



Roll Call Number

13-1323

Agenda Item Number

17

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 10-1 in support of a motion to recommend **APPROVAL** of a request from Kum & Go, LC (developer) represented by Nick Halfhill (officer) to rezone property located at 4965 Hubbell Avenue from A-1 Agricultural District to PUD Planned Unit Development District and approve the proposed Conceptual Plan, subject to the following modifications: The subject property is owned by Kenneth and Denise Nesheim.

- 1) Revision to relocate refuse collection enclosures to the eastern portion of the site.
- 2) Revision to indicate that columns on all canopies will be clad entirely in masonry material to match the primary convenience store building.
- 3) Revision to show minimum numbers of conceptual tree plantings to comply with perimeter lot and open space landscaping that would be required for C-2 Districts.
- 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:

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5TH P.M., CITY OF DES MOINES, POLK COUNTY IOWA AND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:



Roll Call Number

13-1323

Agenda Item Number

17

Date August 26, 2013

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 15, THENCE NORTH 89°40'29" WEST ALONG THE SOUTH LINE OF SECTION 15, A DISTANCE OF 319.05 FEET, THENCE NORTH 0°19'31" EAST A DISTANCE OF 134.01 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF NORTHEAST 46TH AVENUE, AND THE POINT OF BEGINNING, THENCE SOUTH 89°57'21" WEST, 151.53 FEET ALONG SAID RIGHT-OF-WAY LINE; THENCE SOUTH 0°11'16" WEST, 25.00 FEET; THENCE NORTH 86°17'49" WEST, 255.27 FEET; THENCE NORTH 85°51'19" WEST, 150.38 FEET; THENCE NORTH 10°51'34" WEST, 2.07 FEET; THENCE NORTH 0°04'04" WEST, 123.62 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF NORTHEAST HUBBELL AVENUE (US HIGHWAY 6); THENCE ALONG A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 5800.00 FEET, WHOSE ARC LENGTH IS 194.22 FEET, WHOSE CHORD BEARS NORTH 51°02'49" EAST, 194.21 FEET; THENCE NORTH 71°06'11" EAST CONTINUING ALONG SAID RIGHT OF WAY, 78.76 FEET; THENCE ALONG A CURVE CONCAVE NORTHWESTERLY WHOSE RADIUS IS 5834.60 FEET, WHOSE ARC LENGTH IS 140.85 FEET, WHOSE CHORD BEARS NORTH 49°43'42" EAST, 140.85 FEET; THENCE SOUTH 41°05'23" EAST, 23.69 FEET; THENCE NORTH 77°46'47" EAST, 214.46 FEET; THENCE SOUTH 0°11'31" WEST A DISTANCE OF 394.09 FEET TO THE POINT OF BEGINNING. SAID DESCRIBED PARCEL CONTAINING 170,407 SQUARE FEET (3.91 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 September 9, 2013, at which time the City Council will hear both those who oppose and those who favor the proposal.



Roll Call Number

13-1323

Agenda Item Number


17

Date August 26, 2013

- 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 Mahaffey to adopt.

FORM APPROVED:


 Michael F. Kelley
 Assistant City Attorney

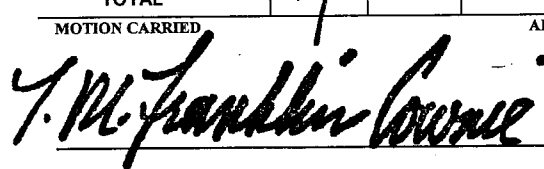
(ZON2013-00091)

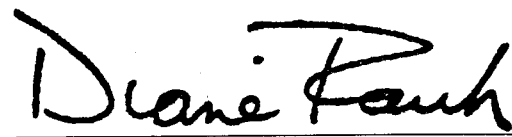
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

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
 Mayor


 Diane Rauh
 City Clerk