



Date December 19, 2016

**RESOLUTION SETTING HEARING ON REQUEST FROM
QUIK TRIP CORPORATION TO REZONE PROPERTY LOCATED AT
3941 SOUTHEAST 14TH STREET**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 1, 2016, its members voted 11-0 in support of a motion to recommend **APPROVAL** of a request from Quik Trip Corporation (owner), represented by Michael Talcott (officer), to rezone property located at 3941 Southeast 14th Street ("Property") from "C-2" General Retail and Highway-Oriented Commercial District to "PUD" Planned Unit Development, and to approve the Quik Trip #0544 "PUD" Conceptual Plan for the Property to allow redevelopment of the existing gas station/convenience store site with a new 5,773-square foot convenience store and gas canopy island with 12 fueling locations, subject to the following revisions to the Conceptual Plan:

1. The PUD Conceptual Plan shall include a note stating that existing overhead electrical utility lines that are not transmission lines will be placed underground as part of any PUD Development Plan.
2. The PUD Conceptual Plan shall demonstrate a landscape island within the row of parking spaces along the west front property line.
3. The "air station" shall be relocated so that it is located at least 25 feet from any front property line; and

WHEREAS, the Property is legally described as follows:

Lots 1 and 2 of QUIKTRIP PLAT NO 1, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, containing 2.057 acres more or less.

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

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed rezoning and the proposed Quik Trip #0544 "PUD" Conceptual Plan are to be considered shall be held at the Richard A. Clark Municipal Service Center (MSC), located at 1551 E. Martin Luther King, Jr. Parkway, Des Moines, Iowa at 5:00 p.m. on January 9, 2017, at which time the City Council will hear both those who oppose and those who favor the proposals.
3. That the City Clerk is hereby authorized and directed to cause notice of said proposals 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

★ Roll Call Number

Agenda Item Number

25

Date October 24, 2016

-2-

414.4 of the Iowa Code.

MOVED BY _____ TO ADOPT.

FORM APPROVED:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

(ZON2016-00196)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	

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.

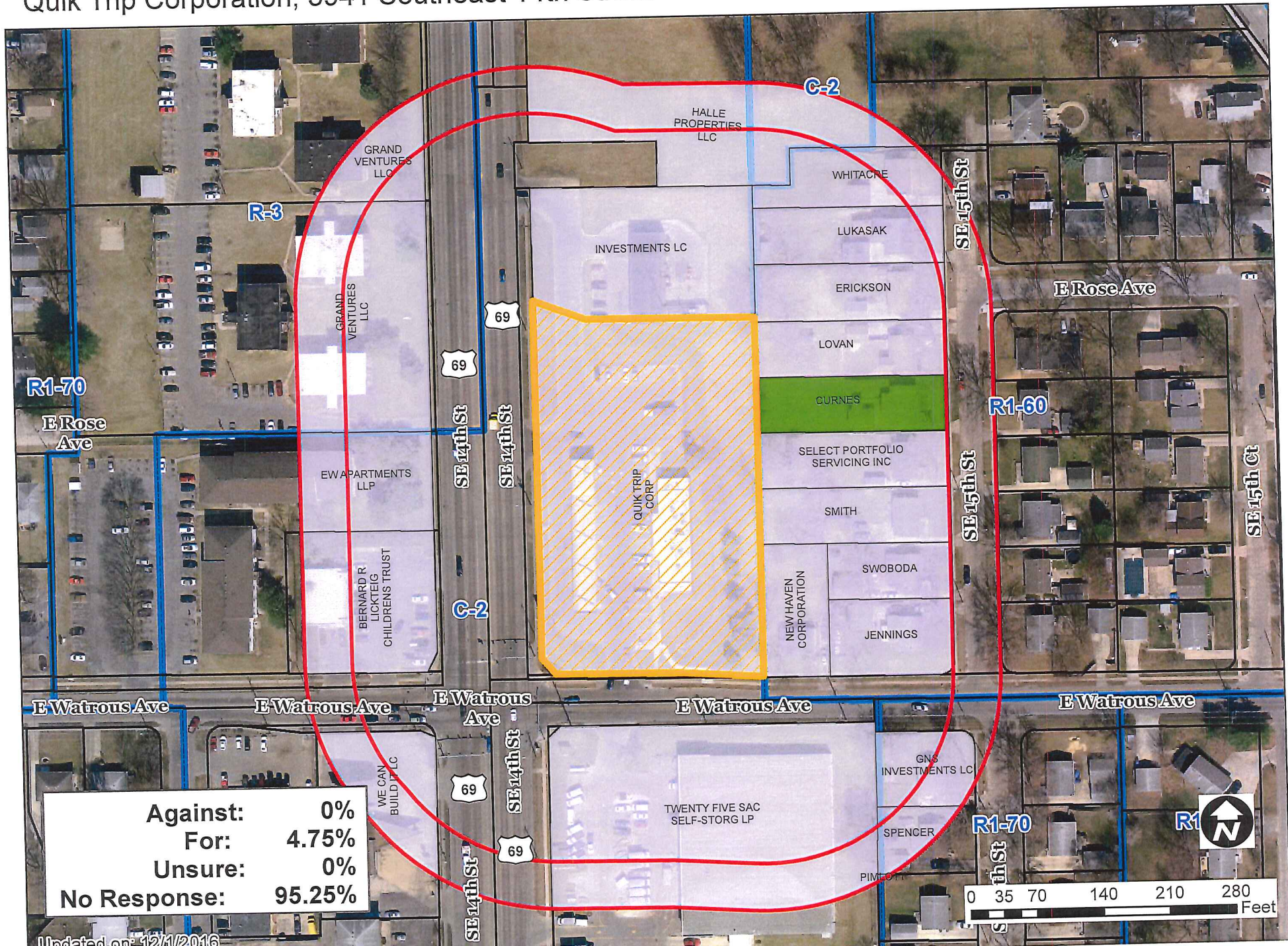
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

Mayor

Quik Trip Corporation, 3941 Southeast 14th Street

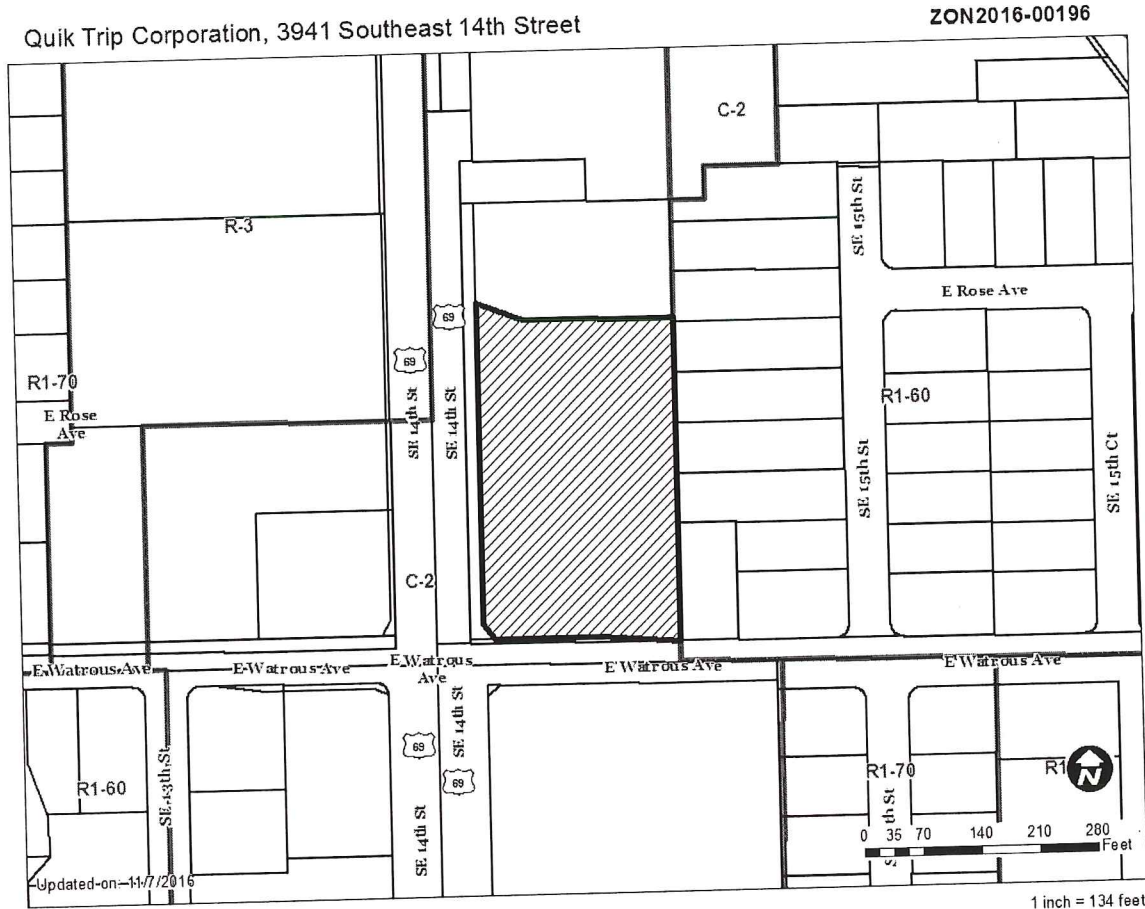
ZON2016-00196



Against:	0%
For:	4.75%
Unsure:	0%
No Response:	95.25%

Updated on: 12/1/2016

Quik Trip Corporation (owner) represented by Michael Talcott (officer) for property located at 3941 Southeast 14th Street.				File # ZON2016-00196	
Description of Action		Approval of request to rezone property from "C-2" General Retail and Highway-Oriented Commercial District to "PUD" Planned Unit Development. Approval of the Quik Trip #0544 PUD Conceptual Plan to allow redevelopment of the existing gas station/convenience store site with a new 5,773-square foot convenience store and gas canopy island with 12 fueling locations subject to conditions.			
PlanDSM Future Land Use		Current: Community Mixed Use. Proposed: N/A.			
Mobilizing Tomorrow Transportation Plan		2025-2034 Widen SE 14 th Street from 4 lanes to 6 lanes.			
Current Zoning District		"C-2" General Retail and Highway-Oriented Commercial, "VDL" Vehicle Display Lot Overlay District, and "FSO" Freestanding Signs Overlay District.			
Proposed Zoning District		"PUD" Planned Unit Development, "VDL" Vehicle Display Lot Overlay District, and "FSO" Freestanding Signs Overlay District.			
Consent Card Responses		In Favor	Not In Favor	Undetermined	% Opposition
Inside Area		1			
Outside Area					
Plan and Zoning Commission Action		Approval	11-0	Required 6/7 Vote of the City Council	
		Denial		Yes	
				No	X



ZON2016-00196

Date 11-23-2016

Item

I ☒ (am) ☐ (am not) in favor of the request.

(Circle One)

COMMUNITY DEVELOPMENT

Print Name

WAYNE CURNES

NOV 29 2016

Signature

Wayne Curnes

Address

3820 S.E. 15th St

Reason for opposing or approving this request may be listed below:

ZON2016-00196

Date 11-23-2016

Item

I ☒ (am) ☐ (am not) in favor of the request.

RECEIVED
(Circle One)

COMMUNITY DEVELOPMENT

Print Name

SOUTH PARK N.A.

Jan Goode

Signature

Jan Goode

Address

4501 SE 6th ST

Reason for opposing or approving this request may be listed below:

QUICK TRIP BRINGS

POSITIVE commerce

and the properties are

well managed.

December 12, 2016

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning regarding a request from Quik Trip Corporation (owner) represented by Michael Talcott (officer) to rezone property located at 3941 Southeast 14th Street from "C-2" General Retail and Highway-Oriented Commercial District to "PUD" Planned Unit Development and approval of the Quik Trip #0544 PUD Conceptual Plan to allow redevelopment of the existing gas station/convenience store site with a new 5,773-square foot convenience store and gas canopy island with 12 fueling locations.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 11-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri	X			
Jacqueline Easley	X			
Jann Freed	X			
John "Jack" Hilmes	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page				X
Mike Simonson	X			
Rocky Sposato				X
Steve Wallace				X
Greg Wattier	X			

APPROVAL of staff recommendation Part A) the Commission find that the proposed rezoning and PUD Conceptual Plan in conformance with PlanDSM Creating Our Tomorrow; Part B) approval of rezoning the subject property from "C-2" General Retail and Highway-

Oriented Commercial District to “PUD” Planned Unit Development and approval of Part C) the proposed PUD Conceptual Plan subject to the following conditions: (ZON2016-00196)

1. The PUD Conceptual Plan shall include a note stating that existing overhead electrical utility lines that are not transmission lines will be placed underground as part of any PUD Development Plan.
2. The PUD Conceptual Plan shall demonstrate a landscape island within the row of parking spaces along the west front property line.
3. The “air station” shall be relocated so that it is located at least 25 feet from any front property line.

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends that the Commission find that the proposed rezoning and PUD Conceptual Plan in conformance with PlanDSM Creating Our Tomorrow.

Part B) Staff recommends approval of rezoning the subject property from “C-2” General Retail and Highway-Oriented Commercial District to “PUD” Planned Unit Development.

Part C) Staff recommends approval of the proposed PUD Conceptual Plan subject to the following conditions:

1. The PUD Conceptual Plan shall include a note stating that existing overhead electrical utility lines will be placed underground as part of any PUD Development Plan.
2. The PUD Conceptual Plan shall demonstrate a landscape island within the row of parking spaces along the west front property line.
3. The “air station” shall be relocated so that it is located at least 25 feet from any front property line.

Written Responses

2 In Favor

0 In Opposition

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

1. **Purpose of Request:** The proposed PUD Conceptual Plan would allow for the redevelopment of the site with a 5,773-square foot convenience store and a gas canopy with 12 fueling locations (6 fuel pumping apparatus). The proposed PUD Conceptual Plan demonstrates that the convenience store would be located on the northern portion of the site facing Southeast 14th Street and the gas canopy would be located at the southern portion of the site. The site would be accessed from a driveway from Southeast 14th Street, a driveway from East Watrous Avenue, and an internal driveway from the commercial property to the north. The PUD Conceptual Plan proposes to allow

the sale of alcoholic liquor, wine, beer, and tobacco products, so long as sales from such do not cumulatively exceed 40% of overall sales derived on the site.

2. Size of Site: 2.07 acres.

3. Existing Zoning (site): "C-2" General Retail and Highway-Oriented Commercial District, "VDL" Vehicle Display Lot Overlay District, and "FSO" Freestanding Sign Overlay District.

4. Existing Land Use (site): Quik Trip gas station/convenience store.

5. Adjacent Land Use and Zoning:

North – "C-2"; Use is Car X (automotive service use).

South – "C-2"; Uses East Watrous Avenue and a U-Haul truck rental business.

East – "R1-60"; Uses are single-family residential.

West – "C-2"; Uses are Southeast 14th Street, Subway restaurant, and a multiple-family residential structure.

6. General Neighborhood/Area Land Uses: The subject site is located along the east side of the Southeast 14th Street commercial corridor. There are residential neighborhoods to the east and west of the corridor.

7. Applicable Recognized Neighborhood(s): The subject property is not located within a recognized neighborhood association. However, it is within 250 feet of both the Easter Lake Area Neighborhood and the South Park Neighborhood. All neighborhood associations were notified of the meeting by mailing of the Preliminary Agenda on November 10, 2016 and by mailing of the Final Agenda on November 23, 2016. Additionally, separate notifications of the hearing for this specific item were mailed on November 10, 2016 (20 days prior to the hearing) and on November 21, 2016 (10 days prior to the hearing) to the neighborhood associations 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(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Development Division at the time of the mailing. The Easter Lake Area Neighborhood Association notices were mailed to Jim Bollard, 4007 Southeast 26th Street, Des Moines, IA 50320. The South Park Neighborhood Association notices were mailed to Jan Goode, 4501 Southeast 6th Street, Des Moines, IA 50315.

8. Relevant Zoning History: N/A.

9. PlanDSM Future Land Use Plan Designation: Community Mixed Use, which is defined as "Small- to medium-scale mixed use development, located on high capacity transit corridors or at the intersection of transportation corridors. Community mixed use areas include both a mix of medium density residential and a mix of retail and service establishments designed to attract customers from a large service area encompassing

multiple neighborhoods and may include specialty retail that attracts regional customers". The site is not within a node.

- 10. Applicable Regulations:** The Commission reviews all proposals to amend zoning regulations or zoning district boundaries within the City of Des Moines. 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, and taking into consideration the criteria set forth in Chapter 18B 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. Drainage/Grading:** Any development is required to demonstrate compliance with the City's Stormwater Management requirements to the satisfaction of the City's Permit and Development Center during the review of the PUD Development Site Plan. The proposed PUD Conceptual Plan demonstrates that the stormwater management would occur within underground detention basins on the southern portion of the site.

All grading is subject to an approved grading permit and soil erosion control plan. Because the site would be over an acre in area, water quality detention is required as is a Storm Water Pollution Protection Plan approved by the Iowa DNR. Development of the site must comply with the Tree Preservation and Mitigation Ordinance contained in Chapter 42, Article X, of the City Code.

- 2. Utilities:** The site all access to all necessary public utilities within the adjoining segments of right-of-way.

There are overhead electrical lines along both the Southeast 14th Street and East Watrous Avenue frontages. Staff recommends that these be placed underground as part of any future PUD Development Site Plan.

- 3. Street System:** The PUD Conceptual Plan generally maintains the existing access points for the existing gas station convenience store, with the exception that the drive approach along Southeast 14th Street would be relocated slightly to the north of the existing location. The City's Traffic and Transportation Division has reviewed this plan, as well as trip generation estimates prepared by the developer, and has recommended no changes.

4. **Parking:** 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 20 spaces for a 5,773-square foot building. A total of 67 parking spaces are conceptually proposed.
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 2.07 acres and would contain 12 fueling locations. A minimum of 12,000 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 24,266 square feet of open space, which exceeds 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 Conceptual Plan maintains an existing access drive that is shared with the property to the north. Furthermore, the PUD Conceptual Plan shows the canopy would be setback at least 50 feet from both Southeast 14th Street and East Watrous Avenue.

- 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.

The submitted Conceptual Plan shows a masonry refuse collection enclosure at the northeast corner of the site with steel gates. It also shows an "air station" at the southwest corner of the site. Staff recommends that this be relocated so that it is located at least 25 feet from any front property line.

- 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.

There is an existing adjoining public sidewalk along both Southeast 14th Street and East Watrous Avenue. An internal sidewalk link provides a pedestrian route to the building from the sidewalk along Southeast 14th Street.

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. Examples of treatments that could be used 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.

The proposed building would be constructed of masonry with varying patterns to create visual interest. The building would have canopies over all entrances and a feature above the primary frontage of the. The building would have 360-degree architecture, with entrances on three of the four sides. The primary façade is oriented toward Southeast 14th Street. Staff believes that the proposed design meets these guidelines.

I. Canopies:

- (i) Integration of materials on canopies that are similar or compatible to those used on the building or site walls is desirable (e.g., wrap the canopy columns with brick that matches the building). Multiple canopies or canopies that express differing masses are encouraged.

The proposed canopy columns would be wrapped in masonry that matches the building.

- (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 18'.

The proposed canopy for fueling would be 15 feet above grade at its lowest point, with an overall height of 18.5 feet at its lowest point. Given a slight change in grade, the canopy may have a maximum height of 23 feet. Staff believes that the proposed height is appropriate given the unique circumstances of the site grades.

- J. All display items for sale, excluding seasonal items (i.e., sand, salt, pop, firewood) should be located within the main building. All outdoor display of seasonal items shall be identified on the Site Plan and be located outside of any required setbacks. No display of seasonal items should exceed 5' in height.

The proposed PUD Conceptual Plan includes a note that addresses this guideline and provides an area along the north side of the building for display of seasonal items. This note should be revised to state that seasonal items would be placed along the west side of the building.

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.

The Conceptual Plan shows a mix of trees, evergreens and shrubs throughout the site. It also states that landscaping will comply with minimums as would be required in a "C-2" District. Staff notes that a landscaping island will be required within the row of parking spaces along the west front property line.

The submitted Conceptual Plan includes one monument style sign along Southeast 14th Street frontage and one monument style sign along East Watrous Avenue frontage. The PUD Conceptual Plan demonstrates that any monument sign would have a minimum 2-foot tall masonry base to match the structure and would not exceed 8 feet in height.

The Conceptual Plan demonstrates that building mounted signage would generally comply with the "C-2" District regulations, with up to three (3) signs mounted on the front façade of the structure. The elevations demonstrate that a sign would be located on each fascia of the canopy structure.

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. Generally, lights shall not be mounted on the top or sides (fascias) of the canopy and internally illuminated/entirely translucent canopies should be prohibited. However, accent lighting on the sides (fascias) of the canopy may be permitted.
- 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.

The Conceptual Plan includes a note that states "all site lighting will be in compliance with the lighting standards of City Code Section 82-214.8 to the satisfaction of the Community Development Director." Lighting would be reviewed in detail during the PUD Development Site Plan phase.

- 6. Liquor Sales Use:** The proposed PUD Conceptual Plan states that that sale of alcoholic liquor, wine, and beer would be allowed so long as sales from alcoholic liquor, wine, beer, and tobacco products don't exceed 40% of overall sales. This would not be a net increase of what is already permitted at this location. The existing gas station convenience store is currently permitted to sell alcoholic liquor, wine, and beer in accordance with a Conditional Use Permit granted by the Zoning Board of Adjustment on December 21, 2011.

Because the property would be zoned "PUD" District, it would not be required to comply with City Code Section 134-954, which typically regulates the sale of alcohol. However, as a baseline for consideration of alcohol sales, Staff recommends that the Commission should apply the standards normally necessary for a Conditional Use Permit for a gas station/convenience store in a "C-2" District.

In accordance with City Code Section 134-954(b), any use of a premise for the sale of alcoholic liquor, wine and beer should be allowed only where the business, when operated in conformance with such reasonable conditions, satisfies the following criteria:

- Any gas station/convenience store selling liquor, wine, and beer shall be at least 500 feet from any church, school, public park or licensed child care facility.

While the property is 380 feet from a licensed child care facility at 4020 Southeast 15th Street, Staff believes the proposal is appropriate since the site is over 2 acres in size. Furthermore, the impact of allowing the proposed Quik Trip to sell alcoholic liquor, wine, and beer would be minimal since existing Quik Trip on this site is currently permitted to do so. The existing Quik Trip was granted a Conditional Use Permit for liquor sales at a time when the separation requirement was only 150 feet.

- The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing in the adjoining or surrounding residential area.

The subject property is located along a major traffic corridor. Staff believes that the sale of liquor, wine and beer at this location would adequately safeguard the health, safety and general welfare of persons residing in the area so long as it is accessory to a gas station/convenience store and comprises no more than 40% of gross revenues.

- The business is sufficiently separated from the adjoining residential area by distance, landscaping, walls or structures to prevent any noise, vibration or light generated by the business from having a significant detrimental impact upon the

adjoining residential uses.

Staff believes that this site is sufficiently separated from any residential uses by distance.

- The business will not unduly increase congestion on the streets in the adjoining residential area.

The subject property fronts Southeast 14th Street and East Watrous Avenue. The proposed business would have minimal impact on the traffic pattern and would not increase congestion in the area.

- The operation of the business will not constitute a nuisance.

Staff believes that the sale of wine and beer at this location as an accessory use to a convenience store with fuel sales would not constitute a nuisance. The proposed PUD Conceptual Plan includes a statement that the PUD Conceptual Plan shall be subject to a legislative amendment if the Zoning Enforcement Officer determines that the operation of the business becomes a nuisance.

The PUD Conceptual Plan should also reflect City Code Section 134-954(c) in its entirety, which further regulates any use of a premise for the sale of alcoholic liquor, wine and beer, as follows:

- Any parking area provided for the use of customers of the business shall be illuminated at an intensity of at least one 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.
- The business shall comply with article IV of chapter 42 of this Code pertaining to noise control. The business shall have no outside speakers or amplified sound except when used in compliance with a type E sound permit.
- Any such business must comply with the following requirements:
 - Every limited food sales establishment, limited retail sales establishment and gas station/convenience store shall display alcoholic liquor only in a locked case or behind a counter accessible only to employees. Any other business selling alcoholic liquor for off premises consumption shall either: i) display alcoholic liquor only in a locked case or behind a counter accessible only to employees; ii) employ an electronic security cap or tag system on all containers of alcoholic liquor on display; or iii) have more than one employee on duty at all times the business is open to the public.
 - Conspicuously post 24-hour contact information for a manager or owner of the business near the main public entrance.
 - Institute a strict no loitering policy, conspicuously post one or more "No Loitering" signs, and cooperate with police in addressing loitering on the premises.
 - Not dispense alcoholic beverages from a drive-through window.
- Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of such business shall remove all trash and debris from the premises and adjoining public areas on a daily basis.

- The use is subject to amendment or revocation if the operation of the business becomes a nuisance or exhibits a pattern of violating the conditions set forth in the PUD Conceptual Plan.
- If the zoning enforcement officer determines at any time that the operation of such a business exhibits a pattern of violating the conditions set forth in the PUD Conceptual Plan, the zoning enforcement officer may apply to the Plan and Zoning Commission and City Council for legislative amendment to the PUD Conceptual Plan to revise the use allowances.

The proposed PUD Conceptual Plan currently includes all of these notes

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and staff recommendation.

John "Jack" Hilmes asked how the City contemplates implementing this overhead to underground transition based upon where the poles are in the intersections etc.

Jason Van Essen stated undergrounding can occur project by project over time which has been seen on Ingersoll, downtown and other parts of town. Poles on the outer edge must stay to support that system, but then there is a transition where the line runs down the pole and then is run underground so there would be a gap in between. The goal would be to get rid of clutter.

Ben Bruner Dickinson Law Firm, 699 Walnut Street stated they agree with conditions #2 and #3. Their concern is with condition #1. The burying of the overhead electrical lines is an issue of feasibility and cost. The same condition was in the PUD of the Fleur store. They discovered working with MidAmerican that they were not sure if they could bury those lines, it's a high voltage transmission line, the cost at a minimum would be \$1 million dollars and they were unsure as to the feasibility of it. The applicant is working with staff to amend the condition in that PUD. The main concern is the feasibility and reasonable cost. It is restrictive for the development. He is not aware that this property falls within the underground utility district.

Mike Ludwig noted that this is a rezoning request.

Greg Jones asked if undergrounding utilities for this property costs \$1 million dollars also or just the one on Fleur.

Ben Bruner stated the one on Fleur is unique, but he believes the high voltage transmission line is the same one that runs from Watrous on Fleur here. He does not know if that is on the side of the road.

Mike Talcott stated what goes in the front of the store, with all the experience he has this is not transmission line. It is not feasible without knowing what is under the intersection and other power poles. In past experience, it is not \$1 million dollars but in the ball park of \$200,000 to \$300,000 depending on how many poles and what it takes to bury the lines.

Mike Ludwig asked if the applicant could contact MidAmerican to determine an actual estimated cost prior to the Council hearing for the rezoning.

Mike Talcott stated he could try.

JoAnne Corigliano asked if he only has two poles on the subject property.

Mike Talcott stated yes.

JoAnne Corigliano stated she would like to see the poles gone. However, she believes it would be totally unreasonable if they had to go across Watrous, especially when there is high power lines above it with some joining structure underneath. Any little bit that can be done to reduce the clutter would be appreciated.

Ben Bruner asked staff has there been development in that area that have buried the power lines and the cost estimate for a frame of reference.

Mike Ludwig stated the most experience he can think of in the City has been on Ingersoll. The undergrounding of the transmission lines was not required because the transmission lines are a high dollar cost. If it is not a transmission line it has been reasonable cost which was routinely requested on new development that has occurred.

John "Jack" Hilmes asked if it was the uncertainty that drives the negativity on condition #1. Could it be that they just don't have enough information to see whether they can currently accommodate condition #1?

Ben Bruner agreed that they don't have enough information whether they can currently accommodate condition #1.

Mike Ludwig stated a set hearing on this item must be done, it won't be for two weeks. The public hearing on the rezoning will be in January. He believes that will leave enough time for the applicant to get an estimate from MidAmerican for the cost. They could present it at the public hearing and let Council decide whether it is a reasonable cost or not.

Ben Bruner is asking that a condition incorporate some sort of reasonable standard as compared to a hard and fast that it is required.

Mike Ludwig stated if it is not a transmission line, the undergrounding has been required.

JoAnne Corigliano asked what type of pump is located at the south end.

Mike Talcott stated it is a kerosene pump and it is going away.

Greg Wattier asked if he moved staff recommendation but amended condition #1 to say to place the overhead electrical lines underground, if they are not a transmission line would they agree to that.

Ben Bruner stated if the transmission lines on the south side of the road complicate the removal of the lines on the north side he is not sure if that will increase cost.

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Mike Talcott requested that undergrounding be required as feasible, giving them the opportunity to get some numbers before they go to Council. The reason is that at the Fleur store MidAmerican later said no.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one to speak in favor or in opposition of the applicant's request.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Greg Wattier moved staff recommendation with a modification to condition #1 to state: The PUD Conceptual Plan shall include a note stating that existing overhead electrical utility lines that are not transmission lines will be placed underground as part of any PUD Development Plan.

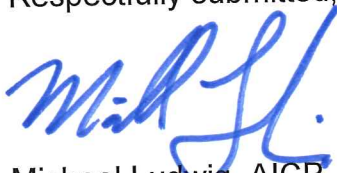
Mike Simonson commented that in his opinion this is a classic item that is at the discretion of the City Council. He appreciates Commissioner Wattier motion because if City Council is going to have to make the decision.

COMMISSION ACTION:

Greg Wattier moved staff recommendation for approval of Part A) the Commission find that the proposed rezoning and PUD Conceptual Plan in conformance with PlanDSM Creating Our Tomorrow; Part B) approval of rezoning the subject property from "C-2" General Retail and Highway-Oriented Commercial District to "PUD" Planned Unit Development and approval of Part C) the proposed PUD Conceptual Plan subject to the following conditions:

1. The PUD Conceptual Plan shall include a note stating that existing overhead electrical utility lines that are not transmission lines will be placed underground as part of any PUD Development Plan.
2. The PUD Conceptual Plan shall demonstrate a landscape island within the row of parking spaces along the west front property line.
3. The "air station" shall be relocated so that it is located at least 25 feet from any front property line.

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment