



Roll Call Number

Agenda Item Number

5

Date January 26, 2015

Be it resolved by the City Council of the City of Des Moines, Iowa.

That the following application is hereby submitted for consideration to the Iowa Alcoholic Beverages Division of the Iowa Department of Commerce:

Quick Star, 2701 Ingersoll Avenue, new Class E Liquor License with C Beer and B Wine. (Zoning Department recommends denial).

Moved by _____ to deny.

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| GATTO | | | | |
| GRAY | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| 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

5



January 20, 2015

SKG Enterprises LLC
d/b/a Quick Star
Kyle Kruidenier
6601 Westtown Pkwy, Ste 200
West Des Moines, 50265

Charanjit Kaur
2701 Ingersoll Avenue
Des Moines, IA 50312

Emailed to: charan.sukhi@gmail.com

Re: Liquor License Renewal
Subject Property – 2701 Ingersoll Avenue, Des Moines

Dear Sir/Madam:

The City of Des Moines has received your Class E liquor license for the Quick Star gas station/convenience store on the subject property listed above.

As set forth in the Notice of Zoning Violation dated January 14, 2015, the store is not in compliance with Section 134-954 of the City of Des Moines Zoning Ordinance for (1) failure to obtain a Conditional Use Permit; (2) failure to submit an audit as requested on September 12, 2014.

Your application for the liquor license for this store is scheduled to come before the Des Moines City Council for consideration on January 26, 2015. Due to the ongoing zoning violations, the City staff will be obligated to recommend that the application be denied, or that the consideration of the application be continued to a later date to allow time to remedy the zoning violations.

The City staff will consider supporting a continuance only if the business demonstrates a willingness to timely remedy the zoning violations as provided in the Notice. If the business does not demonstrate a willingness to timely the zoning violations, Staff will have no option but to request denial of the liquor license.

9

Sincerely,

A handwritten signature in black ink, appearing to read 'SuAnn Donovan', written over the printed name.

SuAnn Donovan

Neighborhood Inspection Zoning Administrator

602 Robert D. Ray Drive

Des Moines, IA 50309

smdonovan@dmgov.org

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January 14, 2015

SKG Enterprises LLC
d/b/a Quick Star
Kyle Kruidenier
6601 Westtown Pkwy, Ste 200
West Des Moines, 50265

Charanjit Kaur
2701 Ingersoll Avenue
Des Moines, IA 50312

Emailed to: charan.sukhi@gmail.com

Re: Notice of Zoning Violation
Subject Property – 2701 Ingersoll Avenue, Des Moines

Dear Mr. Sir/Madam:

The operation of the Quick Star gas station/convenience store on the subject property listed above has been treated as a legal non-conforming use of the property as a grocery store, in the NPC Neighborhood Pedestrian Commercial district. Pursuant to Section 134-1352 (b) of the Municipal Code of the City of Des Moines, a legal nonconforming use as a Limited Food Sales Establishment is allowed to continue so long as it remains otherwise lawful. However, the City has imposed new zoning regulations which more specifically distinguish between those business to be treated as a Limited Food Sales Establishment and/or a Gas Station/Convenience Store with accessory sales of alcoholic beverages, and those businesses which will be treated as a Liquor Store because of their impact upon neighboring properties.

Quick Star is in violation of the City of Des Moines Zoning Ordinance as follows:

1. The business is not in compliance with Section 134-954 for continuing to sell alcoholic liquor, wine and beer without a Conditional Use Permit.

Ordinance No. 15,133, passed September 10, 2012, amended Section 134-954 of the Des Moines Municipal Code, to require all new businesses selling alcoholic liquor, wine or beer obtain a conditional use permit before commencing operation, and to require all existing businesses that have continuously held an alcoholic liquor license

5

or a wine or beer permit since July 1, 2012, obtain a Conditional Use Permit to continue selling alcoholic liquor, wine or beer after December 31, 2013.

2. Quick Star is not in compliance with Section 134-954 for failure to limit sales of alcoholic liquor, wine, beer or tobacco products to 40 percent or less of the gross receipts from all sales.
 - a) Ordinance No. 15,133, passed September 10, 2012, amended Section 134-954 of the Des Moines Municipal Code, to require that a Gas Station/Convenience Store derive no more than 40% of its gross receipts from the sale of alcoholic liquor, wine, beer or tobacco products. This requirement was immediately applicable to new licenses for a Gas Station/Convenience Store seeking sale of alcoholic liquor, and became applicable on December 31, 2013, to establishments that have continuously held an alcoholic liquor license or a wine or beer permit since July 1, 2012.
 - b) September 12, 2014, an audit was requested. An audit has not been presented from a certified public accountant. In accordance with Section 134-954(a) of the Municipal Code of the City of Des Moines, no more than 40 percent of the gross receipts from sales from a Limited Food Sales Establishment may be derived from the sale of alcoholic liquor, wine, beer or tobacco products.

If you feel that you have received this notice in error or disagree with the determination of the violation, you may appeal this determination to the Zoning Board of Adjustment for the City of Des Moines by filing a notice of appeal within 10 days.

Sincerely,



SuAnn Donovan
Neighborhood Inspection Administrator
Deputy Zoning Enforcement Officer
602 Robert D. Ray Drive
Des Moines, IA 50309
smdonovan@dmgov.org

NOTE: Any order, decision or determination made by this office in the enforcement of the Zoning Ordinance may be appealed to the Zoning Board of Adjustment. The Procedural Rules of the Zoning Board of Adjustment provide that you, as the party to whom this communication is directed, must file the appeal with the Community Development Department within ten days of the date of this communication. Any other aggrieved person seeking to appeal this order, decision or determination must file the appeal within ten days of actual notice by such person

5

of such order, decision, or determination, which in no event shall be later than ten days after commencement of such physical construction or use. Any appeal not timely filed may be rejected by the Board.