

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	December 9, 2013
	Agenda Item No.	49
	Roll Call No.	<u>13-1938</u>
	Communication No.	<u>13-582</u>
	Submitted by:	Phillip Delafield, Community Development Director

AGENDA HEADING:

Review of Zoning Board of Adjustment decision to grant a Variance to a separation distance requirement and a Conditional Use Permit to allow use of property at 727 Southeast 14th Street as a gas station/convenience store with alcoholic liquor sales.

SYNOPSIS:

On November 20, 2013, the Zoning Board of Adjustment voted 4-2 to conditionally approve a Conditional Use Permit for a gas station/convenience store seeking to sell alcoholic liquor and a variance of the provision that requires any gas station/convenience store seeking to sell alcoholic liquor to have 500 feet of separation from any church, school, public park, or licensed child care facility. The appeals allow the Super Stop gas station/convenience store at 727 Southeast 14th Street to sell alcoholic liquor in addition to the already permitted beer and wine sales. The subject property is located 190 feet to the southwest of the Calvary Grace Tabernacle Church at 715 Southeast 14th Court.

The Decision and Order of the Zoning Board of Adjustment’s action was executed under the signature of Chairman Bill Gray on November 26, 2013. Pursuant to Section 134-65 of the City Code, the City Council shall review the Board’s decision within 30 days after the decision is filed. After such review, the City Council may remand the decision to the Board for further study. If the City Council declines to remand the decision, that decision shall become final on the date of the City Council’s action December 9, 2013. Staff recommends that the City Council not remand the Board’s decision.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

The subject property is a 0.71 acre parcel at 727 Southeast 14th Street. The site is zoned “C-2” (General Retail and Highway-Oriented Commercial) and is owned by USA Petroleum, LLC, represented by Tony Dassan, 5209 Dakota Drive, West Des Moines, Iowa 50265. The site contains a 4,080 square foot Super Stop convenience store with fuel pumps selling BP brand fuel. The property is located on the east side of the Southeast 14th Street commercial corridor at the intersection with Maury Street. The site is not within a recognized neighborhood association but is directly across Southeast 14th Street from the Historic East Village Neighborhood.

The Board granted the Variance and Conditional Use Permit with the condition that any liquor available for sale shall be kept within a maximum 16 foot by two (2) foot (32 square feet) cabinet located behind the counter where it is accessible only to store employees.

Furthermore, as a gas station/convenience store, no more than 40% of revenue would be allowed to be derived from the sale of liquor, wine, beer, and tobacco products. Any sale of alcohol shall be in accordance with a liquor license obtained through the Office of the City Clerk as approved by the City Council. The Conditional Use Permit shall be subject to amendment or revocation if the Zoning Enforcement Officer determines that the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the Conditional Use Permit:

PREVIOUS COUNCIL ACTION(S): NONE

BOARD/COMMISSION ACTION(S):

Board: Zoning Board of Adjustment

Date: November 20, 2013

Resolution Number: ZON2013-00180

Action: Approved a Variance to a separation distance requirement and a Conditional Use Permit to allow use of property at 727 Southeast 14th Street as a gas station/convenience store with alcoholic liquor sales, by a 4-2 vote.

Board: Zoning Board of Adjustment

Date: October 24, 2012

Resolution Number: ZON2012-00039

Action: Denied a Variance to a separation distance requirement and a Conditional Use Permit that would have allowed use of property at 727 Southeast 14th Street as a gas station/convenience store with alcoholic liquor sales, by a 6-0 vote.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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