



Date January 13, 2014

RESOLUTION SETTING HEARING ON A REQUEST FROM KWIK TRIP, INC. D/B/A TOBACCO OUTLET PLUS REPRESENTED BY DONALD ZIETLOW (OFFICER) TO REZONE PROPERTY LOCATED AT 3301 EAST EUCLID AVENUE TO ALLOW A FUTURE CONDITIONAL USE APPLICATION FOR CONTINUED USE OF THE PROPERTY FOR A BUSINESS WHERE MORE THAN 40 PERCENT OF THE GROSS RECEIPTS FROM SALES MAY BE DERIVED FROM THE SALE OF BEER, WINE OR TOBACCO PRODUCTS

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on December 19, 2013, a motion was passed on a vote of 12-1-1 to recommend APPROVAL of a request from Kwik Trip, Inc. d/b/a Tobacco Outlet Plus represented by Donald Zietlow (Officer) to rezone property located at 3301 East Euclid Avenue from the "C-1" Neighborhood Retail Commercial District and "FW" Floodway District to the "C-2" General Retail and Highway-Oriented Commercial District, to allow a future Conditional Use application for continued use of the property for a business where more than 40 percent of the gross receipts from sales may be derived from the sale of beer, wine or tobacco products subject to the owner agreeing to the following conditions:

- A. Limit the rezoning of any property to the "C-2" District to only that portion of the subject property which is outside of the existing and proposed federally designated flood hazard areas.
B. Rezone those portions of the subject property currently zoned to the "C-1" District and located inside of the existing and proposed federally designated flood hazard areas to the "FW" Floodway District.

(Prior to the hearing by the City Council on this matter the owner should be required to procure a legal description for such areas from a professional engineer.)

- C. The following uses of structures or land shall not be permitted on the subject property:
1) Any business required to have a Class E Liquor License.
2) Adult entertainment businesses.
3) Delayed deposit services.
4) Off-premises advertising signs.
5) Taverns and nightclubs.
6) Vehicle display lots.

WHEREAS, the subject property is owned by Grayslake Outparcels, LLC and is more specifically described as follows:

An irregular parcel of land in the Northwest 1/4, of the Northeast 1/4, of Section 29, Township 79 North, Range 23 West of the 5th P.M., all now in and forming a part of the City of Des Moines, Polk County, Iowa, more specifically described as follows:

Commencing at a point 718.2 feet South and 64.5 feet East of the North quarter-corner of said Section 29; thence South 87°14'30" East along the South right-of-way



28

Date January 13, 2014

line of E. Euclid Avenue 622 feet; thence South 55°19'30" West 179.5 feet; thence North 87°14'30" West 89.1 feet; thence South 47°47'30" West 337.5 feet; thence North 00°21'30" East 127.2 feet; thence West 150.0 feet to the East right-of-way line of E. 33rd Street; thence North 03°26'30" East along the East right-of-way line of E. 33rd Street 228.0 feet to the Point of Beginning.

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 January 27, 2014, 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 \_\_\_\_\_ to adopt.

FORM APPROVED:

Roger K. Brown (signature)

Roger K. Brown

Assistant City Attorney

G:\SHARED\LEGAL\BROWN\REZONING\Kwik Trip - 3301 E. Euclid\Set Hearing Roll Call.docx

(ZON2013-00186)

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GRAY, HENSLEY, MAHAFFEY, MOORE, VOSS, and TOTAL.

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

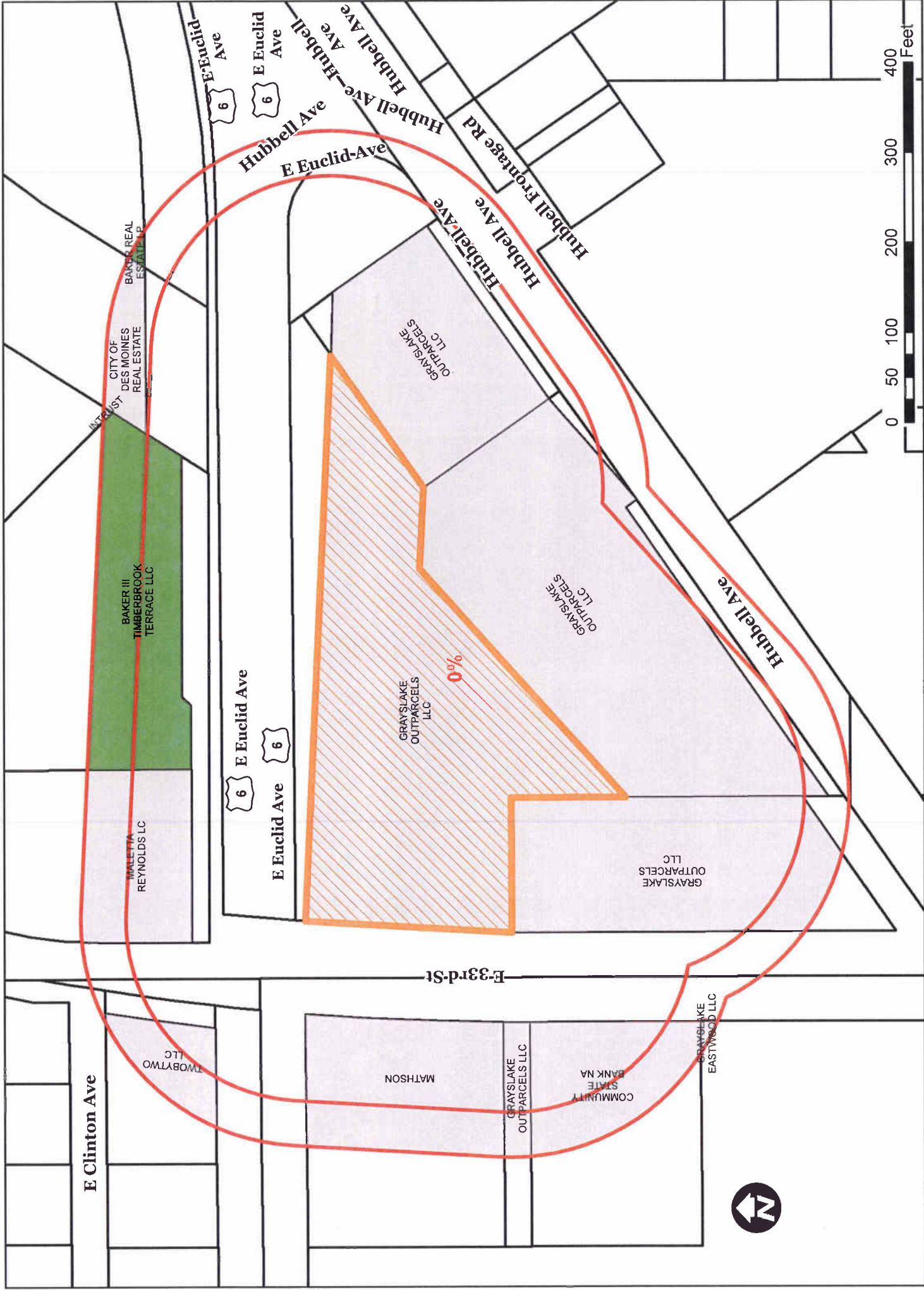
Mayor

City Clerk

*[Handwritten mark]*

Kwik Trip, Inc. (dba Tobacco Outlet Plus), 3301 East Euclid Avenue

ZON2013-00186



E Clinton Ave

BAKER III  
TIMBERBROOK  
TERRACE LLC

MALLETTA  
REYNOLDS LC

CITY OF  
DES MOINES  
REAL ESTATE

TWOBYTWO  
LLC

MATHSON

GRAYSLAKE  
OUTPARCELS LLC

COMMUNITY  
STATE  
BANK NA

GRAYSLAKE  
EASTWOOD LLC

E Euclid Ave

E Euclid Ave

E Euclid Ave

E Euclid Ave

Hubbell Ave

E Euclid-Ave

Hubbell Ave-  
Hubbell Ave

Hubbell Ave-  
Hubbell Ave

E-33rd-St

GRAYSLAKE  
OUTPARCELS  
LLC

GRAYSLAKE  
OUTPARCELS  
LLC

Hubbell Ave

Hubbell Ave

Hubbell Frontage Rd

GRAYSLAKE  
OUTPARCELS  
LLC

GRAYSLAKE  
OUTPARCELS  
LLC

Hubbell Ave

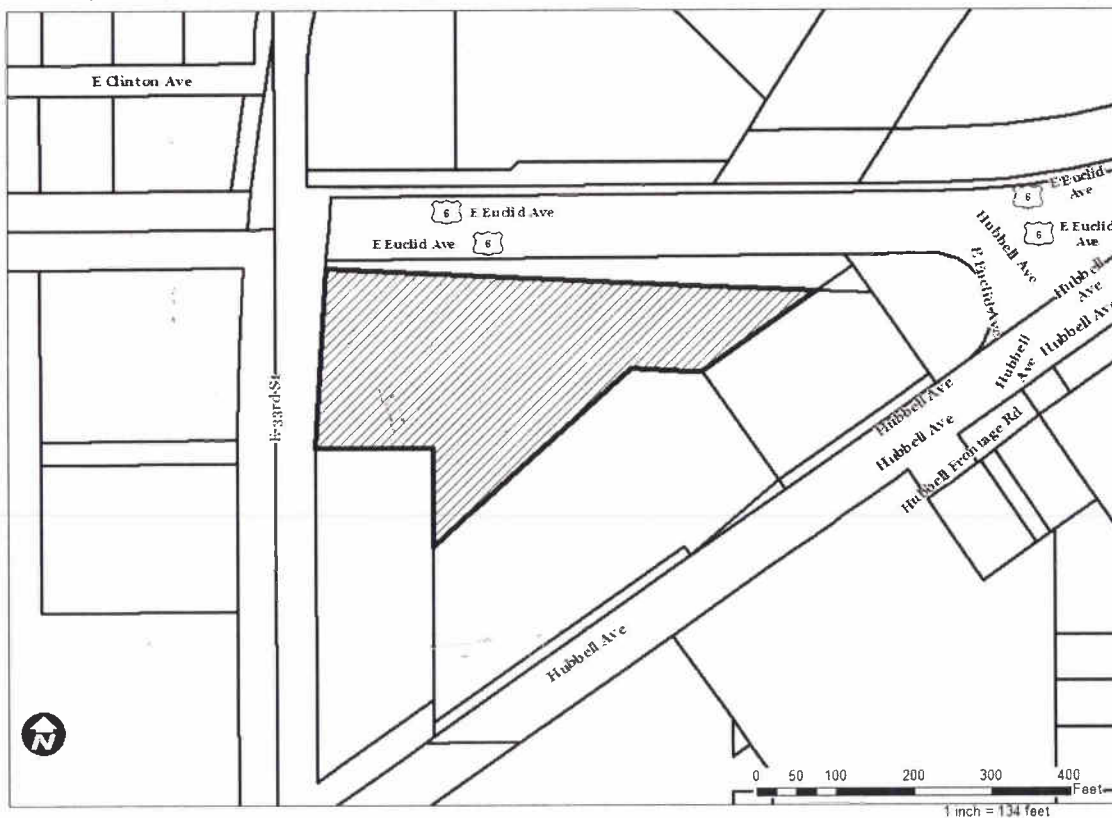




Request from Kwik Trip, Inc. d/b/a Tobacco Outlet Plus (lessee) represented by Donald Zietlow (officer) to rezone property located at 3301 East Euclid Avenue. The subject property owner is Grayslake Outparcels, LLC.		<b>File #</b>			
		<b>ZON2013-00186</b>			
<b>Description of Action</b>	Approval of the requested rezoning from "C-1" Neighborhood Retail Commercial District and "FW" Floodway District to "C-2" General Retail and Highway-Oriented Commercial District, to allow a future Conditional Use application for continued use of the property for a business where more than 40 percent of the gross receipts from sales may be derived from the sale of beer, wine or tobacco products subject to conditions.				
<b>2020 Community Character Plan</b>	Commercial: Auto-Oriented, Community Commercial.				
<b>Horizon 2035 Transportation Plan</b>	Widen Hubbell Avenue (U.S. Hwy 6) to 4 Lanes at East Euclid Avenue.				
<b>Current Zoning District</b>	"C-1" Neighborhood Retail Commercial District and "FW" Floodway District.				
<b>Proposed Zoning District</b>	"C-2" General Retail and Highway-Oriented Commercial District.				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	2	1			
Outside Area					
<b>Plan and Zoning Commission Action</b>	Approval	12-1-1	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	X

Kwik Trip, Inc. (dba Tobacco Outlet Plus), 3301 East Euclid Avenue

ZON2013-00186



ZON2013-00186

28

Item

Date

12/12/13

I (am) (am not) in favor of the request.

(Circle One)

RECEIVED  
COMMUNITY DEVELOPMENT

Print Name

B J BAKER

Signature

*[Handwritten Signature]*

Address

3400 E Euclid

DEC 16 2013

DEPARTMENT

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ZON2013-00186

Item

Date

12/11/13

I (am) (am not) in favor of the request.

RECEIVED  
COMMUNITY DEVELOPMENT

(Circle One)

DEC 16 2013

DEPARTMENT

Print Name

Baker Real Estate LP

Signature

Gregory W Baker

Address

4224 Hubbard

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ZON2013-00186

28

Item

Date 12-10-13

I (am)  (am not) in favor of the request.

(Circle One)

RECEIVED  
COMMUNITY DEVELOPMENT

Print Name John Thomas

Signature John Thomas

DEC 16 2013

Address 2658 Boyd ST.

Reason for opposing or approving this request may be listed below.

DEPARTMENT  
We have a Dahl's grocery store right on  
East 33<sup>rd</sup> street that sells Beer wine & spirits  
Also have a quick Trip gas station  
just up the street on East 37<sup>th</sup> + Hubble ave  
That sells the same things. See no need

FARMINGTON PARK NEIGHBORHOOD ASS.

January 7, 2014

Honorable Mayor and City Council  
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held December 19, 2013, the following action was taken regarding a request from Kwik Trip, Inc. d/b/a Tobacco Outlet Plus (lessee) represented by Donald Zietlow (officer) to rezone property located at 3301 East Euclid Avenue.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 12-1-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Dory Briles	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley			X	
Tim Fitzgerald	X			
Dann Flaherty	X			
Jann Freed				X
John "Jack" Hilmes	X			
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
CJ Stephens		X		
Vicki Stogdill	X			
Greg Wattier	X			

**APPROVAL** of a motion to find the proposed rezoning is in conformance with the Des Moines' 2020 Community Character Plan and **APPROVAL** of the requested rezoning to a "C-2" District, subject to the owner agreeing to the following conditions. (ZON2013-00186)

1. Limit the rezoning of any property to the "C-2" District only to portions which are outside any existing or proposed Federally designated flood hazard areas. Prior to setting a hearing by the City Council the owner would be responsible for procuring a professional engineer to develop a legal description of that such area.
2. Rezone portions of the subject property zoned "C-1" District to "FW" Floodway District. Prior to setting a hearing by the City Council the owner would be responsible for procuring a professional engineer to develop a legal description of that such area.



CITY PLAN AND ZONING COMMISSION  
ARMORY BUILDING  
602 ROBERT D. RAY DRIVE  
DES MOINES, IOWA 50309 -1881  
(515) 283-4182

ALL-AMERICA CITY  
1949, 1976, 1981  
2003



3. Prohibit the use of any portion of property zoned to the "C-2" District from issuance of a Class E Liquor license.
4. Prohibit the use of any portion of property zoned to the "C-2: District for adult entertainment businesses, delayed deposit services, off-premises advertising signs, taverns and nightclubs, and vehicle display lots.

## **STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Part A) Staff recommends that the Commission find the requested rezoning in conformance with the Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of the requested rezoning to a "C-2" District, subject to the owner agreeing to the following conditions:

1. Limit the rezoning of any property to the "C-2" District only to portions which are outside any existing or proposed Federally designated flood hazard areas. Prior to setting a hearing by the City Council the owner would be responsible for procuring a professional engineer to develop a legal description of that such area.
2. Rezone portions of the subject property zoned "C-1" District to "FW" Floodway District. Prior to setting a hearing by the City Council the owner would be responsible for procuring a professional engineer to develop a legal description of that such area.
3. Prohibit the use of any portion of property zoned to the "C-2" District from issuance of a Class E Liquor license.
4. Prohibit the use of any portion of property zoned to the "C-2: District for adult entertainment businesses, delayed deposit services, off-premises advertising signs, taverns and nightclubs, and vehicle display lots.

### Written Responses

2 In Favor

1 In Opposition

## **STAFF REPORT**

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The applicant is seeking to retain the existing tobacco store which sells beer and wine. The store was given occupancy as a grocery store with a permit to sell beer and wine not to exceed 50% of the gross revenues. This was prior to revisions in the Zoning Ordinance restricting businesses that sell alcoholic beverages and including tobacco products in the sales numbers.

Under these revisions, while beer and wine may continue to be sold in the "C-1" District as part of a limited retail or food sales business; gross revenues of wine, beer, and tobacco products may not exceed 40% of the total revenues. When the 40% provision is exceeded, the Zoning Ordinance defines the business operation as a liquor store selling beer and wine, which requires "C-2" District zoning and a separation distance of 150 feet from any property with a school, church, public park or license child care



