



Roll Call Number

16-1561

Agenda Item Number

75

Date September 12, 2016

**REVIEW OF ZONING BOARD OF ADJUSTMENT DECISION
GRANTING A VARIANCE FROM SEPARATION REQUIREMENT TO ALLOW A
GAS STATION/CONVENIENCE STORE SELLING WINE AND BEER ON THE
PROPERTY AT 849 ARMY POST ROAD**

WHEREAS, Quik Trip Corporation (“QT”) has proposed to construct a new 5,757 square foot gas station/convenience store selling wine and beer on the real property locally known as 849 Army Post Road (“Property”); and

WHEREAS, QT will be decommissioning its current gas station/convenience store located in close proximity to the Property, where QT currently sells alcoholic liquor, wine and beer; and

WHEREAS, the Property is located within 35 feet of a church use located at 6205 Southwest 9th Street; and

WHEREAS, on August 24, 2016, the Zoning Board of Adjustment voted 6-0 to approve an application from QT 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 QT’s project and the new store selling wine and beer on the Property, and the Board found that the variance was necessary in order to allow for redevelopment of the Property due to the existing billboard and view corridor easement encumbering the Property which limit potential uses thereof; 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 September 22, 2016.



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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.

(Council Communication No. 16-500)

MOVED by Gatto to adopt alternative C, above.

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, and TOTAL (5 YEAS, 2 NAYS).

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.

MOTION CARRIED APPROVED
Y. M. Franklin Council Mayor

Diane Rauh City Clerk