



Roll Call Number

13-1429

Agenda Item Number

42

Date September 9, 2013

WHEREAS, on August 26, 2013, by Roll Call No. 13-1325, the City Council duly resolved that a public hearing to be held on September 9, 2013, at 5:00 p.m., in the Council Chambers at City Hall, 400 Robert D. Ray Drive in Des Moines, to consider a proposal from Kum & Go, LC represented by Nick Halfhill (officer), Eastgate Plaza, LLC (owner), to amend the approved Eastgate Plaza PUD Planned Unit Development District Conceptual Plan for property located in the vicinity of 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; and

WHEREAS, due notice of the hearing was published in the Des Moines Register on August 29, 2013, as provided by law, setting forth the time and place for hearing on the proposed amendment to the approved PUD Conceptual Plan; and

WHEREAS, at a public hearing on August 15, 2013, the Plan and Zoning Commission recommended by a vote of 12-0 that the proposed amendment to the approved PUD Conceptual Plan be approved, subject to the following conditions and subject to the conceptual plan being first amended as set forth in the attached letter from the Planning Administrator:

- 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.

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WHEREAS, in accordance with the published notice those interested in the proposed amendment to the approved PUD Conceptual Plan, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed amendments to the approved PUD Conceptual Plan for the property in the vicinity of 1424 East Euclid Avenue, and more specifically described below, are hereby overruled and the hearing is closed.

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:

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

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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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2. The proposed amended PUD Conceptual Plan is hereby found to be in conformance with the Des Moines 2020 Community Character Land Use Plan, subject to the conditions identified above.

3. The amended PUD Conceptual Plan for the Property described above, which is on file in the Community Development Department, is hereby APPROVED, subject to the plan being first amended to satisfy the conditions recommended by the Plan and Zoning Commission as set forth in the attached letter from the Planning Administrator, and subject to approval of such amendments by the Community Development Director.

MOVED by Mahaffey to adopt and to approve the proposed amendment to the PUD Conceptual Plan.

FORM APPROVED:

Kelley
Michael F. Kelley
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GRIESS, HENSLEY, MAHAFFEY, MEYER, MOORE, 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.

T. M. Franklin Cowie
Mayor

Diane Rauh
City Clerk