

12-0036

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Date January 9, 2012

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 15, 2011, its members voted 11-0-1 in support of a motion to recommend **APPROVAL** of a request from K G Store 573, LLC represented by Charles Campbell (officer) for an amendment to the Kum and Go Store 573 PUD Conceptual Plan for property located at 5830 Southeast 14th Street, to allow for the sale of alcoholic liquor as a permitted use in addition to the permitted gas station/convenience store use, subject to the following conditions which must be stated clearly on the amended PUD Conceptual Plan:

1. Any sale of alcoholic liquor, wine, and/or beer shall be accessory to a gas station/convenience store, where no more than 40% of the business' gross revenue is derived from the sale of tobacco products, alcoholic liquor, wine, and/or beer.
2. Any sale of alcoholic 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.
3. 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.
4. The business shall comply with article IV of chapter 42 of this Code pertaining to noise control.
5. No sale of alcoholic beverages shall be made from a drive-through window.
6. 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.
7. 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 properties are more specifically described as follows:

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NW1/4 SE1/4) OF SECTION 27, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., DES MOINES, POLK COUNTY, IOWA.

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ALSO PART OF LOT 1, BOWLARAMA PLACE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NW1/4 SE1/4); THENCE S89°04'35"E, 59.87 FEET TO THE POINT OF BEGINNING; THENCE ON THE WESTERLY RIGHT OF WAY LINE OF SOUTHEAST 14TH STREET, S00°07'25"E, 285.71 FEET; THENCE CONTINUING ON SAID WESTERLY RIGHT OF WAY LINE, S45°04'47"W, 10.68 FEET TO A POINT INTERSECTING THE RIGHT OF WAY LINES OF SOUTHEAST 14TH STREET AND EAST DIEHL AVENUE; THENCE ON THE NORTHERLY RIGHT OF WAY LINE OF EAST DIEHL AVENUE, N89°27'52"W, 143.15 FEET; THENCE CONTINUING ON SAID NORTHERLY RIGHT OF WAY LINE, S88°27'11"W, 159.60 FEET; THENCE N00°00'26"E, 75.36 FEET; THENCE N39°24'40"E, 31.74 FEET; THENCE N00°00'26"E, 199.31 FEET TO THE NORTH LINE OF SAID NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NW1/4 SE1/4); THENCE ON SAID NORTH LINE, N89°24'44"W, 289.46 FEET TO THE POINT OF BEGINNING, CONTAINING 2.00 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 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 January 23, 2012, 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.

FORM APPROVED:

Moved by Wesley to adopt.

Michael F. Kelley Assistant City Attorney

(ZON2011-00233)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

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.

T. M. Franklin Council Mayor

Diane Rauh City Clerk