



Roll Call Number

13-1325

Agenda Item Number

19

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 12-0 in support of a motion to recommend **APPROVAL** of a request from Kum & Go, LC (developer) represented by Nick Halfhill (officer), Eastgate Plaza, LLC (owner), for an amendment to the PUD Conceptual Plan Eastgate Plaza to create a separate PUD Conceptual Plan Kum & Go Store #534 on property located at 1424 East Euclid Avenue to allow a 4,992 foot convenience store with 20 fueling locations. The convenience store proposes to sell packaged liquor, wine and beer. The approval is subject to the following conditions:

- 1) Revision to indicate that columns on all canopies will be clad in masonry material to match the primary convenience store building.
- 2) Revision to indicate locations for outdoor and seasonal display.
- 3) Revision of the east drive entrance configuration as approved by Traffic Engineering.
- 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:

LOTS 1, 6, AND 7, EXCEPT THE SOUTH 4.5 FEET THEREOF AND ALL OF LOTS 2, 3, 4, AND 5, ALL IN BROWN'S LOWLAND PLACE PLAT NO.2, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA,
 AND
 LOT 5 (EXCEPT THE WEST 200.0 FEET THEREOF), LOT 6, BROWN'S LOWLAND PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND LOT 7, EXCEPT THAT PORTION DEEDED TO THE CITY OF DES MOINES FOR STORM DETENTION PURPOSES WHICH IS DESCRIBED AS FOLLOWS:



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BEGINNING AT THE NORTHWEST CORNER OF LOT 7, BROWN'S LOWLAND PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, THENCE NORTH 89°(DEGREES)30'(MINUTES)15"(SECONDS) EAST, ALONG THE NORTH LINE OF SAID LOT 7, A DISTANCE OF 376.92 FEET, TO THE NORTHEAST CORNER OF SAID LOT 7, THENCE SOUTH 08°15'28" EAST, ALONG THE EASTERLY LINE OF SAID LOT 7, A DISTANCE OF 500.38 FEET, THENCE SOUTH 89°38'19" WEST ALONG THE EASTERLY EXTENSION OF THE NORTHERLY LINE OF LOT 6, IN SAID BROWN'S LOWLAND PLACE, A DISTANCE OF 447.72 FEET, THENCE NORTH 00°07'20" WEST, ALONG THE WEST LINE OF SAID LOT 7, AND ALONG THE EAST LINES OF LOTS 1 AND 2 IN SAID BROWN'S LOWLAND PLACE, A DISTANCE OF 494.70 FEET TO THE POINT OF BEGINNING,

AND

LOT 8 (EXCEPT THE WEST 17.5 FEET THEREOF), LOT 9 (EXCEPT THE WEST 17.5 FEET THEREOF), LOT 14 AND LOT 16, EXCEPT THE SOUTH 4.50 FEET, AND LOTS 10, 11, 12, AND LOT 13 EXCEPT THE FOLLOWING PORTIONS THEREOF ALL IN BROWN'S LOWLAND PLACE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA:

BEGINNING AT THE N.W. CORNER OF SAID LOT 10, THENCE EAST, ALONG THE NORTH LINE OF SAID LOT 10, 17.5 FEET, THENCE SOUTH, PARALLEL WITH AND 17.5 FEET EAST OF THE WEST LINE OF SAID LOT 10, 165.0 FEET, TO A POINT THAT IS 17.5 FEET EAST OF THE N.W. CORNER OF SAID LOT 11, THENCE EAST, ON THE NORTH LINE OF SAID LOT 11, 5.0 FEET, THENCE SOUTH 3°(DEGREES) 52'(MINUTES) EAST, 96.25 FEET, THENCE SOUTH 45° 06' EAST, 46.58 FEET, THENCE SOUTH 86° 12' EAST, 88.2 FEET, TO A POINT THAT IS ON THE EAST LINE OF SAID LOT 11, SAID POINT BEING 15.0 FEET NORTH OF THE S.E. CORNER OF SAID LOT 11, THENCE SOUTH, ALONG THE EAST LINE OF SAID LOT 11, 5.0 FEET, TO A POINT THAT IS 10.0 FEET NORTH OF THE S.E. CORNER OF SAID LOT 11, THENCE EAST, PARALLEL WITH AND 10.0 FEET NORTH OF THE SOUTH LINE OF SAID LOT 10, 155.5 FEET, THENCE EASTERLY, IN A STRAIGHT LINE TO A POINT THAT IS ON THE SOUTH LINE OF SAID LOT 13, SAID POINT BEING 83.0 FEET EAST OF THE S.E. CORNER OF SAID LOT 12, THENCE WEST, ALONG THE SOUTH LINES OF SAID LOTS 13, 12, 10, AND 11, 494.0 FEET, TO A POINT THAT IS 136.0 FEET WEST OF THE S.E. CORNER OF SAID LOT 11, THENCE NORTHWESTERLY, IN A STRAIGHT LINE, TO A POINT THAT IS ON THE WEST LINE OF SAID LOT 11, SAID POINT BEING 130.0 FEET SOUTH OF THE N.W. CORNER OF SAID LOT 11, THENCE NORTH, ALONG THE WEST LINES OF SAID LOTS 11 AND 10, 295.0 FEET, TO THE N.W. CORNER OF SAID LOT 10, AND TO THE POINT OF BEGINNING; AND EXCEPTING THE WEST 17.5 FEET OF LOT 13, ALL IN BROWN'S LOWLAND PLACE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA.

SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.

SAID TRACT OF LAND CONTAINS 46.36 ACRES MORE OR LESS.



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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.
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:

[Signature of Michael F. Kelley]

Michael F. Kelley
Assistant City Attorney

(ZON2013-00092)

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

MOTION CARRIED

APPROVED

[Signature of Mayor]
Mayor

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.

[Signature of Diane Rauh]

City Clerk