



Date August 26, 2013

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on August 15, 2013, its members voted 12-0 in support of a motion to recommend **APPROVAL** of a request from Kum & Go, LC (developer) represented by Nick Halfhill (officer), Eastgate Plaza, LLC (owner), for an amendment to the PUD Conceptual Plan Eastgate Plaza to create a separate PUD Conceptual Plan Kum & Go Store #534 on property located at 1424 East Euclid Avenue to allow a 4,992 foot convenience store with 20 fueling locations. The convenience store proposes to sell packaged liquor, wine and beer. The approval is subject to the following conditions:

- 1) Revision to indicate that columns on all canopies will be clad in masonry material to match the primary convenience store building.
- 2) Revision to indicate locations for outdoor and seasonal display.
- 3) Revision of the east drive entrance configuration as approved by Traffic Engineering.
- 4) Provision of the following notes on the Conceptual Plan:
  - a. Landscaping minimums shall be in accordance with standards as applied to C-2 Districts.
  - b. Any sale of liquor, wine and/or beer shall be in accordance with the proper license obtained through the Office of the City Clerk as approved by the City Council.
  - c. Any sale of liquor, wine, and/or beer is subject to provisions in Section 134-954(c)(1-4) of the Zoning Ordinance.
  - d. The PUD Conceptual Plan shall be subject to a legislative amendment to preclude the sale of alcoholic liquor if the Zoning Enforcement Officer determines that the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions of approval.

The subject property is more specifically described as follows:

LOTS 1, 6, AND 7, EXCEPT THE SOUTH 4.5 FEET THEREOF AND ALL OF LOTS 2, 3, 4, AND 5, ALL IN BROWN'S LOWLAND PLACE PLAT NO.2, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA,  
AND  
LOT 5 (EXCEPT THE WEST 200.0 FEET THEREOF), LOT 6, BROWN'S LOWLAND PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND LOT 7, EXCEPT THAT PORTION DEEDED TO THE CITY OF DES MOINES FOR STORM DETENTION PURPOSES WHICH IS DESCRIBED AS FOLLOWS:



Date August 26, 2013

BEGINNING AT THE NORTHWEST CORNER OF LOT 7, BROWN'S LOWLAND PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, THENCE NORTH 89°(DEGREES)30'(MINUTES)15"(SECONDS) EAST, ALONG THE NORTH LINE OF SAID LOT 7, A DISTANCE OF 376.92 FEET, TO THE NORTHEAST CORNER OF SAID LOT 7, THENCE SOUTH 08°15'28" EAST, ALONG THE EASTERLY LINE OF SAID LOT 7, A DISTANCE OF 500.38 FEET, THENCE SOUTH 89°38'19" WEST ALONG THE EASTERLY EXTENSION OF THE NORTHERLY LINE OF LOT 6, IN SAID BROWN'S LOWLAND PLACE, A DISTANCE OF 447.72 FEET, THENCE NORTH 00°07'20" WEST, ALONG THE WEST LINE OF SAID LOT 7, AND ALONG THE EAST LINES OF LOTS 1 AND 2 IN SAID BROWN'S LOWLAND PLACE, A DISTANCE OF 494.70 FEET TO THE POINT OF BEGINNING,

AND

LOT 8 (EXCEPT THE WEST 17.5 FEET THEREOF), LOT 9 (EXCEPT THE WEST 17.5 FEET THEREOF), LOT 14 AND LOT 16, EXCEPT THE SOUTH 4.50 FEET, AND LOTS 10, 11, 12, AND LOT 13 EXCEPT THE FOLLOWING PORTIONS THEREOF ALL IN BROWN'S LOWLAND PLACE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA:

BEGINNING AT THE N.W. CORNER OF SAID LOT 10, THENCE EAST, ALONG THE NORTH LINE OF SAID LOT 10, 17.5 FEET, THENCE SOUTH, PARALLEL WITH AND 17.5 FEET EAST OF THE WEST LINE OF SAID LOT 10, 165.0 FEET, TO A POINT THAT IS 17.5 FEET EAST OF THE N.W. CORNER OF SAID LOT 11, THENCE EAST, ON THE NORTH LINE OF SAID LOT 11, 5.0 FEET, THENCE SOUTH 3°(DEGREES) 52'(MINUTES) EAST, 96.25 FEET, THENCE SOUTH 45° 06' EAST, 46.58 FEET, THENCE SOUTH 86° 12' EAST, 88.2 FEET, TO A POINT THAT IS ON THE EAST LINE OF SAID LOT 11, SAID POINT BEING 15.0 FEET NORTH OF THE S.E. CORNER OF SAID LOT 11, THENCE SOUTH, ALONG THE EAST LINE OF SAID LOT 11, 5.0 FEET, TO A POINT THAT IS 10.0 FEET NORTH OF THE S.E. CORNER OF SAID LOT 11, THENCE EAST, PARALLEL WITH AND 10.0 FEET NORTH OF THE SOUTH LINE OF SAID LOT 10, 155.5 FEET, THENCE EASTERLY, IN A STRAIGHT LINE TO A POINT THAT IS ON THE SOUTH LINE OF SAID LOT 13, SAID POINT BEING 83.0 FEET EAST OF THE S.E. CORNER OF SAID LOT 12, THENCE WEST, ALONG THE SOUTH LINES OF SAID LOTS 13, 12, 10, AND 11, 494.0 FEET, TO A POINT THAT IS 136.0 FEET WEST OF THE S.E. CORNER OF SAID LOT 11, THENCE NORTHWESTERLY, IN A STRAIGHT LINE, TO A POINT THAT IS ON THE WEST LINE OF SAID LOT 11, SAID POINT BEING 130.0 FEET SOUTH OF THE N.W. CORNER OF SAID LOT 11, THENCE NORTH, ALONG THE WEST LINES OF SAID LOTS 11 AND 10, 295.0 FEET, TO THE N.W. CORNER OF SAID LOT 10, AND TO THE POINT OF BEGINNING; AND EXCEPTING THE WEST 17.5 FEET OF LOT 13, ALL IN BROWN'S LOWLAND PLACE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA.

SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.

SAID TRACT OF LAND CONTAINS 46.36 ACRES MORE OR LESS.



Roll Call Number

Agenda Item Number

19

Date August 26, 2013

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on September 9, 2013, at which time the City Council will hear both those who oppose and those who favor the proposal.
2. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

Moved by \_\_\_\_\_ to adopt.

FORM APPROVED:

Michael F. Kelley  
Assistant City Attorney

(ZON2013-00092)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

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.

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

August 22, 2013

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 August 15, 2013, the following action was taken regarding a request from Kum & Go, LC (developer) represented by Nick Halfhill (officer) for an amendment to the PUD Conceptual Plan "Eastgate Plaza" to create a separate PUD Conceptual Plan "Kum & Go Store #534" on property located at 1424 East Euclid Avenue.

**COMMISSION RECOMMENDATION:**

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

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles				X
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley	X			
Tim Fitzgerald	X			
Dann Flaherty	X			
John "Jack" Hilmes	X			
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
CJ Stephens	X			
Vicki Stogdill				X
Greg Wattier	X			

**APPROVAL** of the proposed amendment to the Eastgate Plaza PUD with the submitted Conceptual Plan, subject to the following modifications:  
 (ZON2013-00092)

- 1) Revision to indicate that columns on all canopies will be clad in masonry material to match the primary convenience store building.
- 2) Revision to indicate locations for outdoor and seasonal display.
- 3) Revision of the east drive entrance configuration as approved by Traffic Engineering.
- 4) Provision of the following notes on the Conceptual Plan:
  - a. Landscaping minimums shall be in accordance with standards as applied to "C-2" Districts.



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

- b. Any sale of wine and/or beer shall be in accordance with the proper license obtained through the Office of the City Clerk as approved by the City Council.
- c. Any sale of liquor, wine, and/or beer is subject to provisions in Section 134-954(c)(1-4) of the Zoning Ordinance.
- d. The PUD Conceptual Plan shall be subject to a legislative amendment to preclude the sale of alcoholic liquor if the Zoning Enforcement Officer determines that the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions of approval.

Written Responses

4 In Favor  
0 In Opposition

**STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval of the proposed amendment to the Eastgate Plaza PUD with the submitted Conceptual Plan, subject to the following modifications:

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**STAFF REPORT**

**I. GENERAL INFORMATION**

- 1. **Purpose of Request:** The proposed PUD would allow development of a 4,992-square foot convenience store with 10 fuel pumping apparatus (20 fueling locations). The submitted Conceptual Plan proposes two access driveways from East Euclid Avenue and cross-access through the property to the north, east and west into the overall Eastgate Plaza commercial center. Future development of the site must be in accordance with a Development Plan that complies with the requirements established in the PUD Conceptual Plan and with the Design Guidelines for Gas Stations/Convenience Stores in Section 82-214.8 of the Site Plan Ordinance.
- 2. **Size of Site:** 2.0 acres.

3. **Existing Zoning (site):** "PUD" Planned Unit Development District.
4. **Existing Land Use (site):** The property is a vacant pad site with some paved area in disrepair that previously served as off-street parking.
5. **Adjacent Land Use and Zoning:**
  - North* – "PUD"; Use is vacant land (formerly the Eastgate Plaza commercial center.)
  - South* – "M-1" and "C-2"; Uses are drive-thru restaurants (Hardee's and Taco Bell)
  - East* – "PUD"; Use is drive-thru restaurant (B-bop's).
  - West* – "PUD"; Use is commercial center and vacant pad site.
6. **General Neighborhood/Area Land Uses:** The proposed development is located at a major commercial center northeast of the intersection of East Euclid Avenue and East 14<sup>th</sup> Street commercial corridors.
7. **Applicable Recognized Neighborhood(s):** The subject property is within the Highland Park Neighborhood. This neighborhood association was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on July 26, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on June 28, 2012 (20 days prior) and July 8, 2013 (10 days prior to the originally scheduled hearing) to the Highland Park Neighborhood Association, and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. All agendas and notices are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Highland Park Neighborhood Association mailings were sent to Trudy McCormick, 1226 East Oak Park Avenue Des Moines, IA 50316. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on August 9, 2013. The Plan and Zoning Commission continued the originally scheduled hearing on July 18, 2013 to August 15, 2013.
 

The applicant is responsible for conducting a neighborhood meeting inviting representatives of the Highland Park Neighborhood Association, and surrounding property owners within 250 feet. The meeting was conducted on June 7, 2013. The applicant will provide a summary of the meeting at the public hearing.
8. **Relevant Zoning History:** The subject property was rezoned to "PUD" on April 20, 1998.
9. **2020 Community Character Land Use Plan Designation:** Commercial: Auto-Oriented Community Commercial.
10. **Applicable Regulations:** The Commission reviews all proposals to amend PUD Conceptual Plans within the City of Des Moines in accordance with Sec. 134-700 of the Zoning Ordinance. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in §414.3 of the Iowa Code. The Commission may recommend that certain conditions be applied to the subject property if the property owner agrees in writing, in addition to the existing regulations. The recommendation of the Commission will be forwarded to the City Council.

The application, accompanying evidence and Conceptual Plan shall be considered by the Plan and Zoning commission at a public hearing. The Commission shall review the conformity of the proposed development with the standards of this division and with recognized principles of civic design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the Conceptual Plan and request for rezoning as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the commission shall be referred to the City Council.

## II. ADDITIONAL APPLICABLE INFORMATION

1. **Natural Features:** There are no existing mature trees on the subject property. It is located within a Federal Insurance Rate Map as a Zone X area, which is an area outside the 100 –year flood, based on a Letter of Map Revision approved on September 21, 2005. The property is no longer subject to development under the provisions of Chapter 50 of the City Code for Flood Plain Development.
2. **Drainage/Grading:** The applicant must comply with the City's storm water management, soil erosion protection and grading requirements as approved by the City's Permit and Development Center's engineering staff during the Development Plan (site plan) review. In this instance the policy would require drainage between the 5-year and 100-year storm event be piped to public storm sewer directly as it will be handled by a new regional stormwater basin to the north. The site is large enough to also require water quality detention on-site for more frequent rain events of 1.5 inches or less.
3. **Utilities:** The subject property has access to necessary utilities. There are both public storm and sanitary sewer mains crossing the site within easements. These affect the placement of the building and require that it be shifted to the western edge of the property.
4. **Traffic/Parking:** The Traffic and Transportation Engineering staff did not require an in depth traffic study for this location on the proposed development. Previous traffic analysis required a study for a big box retail store proposed for the center. The findings of that study indicated that a future signal may be warranted along East Euclid Avenue at full build out of the center. It would be located at the eastern drive entrance of the Eastgate Plaza site where there is an existing median cut. This is further east than the proposed site. The proposed site would use existing access which is acceptable to Traffic Engineering staff within the surrounding street network. The developer is working with Traffic Engineering staff to ensure that the alignment of the proposed east entrance is centered properly on the median opening. Any Conceptual Plan should reflect a design that is acceptable to Traffic Engineering.

There is public sidewalk within East Euclid Avenue. The City's standard off-street parking requirement for retail uses with fuel sales is 1 parking space per 300 square feet. This would require a minimum of 17 spaces for a 4,992-square foot building. The submitted Conceptual Plan includes 45 spaces.

- 5. Design Guidelines for Gas Stations/Convenience Stores:** The Conceptual Plan includes a note that states the proposed convenience store project will be developed in accordance with the City's Gas Station/Convenience Store Site Plan Design Guidelines. The following are the guidelines as listed in Chapter 82 of the City Code (Section 82-214.8) with staff comments as appropriate in italics.

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 20% of the site or 1,000 square feet per vehicle fueling location, whichever is greater.

*The site measures 2.0 acres and would contain 20 fueling locations. A minimum of 20,000 square feet of open space (1,000 square feet per fueling location) is required to meet this guideline. The submitted Conceptual Plan shows that the site would have at least 20,279 square feet of open space, which complies with this guideline.*

- 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.

*The proposed building and canopies are setback a minimum of 25 feet from the public street system. The Conceptual Plan shows the canopy at a 50-foot setback from East Euclid Avenue. Shared access to other pad sites to the north, west and east are provided in the submitted Plan.*

- 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;



