

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b>	August 11, 2014
	<b>Agenda Item No.</b>	<b>46</b>
	<b>Roll Call No.</b>	<b><u>14-1259</u></b>
	<b>Communication No.</b>	<b><u>14-383</u></b>
	<b>Submitted by:</b>	<b>Phillip Delafield, Community Development Director</b>

**AGENDA HEADING:**

Review of Zoning Board of Adjustment decision granting a variance from a separation distance requirement to allow property in the vicinity of 2428 Hubbell Avenue to be redeveloped for use as a Gas Station/Convenience Store selling beer and wine.

**SYNOPSIS:**

On July 23, 2014, the Zoning Board of Adjustment voted 4-1 to approve a Variance of the provision that requires any Gas Station Convenience Store selling wine and beer to provide at least 150 feet of separation from any church, school, public park, or licensed childcare facility. The site is within 65 feet of a church (Easton Place United Methodist Church) at 2412 Easton Boulevard.

The Decision and Order of the Zoning Board of Adjustment’s action was executed under the signature of Chairman Mel Pins on July 30, 2014. 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 (August 11, 2014). Staff recommends that the City Council not remand the Board’s decision.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

The subject property is comprised of three (3) separate parcels that would be combined as a 1.95-acre parcel to be redeveloped with a new 5,858-square-foot gas station/convenience store. The existing buildings would all be removed. The site is bounded by Hubbell Avenue and Easton. The subject property is owned by Quik Trip Corporation, represented by Michael Talcott (5725 Foxridge Drive, Mission, KS 66202) and Abraham B. Rosenberg (PO Box 3475, Tulsa, OK 74101).

Quik Trip has been operating a gas station/convenience store selling wine and beer on the site since 1991. Quik Trip may continue to sell beer and wine in their existing building since the site is considered to be legal non-conforming with regards to the separation distance requirements that took effect on December 6, 2010 by Ordinance No. 14,980. However, any reconstruction or expansion of the existing store is subject to compliance with the separation distances.

The Zoning Board of Adjustment granted the Variance to separation distance, subject to the following conditions:

1. The sale of alcoholic liquor shall be prohibited.
2. The sale of wine and beer shall only be ancillary to a gas station/convenience store use, where no more than 40% of gross receipts from sales on the premises may be derived from the sale of wine, beer, and tobacco products.
3. The business selling wine and beer shall operate in accordance with the necessary permit or license obtained through the Office of the City Clerk as approved by the City Council.
4. The business shall conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.
5. The business shall institute a strict no loitering policy, conspicuously post one or more "No Loitering" signs, and cooperate with police in addressing loitering on the premises.
6. The business shall not dispense alcoholic beverages from a drive-through window.
7. Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of the business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.
8. Parking areas provided for the use of customers of the business shall be illuminated at an intensity of at least one (1) footcandle of light on the parking surface at all times. The entire site shall be landscaped and illuminated so as to minimize hiding places for possible criminal activity.
9. Any redevelopment of the site must be in compliance with a Site Plan under the design guides applicable to gas stations, as approved by the City Plan & Zoning Commission. Any structure must be in accordance with current Building Codes with issuance of any necessary permits by the Permit and Development Center.
10. The Variance is subject to amendment or revocation if the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the Decision and Order.

**PREVIOUS COUNCIL ACTION(S): NONE**

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

Board: Zoning Board of Adjustment

Date: July 23, 2014

Resolution Number: ZON2014-00123

Action: Approved a Variance from a separation distance requirement to allow property in the vicinity of 2428 Hubbell Avenue to be redeveloped for use as a new Gas Station/Convenience Store selling beer and wine, by a 4-1 vote.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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