

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> May 7, 2018
	<b>Agenda Item No.</b> 41 <b>Roll Call No.</b> <u>18-797</u> <b>Communication No.</b> <u>18-219</u> <b>Submitted by:</b> Phillip Delafield, <b>Community Development Director</b>

**AGENDA HEADING:**

Review of Zoning Board of Adjustment decision granting a Variance to a separation distance requirement to allow construction of a new gas station/convenience store building at 4028 E. 14th Street, to replace an existing gas station/convenience store building (Star) where alcoholic liquor, wine, and beer is currently sold.

**SYNOPSIS:**

Staff recommends that the Council decline to remand the decision of the Zoning Board of Adjustment granting a Variance to a separation distance requirement to allow construction of a new gas station/convenience store building at 4028 E. 14th Street, to replace an existing gas station/convenience store building where alcoholic liquor, wine, and beer is currently sold.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

- On April 25, 2018, the Zoning Board of Adjustment voted 6-1 to approve a Variance to a separation distance requirement to allow construction of a new gas station convenience store building at 4028 E. 14th Street, where alcoholic liquor, wine, and beer could be sold.
- The proposed gas station/convenience store building would replace an existing 1,000-square-foot gas station/convenience store, where alcoholic liquor, wine, and beer is currently sold.
- The property is within 309 feet of a licensed childcare facility.
- The conditions imposed by the Zoning Board of Adjustment require the existing building to be removed within six (6) months of completion of the proposed building. The conditions also require multiple operational requirements that are intended to ensure the business will not become detrimental to surrounding properties.
- The property is located along the west side of E. 14th Street just to the north of its intersection with East Madison Avenue. It is located in the Highland Park Neighborhood.
- The property is zoned “C-2” General Retail and Highway-Oriented Commercial District.

- The property is owned and operated by Bhajan Aukakh (d/b/a Star), 8500 Chamberry Boulevard, Johnston, IA 50131.
- 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 (May 7, 2018).

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

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

Board: Zoning Board of Adjustment

Date: April 25, 2018

Resolution Number: ZON2018-00062

Action: Motion to conditionally grant a Variance to a separation distance requirement to allow construction of a new gas station/convenience store building at 4028 East 14th Street, approved by a 6-1 vote. The appeal for a Conditional Use Permit for a gas station/convenience store selling alcoholic liquor, wine, and beer in a "C-2" District and a Variance of the provision that requires 500 feet of separation distance from any licensed childcare facility, to allow construction of a new 2,500-square foot gas station/convenience store building, which would sell alcoholic liquor, wine, and beer, where the building would replace an existing gas station/convenience store building where alcoholic liquor, wine, and beer is currently sold and where the subject property is within 309 feet of a licensed childcare facility, is granted, subject to the following conditions:

1. The gas station/convenience store shall derive no more than 40% of gross receipts from the sale of alcoholic liquor, wine, beer, and/or tobacco products.
2. The existing gas station/convenience store shall be removed within six (6) months of occupancy of the proposed building.
3. The gas station/convenience store selling alcoholic liquor, wine, and/or beer shall operate in accordance with necessary licenses and/or permits 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 (1) 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. 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.
9. Any renovation or construction on the site shall be in compliance with all applicable building codes, fire codes, and site plan regulations, with issuance of all necessary permits by the Permit and Development Center.
10. If the Zoning Enforcement Officer determines at any time that the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the Conditional Use Permit, the Zoning Enforcement Officer may apply to the Zoning Board of Adjustment to reconsider the issuance of the Conditional Use Permit for such business.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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