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|  <p style="text-align: center;">Council Communication Office of the City Manager</p> | Date: | September 12, 2016 |
| | Agenda Item No. | 75 |
| | Roll Call No. | <u>16-1561</u> |
| | Communication No. | <u>16-500</u> |
| | Submitted by: | Phillip Delafield, Community Development Director |

AGENDA HEADING:

Review Zoning Board of Adjustment decision granting a Variance to a separation distance requirement to allow the sale of wine and beer at a proposed QuikTrip gas station/convenience store at 849 Army Post Road.

SYNOPSIS:

Staff recommends that the Council decline to remand the decision of the Zoning Board of Adjustment conditionally granting a Variance to separation distance requirement to allow a proposed gas station convenience store to wine and beer.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

- The site is located at the northeast corner of Army Post Road and Southwest 9th Street. It measures 1.94-acres and is located within the Fort Des Moines Neighborhood.
- The site is zoned “C-2” General Retail and Highway-Oriented Commercial District.
- The site is owned by Hurd Land Company, LLC, represented by Richard Hurd, 2000 Fuller Road, West Des Moines, IA 50265.
- The proposed gas station convenience store would be operated by Quik Trip Corporation, represented by Michael Talcott, 5725 Foxridge Drive, Mission, KS 66202.
- The proposed gas station convenience store would only sell wine and beer. The request to also sell alcoholic liquor was withdrawn by the appellant prior to the public hearing.
- The site is within 35 feet of the Fort Des Moines United Methodist Church property at 6205 Southwest 9th Street.
- On August 24, 2016, the Zoning Board of Adjustment voted 6-0 to approve a Variance of the zoning regulation that requires any gas station convenience store selling wine and beer to provide at least 150 feet of separation from any church use.
- The approval is subject to the following conditions:

1. The sale of wine and beer shall only be ancillary to a gas station convenience store, where no more than 40% of gross receipts from sales on the premises may be derived from the sale of wine, beer, and/or tobacco products.
 2. Any business selling wine and beer shall operate in accordance with the necessary permits obtained through the Office of the City Clerk as approved by the City Council.
 3. The business shall conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.
 4. The business shall institute a strict no loitering policy, conspicuously post one (1) or more "No Loitering" signs, and cooperate with police in addressing loitering on the premises.
 5. The business shall not dispense alcoholic beverages from a drive-through window.
 6. 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.
 7. Any parking area 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.
 8. If the Zoning Enforcement Officer determines at any time that the operation of such a business becomes a nuisance, exhibits a pattern of violating the conditions set forth in the Conditional Use Permit, or violates the requirements of City Code Section 134-954(c), the Zoning Enforcement Officer may apply to the Board to reconsider the issuance of the Conditional Use Permit.
- 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 (September 12, 2016).

PREVIOUS COUNCIL ACTION(S): NONE

BOARD/COMMISSION ACTION(S):

Board: Zoning Board of Adjustment

Date: August 24, 2016

Resolution Number: ZON2016-00115

Action: Approved a Variance of a separation distance requirement to allow use of the property for a gas station convenience store selling wine and beer, by a 6-0 vote.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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