for a new Casey's convenience store to be constructed at 6120 Douglas Avenue upon the site of the former Garcia's Restaurant, subject to several conditions, including the following:

- “2. A 24-foot wide access shall be provided to the property to the west, at a mutually agreed upon location between the two property owners, should the adjoining site to the west be redeveloped.”

Exhibit “A” contains a letter that identifies the City Plan and Zoning Commission’s decision, the staff report to the Commission and the discussion at the November 5, 2009 meeting; comment card and letter; an aerial photo of the site; street level photos of the site; and a development plan set.

Staff notes that the Plan and Zoning Commission’s decision is supported by the City’s Traffic Department and Circulation policies which specify that, “Site Plans along major streets planned with

raised medians are to allow for access between adjoining commercial properties via a system of private frontage drives.” Douglas Avenue is a major street with raised medians.

In addition, the Site Plan Policies for convenience stores state that, “all development proposals shall show evidence of coordination with the site plan, as well as, arrangement of buildings and planning of neighboring properties by: ...ii. seeking shared-access with adjoining commercial uses, where feasible, to minimize curb cuts and enhance pedestrian and vehicular circulation.”

Finally, staff research notes that there are 21 existing convenience stores in the City of Des Moines (including five Casey’s convenience stores) that have cross-access agreements with adjoining properties.

Exhibit “B” is a letter dated November 17, 2009 from Casey’s Marketing Company, Doug Beech, Legal Counsel, appealing the Plan and Zoning Commission’s decision pursuant to Section 82-210 of the City Code. The company believes that the Commission’s requirement for a future 24-foot cross-access agreement with the adjoining property is infeasible due to surface water and detention issues, inadequate connection points and incompatible land uses on the two properties.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: November 23, 2009

Roll Call Number: 09-2109

Action: Set date of public hearing on appeal by Casey’s Marketing Company on conditions of site plan approval for 6120 Douglas Avenue, (12-7-09). Moved by Vlassis to set the date of hearing for December 7<sup>th</sup> at 5:00 PM, and direct the Legal Department to prepare alternate resolutions regarding the 24-foot access. Motion Carried 7-0.

#### **BOARD/COMMISSION ACTION(S):**

Date: November 5, 2009

Roll Call Number: 10-2010-7.22

Action: The Plan and Zoning Commission voted 10-0 to approve a request from Casey’s Marketing Company (developer) represented by Michael R. Richardson (officer) for review and approval of a Site Plan under design guidelines for convenience stores and gas stations on property located at 6120 Douglas Avenue, to allow development of a 3,920 square-foot convenience store with a 7,524 square-foot pump island canopy and 16 fueling stations, subject to the following conditions:

1. Compliance with all administrative review comments by the Permit and Development Administrator.
2. A 24-foot wide access shall be provided to the property to the west, at a mutually agreed upon location between the two property owners, should the adjoining site to the west be redeveloped.
3. Re-routing the proposed pedestrian connection from the retail building entrance to the public sidewalk on 61<sup>st</sup> Street so that it is located along the south edge of the parking area east of the building.

4. Modification of the proposed trash enclosure and can recycling shed designs to be architecturally compatible with the primary commercial building. The trash enclosure shall have opaque metal gates.
5. Provision of a site wall to match the architecture of the building, a solid wood fence, or a dark solid vinyl or metal panel screening system for mechanical equipment south of the building in lieu of the proposed chain-link fence with slats.
6. Relocation of the proposed monument sign outside the vision clearance triangle for the intersection of 61<sup>st</sup> Street and Douglas Avenue. Any monument sign should also be comprised of materials that are compatible with the primary architecture of the building and subject to review and approval by the Community Development Director.
7. Modification of the overall canopy height to a maximum of 18-feet 9-inches, with a clearance height of at least 13-feet, 9-inches.
8. Provision of two additional over-story tree plantings within the south and southwest buffer yard planting area.
9. Demonstration that the Encore Top Access Focus flood light fixtures will not project below the pump island canopy with their source visible from the any adjoining property.
10. Provision of a compliant photometric prior to final approval.
11. Provision of elevation details for site lighting that is not mounted on the building with all pole heights at 20 feet or lower.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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