

Date August 11, 2014

**REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION
GRANTING A VARIANCE FROM SEPARATION REQUIREMENT TO ALLOW
RECONSTRUCTION OF A GAS STATION/CONVENIENCE STORE SELLING WINE
AND BEER ON THE PROPERTY AT 2428 HUBBELL AVENUE**

WHEREAS, the real property locally known as 2428 Hubbell Avenue (“Property”) has been operated as a gas station/convenience store selling wine and beer since 1991, and Quik Trip Corporation is currently undertaking demolition of the existing store and construction of a new 5,858-square foot structure for a gas station/convenience store selling wine and beer on the Property; and

WHEREAS, on July 23, 2014, the Zoning Board of Adjustment voted 4-1 to approve an application from Quik Trip Corporation for a variance of the separation requirement that the premises of any gas station/convenience store seeking to sell wine and beer be separated by at least 150 feet from any church, school, public park or licensed child care facility, as set forth in Municipal Code Section 134-954(a), to allow for Quik Trip’s project and the reconstructed store selling wine and beer on the Property; and

WHEREAS, the Property is located within 65’ of a church use located at 2412 Easton Boulevard, and the Easton Place United Methodist Church has provided a letter of support for granting the variance of the separation requirement; and

WHEREAS, Iowa Code §414.7 and Section 134-65(d) of the Zoning Ordinance require that any variance from a separation requirement granted by the Board be forwarded to the City Council for its review, and the City Council may remand the variance of the separation requirement back to the Zoning Board of Adjustment for further study if the Council believes the variance was improperly granted.

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

ALTERNATIVE RESOLUTIONS

- A The City Council remands the Decision and Order to the Zoning Board of Adjustment for further study. The effective date of the Board’s decision will be deferred for 30 days from the date of this remand.
- B The City Council takes no action to review the Decision and Order. The decision of the Board will become final on August 29, 2014.
- C The City Council declines to remand the decision to the Zoning Board of Adjustment. The decision of the Board becomes final on this date.

★ Roll Call Number

14-1259

Agenda Item Number

46

Date August 11, 2014

(Council Communication No. 14- 383)

MOVED by Mahaffey to receive and file the staff report and comments received, and to adopt alternative _____, above.

APPROVED AS TO FORM:

Glenna K. Frank, Assistant City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | ✓ | | | |
| COLEMAN | ✓ | | | |
| GATTO | ✓ | | | |
| GRAY | ✓ | | | |
| HENSLEY | ✓ | | | |
| MAHAFFEY | ✓ | | | |
| MOORE | ✓ | | | |
| TOTAL | 7 | | | |

MOTION CARRIED

APPROVED

T. M. Franklin Council 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.

Diane Rauh City Clerk