

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> March 7, 2016
	<b>Agenda Item No.</b> 46 <b>Roll Call No.</b> <u>16-0412</u> <b>Communication No.</b> <u>16-111</u> <b>Submitted by:</b> Phillip Delafield, Community Development Director

**AGENDA HEADING:**

Review of Zoning Board of Adjustment decision granting a Variance to a separation distance requirement to allow a gas station convenience store at 2930 Hickman Road to sell wine and beer.

**SYNOPSIS:**

Staff recommends that the Council decline to remand the decision of the Zoning Board of Adjustment granting a Variance of the provision that requires any gas station convenience store selling wine and beer in a “C-1” Neighborhood Retail Commercial District to be separated by at least 150 feet from any school.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

- On February 24, 2016, the Zoning Board of Adjustment voted 5-1 to approve a Variance of the provision that requires any gas station convenience store selling wine and beer in a “C-1” Neighborhood Retail Commercial District to be separated by at least 150 feet from any school.
- The appeal allows a gas station convenience store at 2930 Hickman Road to sell wine and beer on the premises even though it is within 70 feet of the Monroe Elementary School property.
- 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 (March 7, 2016).
- 2930 Hickman Road is a 26,977-square-foot parcel at the southeast corner of Hickman Road and 30<sup>th</sup> Street. The site is not located within a recognized neighborhood association but is within 250 feet of both the Beavertdale and Prospect Park Neighborhoods.
- The site is owned by Git-n-Go Convenience Stores, Inc., represented by Pete Klindt, 2716 Indianola Avenue, Des Moines, IA 50315.
- Git-n-Go purchased the property from Kum & Go on June 19, 2015. Kum & Go previously operated a gas station convenience store selling wine and beer on the property.

- Kum & Go forfeited the wine and beer permits for the property on June 14, 2015. In accordance with City Code Section 134-954(g), any lapse in continuous use of a beer or wine permit after July 1, 2012 causes a gas station convenience store to comply with the current separation requirements in order to resume the sale of alcohol.
- As a gas station convenience store in a “C-1” District, no more than 40% of the gross receipts from sales from the premises can be derived from the sale of wine, beer or tobacco products.
- Since the Variance runs with the land, Git-n-Go could potentially sell or lease the premise to a future business that would also be allowed to sell wine and beer so long as there is no lapse in the wine and beer permits.

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

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

Board: Zoning Board of Adjustment

Date: February 24, 2016

Resolution Number: ZON2016-00030

Action: Approved a Variance of a separation distance requirement to allow use of the property at 2930 Hickman Road as a gas station convenience store selling wine and beer, 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, by a 5-1 vote

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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