

★ **Roll Call Number**

Agenda Item Number

58A

Date March 10, 2008


An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, amended by Ordinance No. 13,878 passed November 6, 2000, and Ordinance No. 14,018 passed November 19, 2001, and Ordinance No. 14,081 passed May 6, 2002, and Ordinance No. 14,326 passed March 22, 2004, and Ordinance No. 14,455 passed May 23, 2005, by amending Sections 82-208 and 82-209 and by adding and enacting a new Section 82-214.8, thereof, relating to gas station/convenience store site plan design guidelines",

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)



Michael F. Kelley
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, amended by Ordinance No. 13,878 passed November 6, 2000, and Ordinance No. 14,018 passed November 19, 2001, and Ordinance No. 14,081 passed May 6, 2002, and Ordinance No. 14,326 passed March 22, 2004, and Ordinance No. 14,455 passed May 23, 2005, by amending Sections 82-208 and 82-209 and by adding and enacting a new Section 82-214.8, thereof, relating to gas station/convenience store site plan design guidelines.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, amended by Ordinance No. 13,878 passed November 6, 2000, and Ordinance No. 14,018 passed November 19, 2001, and Ordinance No. 14,081 passed May 6, 2002, and Ordinance No. 14,326 passed March 22, 2004, and Ordinance No. 14,455 passed May 23, 2005, amending Sections 82-208 and 82-209 and by adding and enacting a new Section 82-214.8, thereof, relating to gas station/convenience store site plan design guidelines, as follows:

Sec. 82-208. Determination for property subject to administrative approval.

- (a) *Generally.* Application for site plan approval shall be considered and determined in accordance with the procedures in this section, except for the following types of improvements which shall instead be subject to section 82-209:
- (1) Improvements to property in the NPC neighborhood pedestrian commercial district.
 - (2) Improvements which include an extension of parking into an adjoining residential district under the authority of section 134-1377(f)(8).
 - (3) Improvements to property used as a vehicle display lot.
 - (4) Improvements to property used for multiple family, boardinghouse or roominghouse use.
 - (5) Improvements to property in the D-R downtown riverfront district or C-3B central business mixed use district.

- (6) Improvements to property used as a gas station, with or without a convenience store.
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Sec. 82-209. Determination for property not subject to administrative approval.

- (a) Applications for site plan approval shall be considered and determined in accordance with the procedures in this section for the following types of improvements:
- (1) Improvements to property in the NPC neighborhood pedestrian commercial district.
 - (2) Improvements which include an extension of parking into an adjoining residential district under the authority of section 134-1377(f)(8).
 - (3) Improvements to property used as a vehicle display lot.
 - (4) Improvements to property used for multiple family, boardinghouse or roominghouse use.
 - (5) Improvements to property in the D-R downtown riverfront district or C-3B central business mixed use district.
 - (6) Improvements to property used as a gas station, with or without a convenience store.
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Sec. 82-214.8. Gas Station/Convenience Store Site Plan Design Guidelines.

Any site plan application which includes property used as a gas station or convenience store shall be denied by the plan and zoning commission unless the commission determines that the construction and use of the site will have no significant detrimental impact on the use and enjoyment of adjoining residential uses, and that the proposed site plan conforms with the design regulations in section 82-213 and the following additional design guidelines:

1. Site Design.

- A. The optimal layout of any individual site requires an in-depth understanding of local context and a thorough site analysis. The components of a gas station and convenience store to be considered in site design include, but are not limited to:
- (i) Primary structure/retail sales building/single or multiple tenant;
 - (ii) Pump island, canopy structure, and lighting;
 - (iii) Refuse, service and storage area;
 - (iv) Circulation systems and parking;
 - (v) Service bays;
 - (vi) Ancillary uses such as car washes, drive through uses, ATMs and telephones.
- B. Maximum size of site should not exceed two (2) acres without a rezoning to a PUD Planned Unit Development pursuant to Chapter 134, Division 13 of the Municipal Code of the City of Des

- Moines and site review under a Conceptual Plan approved by the Plan and Zoning Commission and City Council.
- C. Minimum open space should be 1,000 square feet per fueling location. This would include landscaping open space required for all site plans.
 - D. All development proposals should show evidence of coordination with the site plan as well as arrangement of buildings and planning elements of neighboring properties by:
 - (i) Responding to local development patterns and the streetscape by use of consistent building setbacks, orientation and relationship of structures to the street and linkages to pedestrian facilities;
 - (ii) Seeking shared-access with adjoining commercial uses where feasible to minimize curb cuts and enhance pedestrian and vehicular circulation;
 - (iii) Minimizing cross traffic conflicts within parking areas.
 - E. The site plan shall mitigate the negative impacts from site activities on adjoining uses as follows:
 - (i) Service areas, storage areas and refuse enclosures should be oriented away from public view and screened from adjacent sites;
 - (ii) Drive-through windows, menu boards and associated stacking lanes should be oriented away from residential areas or screened from public view;
 - (iii) Auto repair bay openings and car-wash openings should be oriented away from residential uses;
 - (iv) Lighting should be non-invasive to adjoining residential use.
 - F. The site plan shall provide identifiable pedestrian access from adjoining public pedestrian routes through the site to the primary building and from accessory functions within the site. This can be accomplished by use of special paving colors or textures and appropriately scaled lighting.

2. Architecture.

- A. The following architectural guidelines encourage creative response to local and regional context and contribute to the aesthetic identity of the community.
- B. Building design should consider the unique qualities and character of the surrounding area and be consistent with the city's 2020 Character Area Plans. Where character is not defined by 2020 Community Character Plan, building design should be of a high quality with primary use of durable materials such as masonry, block, or stone.
- C. A facility occupying a pad or portion of a building within a larger commercial center should be designed to reflect the design elements of that center.
- D. Drive-through elements should be integrated into the building rather than appear to be applied or "stuck-on" to the building.
- E. All sides of a building should express consistent architectural detail and character, with a primary use of

durable materials such as brick, masonry block, or in special instances a predominant material found in the surrounding commercial area. Columns should be designed to minimize visual impact.

- F. Walls, pump island canopies and other outdoor covered areas should be compatible with the building, using similar material, color and detailing.
- G. To encourage visually interesting roofs, variations in the roof line and treatments such as extended eaves and parapet walls with cornice treatments are encouraged.
- H. Perceived height and bulk should be reduced by dividing the building mass into smaller-scaled components. Possible treatments to avoid excessive bulk and height include:
 - (i) Low-scale planters and site walls.
 - (ii) Wainscot treatment.
 - (iii) Clearly pronounced eaves or cornices.
 - (iv) Subtle changes in material color and texture.
 - (v) Variation in roof forms.
 - (vi) Covered pedestrian frontages and recessed entries.
 - (vii) Deeply set windows with mullions.
- I. Canopies:
 - (i) Integration of canopies to building and site walls is desirable. Multiple canopies or canopies that express differing masses are encouraged.
 - (ii) Canopy height should not be less than 13'- 9" as measured from the finished grade to the lowest point on the canopy fascia. The overall height of canopies should not exceed 17'.
- J. All display items for sale should be located within the main building or within designated areas screened from public streets and not within required building setbacks.

3. Landscape Design.

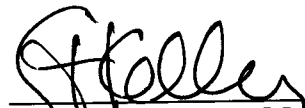
- A. Landscaping is integral to the overall design concept and should be carefully planned to enhance the overall appearance and function of the site.
- B. Landscape buffers with screen fencing should mask the site from adjacent residential uses. Plantings that exceed the minimum Des Moines Landscaping Standards may be required.
- C. Dense landscaping or architectural treatments should be provided to screen unattractive views and features such as storage areas, trash enclosures, utility cabinets and other similar elements.
- D. A site design for projects located at a street intersection should provide special landscape treatments, including by way of example perennial plant beds, site walls, native grasses, decorative sign foundations and housing.
- E. Proper maintenance and timely replacement of plant material is required and will be enforced based on the approved site plan.
- F. Monument signs are encouraged and are required when the site adjoins a residential district.

4. Lighting.

- A. Lighting of gas stations and convenience stores should enhance safety and provide light levels appropriate to the visual task with minimal glare, light trespass and excess site brightness. Lighting should not be a nuisance or a hazard.
- B. Direct light trespass beyond property lines is prohibited. The maximum horizontal illuminance at grade and the maximum vertical illuminance at five feet above grade measured at the property line should not exceed Illuminating Engineering Society of North America (IESNA) recommended practices for light trespass. (0.5 footcandles for residential, 2.0 footcandles for commercial). The site plan must contain illuminance models showing light levels throughout the site.
- C. Light fixtures mounted under canopies should be completely recessed into the canopy with flat lenses that are translucent and completely flush with the bottom surface (ceiling) of the canopy. Lights shall not be mounted on the top or sides (fascias) of the canopy, and the sides (fascias) shall not be illuminated.
- D. Parking Lot and Site Lighting:
(i) All luminaries should be of full cut-off design, aimed downward and away from the property line;
(ii) Maximum pole heights should not exceed 20'.
- F. Building-Mounted Lighting:
(i) All luminaries should be a full cut-off design and aimed downward.
(ii) All luminaries should be recessed or shielded so the light source is not directly visible from the property line.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:



Michael F. Kelley
Assistant City Attorney

58A

March 10, 2008

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held February 21, 2008, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 12-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
David Cupp				X
Shirley Daniels	X			
Dann Flaherty	X			
Bruce Heilman	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz	X			
Kaye Lozier	X			
Jo Anne Corigliano	X			
Brian Millard	X			
Mike Simonson				X
Kent Sovern	X			
Tim Urban	X			
Marc Wallace				X

APPROVAL of the drafted text amendments to the Zoning and Site Plan Ordinances providing for review of Site Plans for gas stations by the Plan and Zoning Commission under specific design guidelines. (10-2008-5.01)

STAFF RECOMMENDATION AND BASIS FOR APPROVAL

Staff recommends approval of the drafted text amendments to the Zoning and Site Plan Ordinances providing for review of Site Plans for gas stations by the Plan and Zoning Commission under specific design guidelines.

STAFF REPORT

I. GENERAL INFORMATION

1. The proposed text changes are attached as Exhibit "A" and generally make the following modifications to the principal permitted uses in the Zoning Ordinance and add design guidelines to the Site Plan Ordinance providing for site review of gas stations and convenience stores by the City Plan and Zoning Commission:



CITY PLAN AND ZONING COMMISSION
ARMORY BUILDING
602 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309-1881
(515) 283-4182

ALL-AMERICA CITY
1949, 1976, 1981
2003

2. Addition of language in Chapter 134 "Zoning Ordinance", modifying the Principal permitted uses for the "C-1", "NPC", and "C-2" Districts to qualify that any proposed use as a gas station or convenience store is subject to site plan review and approval pursuant to design guidelines set in section 82-214.8.
3. Addition of language to Chapter 82 "Site Plan Ordinance", including improvements to property used as a gas station to the list of improvement types excepted from administrative approval.
4. Addition of language to Chapter 82 "Site Plan Ordinance", providing design guidelines for review of gas station in the categories of Site Design, Architecture, Landscape Design, and Lighting.

II. ADDITIONAL APPLICABLE INFORMATION

On August 6, 2007 by Roll Call No. 07-1545, the City Council received communication from a representative of the Des Moines Neighbors proposing an amendment to the City Code to require that gas station development be required to have review by the Plan and Zoning Commission and could only be approved upon finding that the proposed improvements would not conflict with any residential character of the surrounding area. The City Council took action to refer the matter to the City Manager.

At the suggestion of the City Manager, the matter was referred to the Regulation and Ordinances committee (R&O) of the Plan and Zoning Commission. The R&O determined that the Commission would require objective criteria or guidelines for review of any Site Plan that extended beyond the administrative standards to address the unique impacts presented by gas stations. Staff researched and drafted design guidelines based on both existing ordinances in other cities and to address concerns voiced by the R&O on existing gas station development in Des Moines. R&O instructed staff to present the guidelines to a thorough representation of business stakeholders and to the representation of the Des Moines Neighbors group. In addition, several of the stakeholders addressed the R&O committee at subsequent meetings resulting in adjustments to the design guidelines.

Written comments from the stakeholders have been also been received and are summarized as follows with the R&O committee's response:

- Concern that setting a minimum area of 1,000 square feet of site open space per fueling location would be cumbersome when subsequently adding fueling locations to site, and that a flat percentage of open space is more flexible.

All site plans do have a flat minimum percentage of open space of 20%. The intent of the amount per fueling location is to ensure that intensity of fueling activity does not become too dense for the site area provided. If developers want flexibility to add fueling locations at a later time when business grows, then additional open space should be provided with the site at the front end.

- Concern regarding the guideline to use primary building material on all sides of the building, with opportunity to use alternate materials on an elevation that would use a screening to mask it from adjoining property.

R&O was concerned that the screening would not be as attractive as a 360 degree architecture of the building. Buffering would not need to extend beyond minimums in many cases because all elevations of the building would be more attractive with this requirement.

- Concern that flat finishes required on canopies would be expensive and difficult to maintain and keep attractive (expressed by more than one stakeholder).

This guideline was removed and is not contained in the draft under consideration.

- Concern that bufferyards with requirement that plant material exceed the typical minimum, indicating that the minimum is sufficient to provide a transition.

*R&O revised the language to put developers on notice that conditions **may** require plant material to exceed minimums to ensure a proper transition, giving the Commission the flexibility to require more material when the site location dictates. The R&O concurs that changes to the minimum buffer requirements should be completed as part of a future review of the City's Landscape Standards.*

- Concern was raised about setting specific lighting levels underneath the canopy, indicating that the proposed level was too low for normal activities in dispensing fuel (expressed by more than one stakeholder).

R&O removed provisions for maximum lighting levels beneath the canopy, but has kept maximum levels to be measured at the property line depending on the adjoining use in the current draft under consideration.

- Concern that 15' maximum height for site lighting is too low to allow a feasible number of poles, and that a 20'-25' pole maximum would be more workable.

R&O revised the maximum height to 20' in the current draft which is consistent with recent allowances on maximum heights on other commercial uses by Planned Unit Development. However heights in excess of 20' would exceed the maximum canopy height and could not be supported as a general guideline.

- Concern of the site guideline seeking shared drive access, indicating that direct access to the site was imperative to the industry.

R&O did not view this as a rigid requirement and believed that all new sites should look for shared access opportunities with adjoining business during the design process to minimize traffic conflicts in the surrounding commercial area.

- The primary concern expressed by the stakeholders was that specifically identifying their type of business for a formal site plan review was unfair and put them at a disadvantage with other commercial uses with which they are in competition.

R&O believes that there are unique impacts brought by gas station uses to surrounding neighborhood and commercial uses. The additional level of review will bring a better dynamic to the decision making process by including neighbors at the table, resulting in a site design that works for everyone involved. Setting a specific site plan design guidelines for an individual use is not unprecedented in the Zoning and Site Plan Ordinances. This is already in practice for vehicle display lots, multiple family residential, and sites developed in the "NPC", "C-3B", and "D-R" Zoning Districts.

SUMMARY OF DISCUSSION

Erik Lundy: Presented the staff report and recommendation. Noted they are amending two different parts of the City Code: Chapter 134, the Zoning Ordinance and Chapter 82, the Site Plan Ordinance. Explained the basis for the ordinance is to require a formal review by the Plan and Zoning Commission of all C-store/gas station site plans.

Bruce Heilman: Noted the ordinance adds convenience store/gas stations as site plans that need to be reviewed by the Plan and Zoning Commission. Noted it was based on things the Commission has asked from gas stations and convenience stores for a number of years such as lighting and architectural amenities. The only change is the addition of the step that the site plan appears before the Commission for review.

Tim Urban: Expressed concern relative to Section 82 where the paragraph states the site plan "shall be denied" if it is not consistent with the guidelines or neighborhood character.

Bruce Heilman: Responded that the key is it will have no significant detrimental impact on the use and enjoyment of the adjoining residential uses. If the Commission determines it will be detrimental it will give them the authority to deny.

Tim Urban: Suggested the current wording leaves the door open for someone to arbitrarily deny it because they don't like it.

Bruce Heilman: Used "shall" and "should" in the guidelines to allow flexibility for different designs in different areas.

Erik Lundy: Noted the language is the same as is in the vehicle display lots and the conjunction "and" brings in the requirement that the Commission has to use the guidelines to make the basis of the decision. Suggested the design of the language allows the power for P&Z to deny it if they find it doesn't meet the requirements.

Mike Kelley: Noted the language "shall be denied" was taken from other guidelines; it has been used before and is beneficial to enforcement.

Kent Sovern: Suggested the conjoining of "and" is necessary because the Commission could be presented with a plan that is out of scale to the neighborhood.

Leisha Barcus: Asked how a PUD would be affected.

Erik Lundy: Noted the guidelines indicate that only site plans less than 2 acres would be treated under the design guidelines and anything exceeding that would automatically require rezoning to PUD and be taken through that process. Staff would look at the guidelines as a reference point in reviewing any PUD that would come forward.

Bruce Heilman: Noted if staff determines a change in an initial PUD is of such a nature to be a substantial change, then it returns to the Commission.

Leisha Barcus: Asked why staff felt it was important to maintain a minimum area of 1,000 square feet of open space per fueling location.

Erik Lundy: Explained the landscaping provisions require a minimum of open space of 20% for any site plan. The concern that caused the provision was that the intensity of the development may dictate additional open space as necessary. Staff based the amount of square footage open space provided on existing sites and looked at more recent developments to arrive at the percentage of open space per fueling location.

Larry Hulse: Noted the attempt was that once the sites become larger the open space needs to increase because the facility is more intense. Staff looked at other stations to arrive at a ratio of additional square footage of open space as they get larger.

Erik Lundy: Explained if an existing site is going to be intensified, the provision of open space needs to be taken into consideration to make it work. It is also a safeguard for looking at the expansion of existing sites. He offered an example that there may be an existing site that does not

meet the 20%. If they wanted to expand, this would be a way for them to do that if they were able to achieve the open space requirement. The 1,000 square feet may be a higher amount of open space than 20%, but in no case can it be less when the site plan design guidelines are applied. The 20% would prevail if the 1,000 square feet per fueling location ended up being less than 20%.

Bruce Heilman: Noted "when subsequently adding fueling locations to the site" is what caught the attention of the Committee. Their concern was to ensure the Commission does not approve a four fueling station site and a few years later they have 8 or 10 unbeknownst to the Commission because the additional fueling station could be squeezed in. The Committee was comfortable with the math to ensure there would be adequate space to buffer the added activity.

Mike Ludwig: Noted in the C-2 zoning district, there is no limit of pumps so there needed to be some measure to address the impacts of increasing the number of pumps on a property.

Tim Urban: Asked if the ordinance is approved, if it would preclude any convenience store/gas station that would have more than 8 pumps and how a store that would want 10 or 12 pumps would be approved.

Erik Lundy: The C-2 district does not currently limit the number of fueling stations. The site plan guidelines will limit the number of pumps via required open space.

Larry Hulse: Noted they would have to have more area than the 1,000 square feet per fueling pump.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following individual spoke in support of the request:

Kimberly Hansen, 4015 Woodland Avenue: Represented Des Moines Neighbors. Thanked the staff and members of the R&O. Noted the Des Moines Neighbors Committee had been working on the ordinance for two years. Explained why the Des Moines Neighbors had sought the ordinance and noted they are in support of the changes to the ordinance.

Brian Millard: Asked how their concerns came to be.

Kimberly Hansen: Indicated there are neighborhoods that network concerns at the Des Moines Neighbors' meetings and there was a lot of discussion about convenience stores and gas stations two and a half years ago. Explained that to be economically viable they need to be larger, but neighborhoods do not necessarily have the accommodations for that. Noted Ed Conlow is the Chairman of the Committee, but he is the head of the Legislature and could not be present.

Larry Hulse: Noted in 2000 the Commission was looking at the number of pumps at convenience stores and gas stations. Indicated it will be good to have guidelines for staff to follow.

John Morrissey, 2913 Oxford Street: Asked the Commission to vote in favor of the Ordinance and noted he believed the conjunction "and" belonged in the revision because he wants to know if a project is proposed in his neighborhood the residents will have the opportunity to voice their concerns. Also asked that the Commission review the ordinance in a few years.

Bob Mickle, 1711 Woodland Avenue: Voiced favor for having more controls for the new versions of convenience stores/gas servicing stations. In a number of areas they are detrimental to the adjacent and surrounding neighborhood. Noted his neighborhood has a QT operation that can fuel 8 cars at one time at the intersection of 18th Street and Ingersoll. Suggested the gas stations have enlarged so much it is an overpowering use when there is residential nearby that have had to conform to other standards. When the enlarged gas stations are adjacent to historic areas it needs to be taken into consideration as to how they fit in the neighborhood.

The following individual spoke in opposition:

Larry James, Jr., 699 Walnut Street, Des Moines: Representing Quik Trip Corporation. Noted their main concern is that the ordinance will significantly impact the way they do business in Des Moines. Noted QT is not necessarily against Plan and Zoning review but felt the criteria were too broad. The ordinance looks at the issues as a whole and dealt with those issues. Suggested the ordinance from Scottsdale, AZ that the ordinance was based on is too long and very detailed but lacks specificity as far as looking at neighborhood character. Asked for a continuance until March to give the parties an opportunity to meet with R&O and attempt to work out the issues and come up with a tighter ordinance to meet the needs of businesses and the neighborhoods. If the City wishes to improve the old gas stations, the ordinance will be a hindrance to that.

Bruce Heilman: Asked the speaker if there were new concerns because they met and negotiated and compromised and responded to specific concerns from the feedback received.

Larry James, Jr.: Noted the ordinance is not something that representatives can get answers to overnight. He would like to meet to work out specifics. There are questions they would like to see answered. Noted he did not see the ordinance as clear and consistent and to move forward as a City it is important that the ordinance be specific.

Tim Urban: Asked how the ordinance is applied to the C-2 vs C-1 districts.

Mike Ludwig: Noted the ordinance would apply to all C-stores regardless of the zoning district. C-1 districts limited C-stores to a maximum of 6 vehicles being fueled at one time. C-2 district is unlimited. Therefore the open space requirement will help regulate the maximum number of pumps allowed.

Bruce Heilman: Noted a site plan may be great in one area but may be a disaster in another. He had no objection to addressing new concerns.

Brian Millard: Suggested Des Moines is more lax in their ordinance than other cities.

Larry James, Jr.: Did not think the issue was site plan review or no site plan review. The issue is that there is an ordinance that is pared down from where it is to get something that is tighter and speaks to more specific issues.

Dann Flaherty: Asked how long Quik Trip has known the ordinance was being proposed.

Larry James, Jr.: Noted he has been involved for the past month.

Dann Flaherty: Asked if he contacted R&O to suggest changes to the ordinance.

Larry James, Jr.: Noted QT sent the two letters that were in the Commission's packets addressing the ordinance as a whole. They did not submit specific answers to the ordinance. QT is a large organization and they had general concerns but they are more defined now and a short deferral would allow the opportunity to address those concerns and work with R&O.

Dann Flaherty: Expressed concern that the people complaining have no suggestions. He wants to hear solutions.

Larry James, Jr.: Indicated at a future meeting QT would act in good faith with concrete suggestions at R&O. Noted he was asking for a deferral so they could work with R&O. There were a number of questions brought up by the Commission and there are questions QT has that need to be addressed.

Bruce Heilman: Noted notification to stakeholders went out two or three months ago. He would be amenable to sitting down again if there was something new.

Larry James, Jr.: Noted they would have specific suggestions for R&O.

Brian Millard: Noted at the last meeting this issue was discussed the Commission specifically asked for input.

Greg Jones: Would not be opposed to listening again but the sale of C-stores is larger because it's been compounded with car washes, canopy with gas pumps, and lighting. There are things that would work on one site but not on another.

Bruce Heilman: Noted there is no crucial time frame. Explained the Commission wants the process to be open and asked if Quik Trip could meet Wednesday, February 27, 2008 at the R&O meeting.

Larry James, Jr.: Indicated he would be available.

Bruce Heilman: Noted the Commission does not want to be anti-development.

Mike Ludwig: Suggested dates for consideration, noting there would only be one meeting in the month of March. If continued, the item would return to the Plan and Zoning Commission on April 3rd at the earliest. If the Commission chooses to make a recommendation at this meeting, the Council will have to set a hearing and then hold a hearing and have second and third hearings unless they are waived. The City Council would not be able to hold a public hearing until March 24th for the first reading and with significant objection they would not likely waive the second and third readings.

Jeffrey Johannsen: Noted he is not against development but would like to see QT work with the neighborhood associations and the community.

Larry James, Jr.: QT wants to be a good neighbor and they want to make sure they are on the same page as everyone else and more input would be beneficial.

Dennis Flora, 2716 Indianola Road, Des Moines: Owner of Git-n-Go stores. Agreed another meeting would be good. Expressed concern relative to the amount of lighting; he was in favor of increasing it to protect the customers and employees.

John Mains, 821 Gordon Ave., Norwalk, Iowa: Noted he represents the Petroleum Marketers and Convenience Stores of Iowa and just found out about the meeting the day before. He had not had a chance to look at the ordinance but spoke with some members about the ordinance and they expressed some of the same concerns that had been mentioned regarding the ambiguity of the ordinance. Indicated if there is another stakeholders meeting he would like to be included in it.

Bruce Heilman: Asked him to expound on what his concerns with the ordinance were, as a petroleum distributor.

John Mains: Noted he represents convenience stores and was representing their membership including individual stores.

Brian Millard: Asked if he would attend with suggestions and not complaints if another meeting is held.

John Mains: Noted people he talked to had concerns.

Brian Millard: Noted if there is a deferral they want input as to what will work; to see solutions.

John Mains: Noted he could get suggestions to bring to the meeting.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Kent Sovern: Moved for approval of the ordinance because the R&O heard the concerns from the stakeholders and they learned there is a certain size and location for the facilities. They are moving away from the four-station neighborhood stores. The recently approved stores that were looked at and the subject design standards being applied it was determined the industry is already complying with the standards. Most neighbors and most of the Commission will look poorly on the expansion of sites that are in neighborhoods already. At the expansion of existing fueling stations there will be significant opposition by anyone being affected directly or indirectly. He voiced support of the ordinance because he believes staff and the Commission has gone through the proper process and the industry has had ample and effective communication. He believed the ordinance to be good and one that could be worked with.

Fran Koontz: Thanked the R&O Committee for their diligence and work.

Brian Millard: Noted a recent letter indicated the new guidelines would “deter existing operators from making improvements to older, unattractive facilities”. He added there are abandoned convenience stores all over that have become pawn shops or used car lots. The adaptive reuse is not there. He suggested input from the neighborhoods is critical but suggested the stakeholders have had ample time to provide input.

Bruce Heilman: Thanked the staff for their work on the ordinance.

Jeffrey Johannsen: Thanked the R&O Committee for their hard work.

Leisha Barcus: Asked about all display items for sale being displayed within the main building or within designated areas screened from public streets and not within required building setbacks and noted she sees window washer fluid sitting outside convenience stores and asked how those displays would be affected.

Erik Lundy: Noted the things that are happening are in existing stores and they would continue to be able to do those things. There is a merchandising requirement that is already in the ordinance in terms of being outside the front yard setback, which is the 25’ in C-1 and in C-2 districts. From this point on businesses are being asked to identify the locations where they will merchandise. If there are areas that are not appropriate they may need to screen them or adjust the site plan accordingly. It will help with enforcement tools, as well.

Leisha Barcus: Asked if it should read that “merchandising areas should be noted on the site plan”.

Erik Lundy: Affirmed, noting the intent was that it would be noted on the site plan so it would be predictable as to where those merchandising areas would occur. It is asking the businesses to put forward their best design.

Larry Hulse: Noted the Commission could add the language “within designated areas shown on the site plan”.

Dann Flaherty: Expressed concern that after all the work someone would come forward and complain but not offer specifics.

Mike Ludwig: Noted there would have to be specific articulation at a public hearing as to why something did not comply with the character of the neighborhood. It would not be sufficient to just state it wasn't liked. Also, the site plan guidelines in general are intended to be applied collectively and the Commission is charged with determining whether or not the guidelines have been satisfied. They are to make a determination that based on the level of compliance with the set of guidelines as a whole, if the site plan meets the character of the neighborhood. He noted there can be flexibility on individual criteria if one cannot be met by an applicant. The purpose of the ordinance is to give some predictability to the decision-making process by spelling out the general rules for the development.

Motion passed 12-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike G. Ludwig".

Michael G. Ludwig, AICP
Planning Administrator

MGL:clw

cc: File

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, amended by Ordinance No. 13,878 passed November 6, 2000, and Ordinance No. 14,018 passed November 19, 2001, and Ordinance No. 14,081 passed May 6, 2002, and Ordinance No. 14,326 passed March 22, 2004, and Ordinance No. 14,455 passed May 23, 2005, by amending Sections 82-208 and 82-209 and by adding and enacting a new Section 82-214.8, thereof, relating to gas station/convenience store site plan design guidelines.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, amended by Ordinance No. 13,878 passed November 6, 2000, and Ordinance No. 14,018 passed November 19, 2001, and Ordinance No. 14,081 passed May 6, 2002, and Ordinance No. 14,326 passed March 22, 2004, and Ordinance No. 14,455 passed May 23, 2005, amending Sections 82-208 and 82-209 and by adding and enacting a new Section 82-214.8, thereof, relating to gas station/convenience store site plan design guidelines, as follows:

Sec. 82-208. Determination for property subject to administrative approval.

- (a) Generally. Application for site plan approval shall be considered and determined in accordance with the procedures in this section, except for the following types of improvements which shall instead be subject to section 82-209:
- (1) Improvements to property in the NPC neighborhood pedestrian commercial district.
 - (2) Improvements which include an extension of parking into an adjoining residential district under the authority of section 134-1377(f)(8).
 - (3) Improvements to property used as a vehicle display lot.
 - (4) Improvements to property used for multiple family, boardinghouse or roominghouse use.
 - (5) Improvements to property in the D-R downtown riverfront district or C-3B central business mixed use district.

- (6) Improvements to property used as a gas station, with or without a convenience store.
-

Sec. 82-209. Determination for property not subject to administrative approval.

- (a) Applications for site plan approval shall be considered and determined in accordance with the procedures in this section for the following types of improvements:
- (1) Improvements to property in the NPC neighborhood pedestrian commercial district.
 - (2) Improvements which include an extension of parking into an adjoining residential district under the authority of section 134-1377(f)(8).
 - (3) Improvements to property used as a vehicle display lot.
 - (4) Improvements to property used for multiple family, boardinghouse or roominghouse use.
 - (5) Improvements to property in the D-R downtown riverfront district or C-3B central business mixed use district.
 - (6) Improvements to property used as a gas station, with or without a convenience store.
-

Sec. 82-214.8. Gas Station/Convenience Store Site Plan Design Guidelines.

Any site plan application which includes property used as a gas station or convenience store shall be denied by the plan and zoning commission unless the commission determines that the construction and use of the site will have no significant detrimental impact on the use and enjoyment of adjoining residential uses, and that the proposed site plan conforms with the design regulations in section 82-213 and the following additional design guidelines:

1. Site Design.

- A. The optimal layout of any individual site requires an in-depth understanding of local context and a thorough site analysis. The components of a gas station and convenience store to be considered in site design include, but are not limited to:
- (i) Primary structure/retail sales building/single or multiple tenant;
 - (ii) Pump island, canopy structure, and lighting;
 - (iii) Refuse, service and storage area;
 - (iv) Circulation systems and parking;
 - (v) Service bays;
 - (vi) Ancillary uses such as car washes, drive through uses, ATMs and telephones.
- B. Maximum size of site should not exceed two (2) acres without a rezoning to a PUD Planned Unit Development pursuant to Chapter 134, Division 13 of the Municipal Code of the City of Des

Moines and site review under a Conceptual Plan approved by the Plan and Zoning Commission and City Council.

- C. Minimum open space should be 1,000 square feet per fueling location. This would include landscaping open space required for all site plans.
- D. All development proposals should show evidence of coordination with the site plan as well as arrangement of buildings and planning elements of neighboring properties by:
 - (i) Responding to local development patterns and the streetscape by use of consistent building setbacks, orientation and relationship of structures to the street and linkages to pedestrian facilities;
 - (ii) Seeking shared-access with adjoining commercial uses where feasible to minimize curb cuts and enhance pedestrian and vehicular circulation;
 - (iii) Minimizing cross traffic conflicts within parking areas.
- E. The site plan shall mitigate the negative impacts from site activities on adjoining uses as follows:
 - (i) Service areas, storage areas and refuse enclosures should be oriented away from public view and screened from adjacent sites;
 - (ii) Drive-through windows, menu boards and associated stacking lanes should be oriented away from residential areas or screened from public view;
 - (iii) Auto repair bay openings and car-wash openings should be oriented away from residential uses;
 - (iv) Lighting should be non-invasive to adjoining residential use.
- F. The site plan shall provide identifiable pedestrian access from adjoining public pedestrian routes through the site to the primary building and from accessory functions within the site. This can be accomplished by use of special paving colors or textures and appropriately scaled lighting.

2. Architecture.

- A. The following architectural guidelines encourage creative response to local and regional context and contribute to the aesthetic identity of the community.
- B. Building design should consider the unique qualities and character of the surrounding area and be consistent with the city's 2020 Character Area Plans. Where character is not defined by 2020 Community Character Plan, building design should be of a high quality with primary use of durable materials such as masonry, block, or stone.
- C. A facility occupying a pad or portion of a building within a larger commercial center should be designed to reflect the design elements of that center.
- D. Drive-through elements should be integrated into the building rather than appear to be applied or "stuck-on" to the building.
- E. All sides of a building should express consistent architectural detail and character, with a primary use of

durable materials such as brick, masonry block, or in special instances a predominant material found in the surrounding commercial area. Columns should be designed to minimize visual impact.

- F. Walls, pump island canopies and other outdoor covered areas should be compatible with the building, using similar material, color and detailing.
- G. To encourage visually interesting roofs, variations in the roof line and treatments such as extended eaves and parapet walls with cornice treatments are encouraged.
- H. Perceived height and bulk should be reduced by dividing the building mass into smaller-scaled components. Possible treatments to avoid excessive bulk and height include:
 - (i) Low-scale planters and site walls.
 - (ii) Wainscot treatment.
 - (iii) Clearly pronounced eaves or cornices.
 - (iv) Subtle changes in material color and texture.
 - (v) Variation in roof forms.
 - (vi) Covered pedestrian frontages and recessed entries.
 - (vii) Deeply set windows with mullions.
- I. Canopies:
 - (i) Integration of canopies to building and site walls is desirable. Multiple canopies or canopies that express differing masses are encouraged.
 - (ii) Canopy height should not be less than 13' - 9" as measured from the finished grade to the lowest point on the canopy fascia. The overall height of canopies should not exceed 17'.
- J. All display items for sale should be located within the main building or within designated areas screened from public streets and not within required building setbacks.

3. Landscape Design.

- A. Landscaping is integral to the overall design concept and should be carefully planned to enhance the overall appearance and function of the site.
- B. Landscape buffers with screen fencing should mask the site from adjacent residential uses. Plantings that exceed the minimum Des Moines Landscaping Standards may be required.
- C. Dense landscaping or architectural treatments should be provided to screen unattractive views and features such as storage areas, trash enclosures, utility cabinets and other similar elements.
- D. A site design for projects located at a street intersection should provide special landscape treatments, including by way of example perennial plant beds, site walls, native grasses, decorative sign foundations and housing.
- E. Proper maintenance and timely replacement of plant material is required and will be enforced based on the approved site plan.
- F. Monument signs are encouraged and are required when the site adjoins a residential district.

4. Lighting.

- A. Lighting of gas stations and convenience stores should enhance safety and provide light levels appropriate to the visual task with minimal glare, light trespass and excess site brightness. Lighting should not be a nuisance or a hazard.
- B. Direct light trespass beyond property lines is prohibited. The maximum horizontal illuminance at grade and the maximum vertical illuminance at five feet above grade measured at the property line should not exceed Illuminating Engineering Society of North America (IESNA) recommended practices for light trespass. (0.5 footcandles for residential, 2.0 footcandles for commercial). The site plan must contain illuminance models showing light levels throughout the site.
- C. Light fixtures mounted under canopies should be completely recessed into the canopy with flat lenses that are translucent and completely flush with the bottom surface (ceiling) of the canopy. Lights shall not be mounted on the top or sides (fascias) of the canopy, and the sides (fascias) shall not be illuminated.
- D. Parking Lot and Site Lighting:
(i) All luminaries should be of full cut-off design, aimed downward and away from the property line;
(ii) Maximum pole heights should not exceed 20'.
- F. Building-Mounted Lighting:
(i) All luminaries should be a full cut-off design and aimed downward.
(ii) All luminaries should be recessed or shielded so the light source is not directly visible from the property line.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Michael F. Kelley
Assistant City Attorney

ITEM #3

EXHIBIT A
PART 2

58A

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 13,832 passed June 19, 2000, and Ordinance No. 13,839 passed July 10, 2000, and Ordinance No. 13,889 passed November 20, 2000, and Ordinance No. 14,124 passed July 22, 2002, and Ordinance No. 14,668 passed July 9, 2007 by amending Sections 134-3, 134-842, and 134-947 thereof, relating to zoning and site plan review of gas stations and convenience stores.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 13,832 passed June 19, 2000, and Ordinance No. 13,839 passed July 10, 2000, and Ordinance No. 13,889 passed November 20, 2000, and Ordinance No. 14,124 passed July 22, 2002, and Ordinance No. 14,668 passed July 9, 2007 is hereby amended by amending Sections 134-3, 134-842, and 134-947 thereof, relating to zoning and site plan review of gas stations and convenience stores, as follows:

Sec. 134-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

| Gas station means any building or premises used to any extent for the retail sale of liquefied petroleum products for the propulsion of motor vehicles, and including such products as kerosene, fuel oil, packaged naphtha, lubricants, tires, batteries, antifreeze, motor vehicle accessories, and other items customarily associated with the sale of such products; for the rendering of

services and making of adjustments and replacements to motor

vehicles, and the washing, waxing, and polishing of motor vehicles, as incidental to other services rendered; and the making of repairs to motor vehicles except those of a major type. Repairs of a major type are defined to be spray painting; body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engines requiring the removal of an engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or retreading of tires.

Sec. 134-842. Principal permitted uses.

Only the following uses of structures or land shall be permitted in the C-1 neighborhood retail commercial district.

- (2) Retail business or service establishments such as the following:

- s. Gas stations, including minor automobile repairs as an accessory but not a principal use, provided that the proposed use has undergone site plan review and approval pursuant to guidelines set forth at section 82-214.8, and the design of the site permits no more than six vehicles to be fueled at a time. Gas stations on the following streets only may be designed to permit up to eight vehicles to be fueled at a time:

Sec. 134-912. Principal permitted uses.

Only the following uses of structures or land shall be permitted in the NPC neighborhood pedestrian commercial district:

- (1) Any use permitted in the C-1 district except:
a. Lawn mower repair shops;
b. Drive-up telephone or telephone booths; and
c. Parking lots, except as permitted by section 134-915.

Sec. 134-947. Principal permitted uses.

- (b) Any use permitted in the C-1 district shall be permitted in the C-2 district, without limitation as to the size, hours of operation or number of fueling stations provided that any proposed use as a gas station or convenience store has

undergone site plan review and approval pursuant to guidelines
set forth at section 82-214.8.

Sec. 2. This ordinance shall be in full force and effect from
and after its passage and publication as provided by law.

FORM APPROVED:

Michael F. Kelley
Assistant City Attorney

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