

★ Roll Call Number

12-0125

Agenda Item Number

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Date January 23, 2012

WHEREAS, on January 9, 2012, by Roll Call No. 12-0036, the City Council duly resolved that a public hearing be held on January 23, 2012 at 5:00 p.m., in Council Chambers at City Hall, to consider a proposal from K G Store, 573, LLC to amend the approved Kum and Go 573 PUD Planned Unit Development Conceptual Plan for property located in the vicinity of 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.

WHEREAS, due notice of the hearing was published in the Des Moines Register on January 12, 2012, as provided by law, setting forth the time and place for hearing on the proposed amendment to the approved PUD Conceptual Plan; and,

WHEREAS, the Plan and Zoning Commission has recommended that the proposed amendment to the approved PUD Conceptual Plan be approved, subject to the Conceptual Plan being first amended as set forth in the attached letter from the Planning Administrator; and,

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WHEREAS, in accordance with the published notice those interested in the proposed amendment to the approved PUD Conceptual Plan, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed amendments to the approved PUD Conceptual Plan for the property in the vicinity of 5830 Southeast 14th Street, and more specifically described below, are hereby overruled and the hearing is closed:

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.

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.

2. The proposed amended PUD Conceptual Plan is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan, subject to the conditions identified below.

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3. The amended PUD Conceptual Plan for the Property described above, which is on file in the Community Development Department, is hereby approved, subject to the plan being first amended to satisfy the conditions recommended by the Plan and Zoning Commission as set forth in the attached letter from the Planning Administrator, and subject to approval of such amendments by the Community Development Director.

MOVED by Meyer to adopt and approve the amendment to the PUD Planned Unit Development Conceptual Plan.

FORM APPROVED:

Michael F. Kelley
 Michael F. Kelley
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY		✓		
MAHAFFEY		✓		
MEYER	✓			
MOORE		✓		
TOTAL	4	3		

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.

Y. M. Franklin Course
 Mayor

Diane Rauh
 City Clerk