

CITY1553.DSS

Chairperson Christiansen called to order the April 6, 2016, regularly scheduled meeting of the Board of Adjustment at 5:30 p.m. in the City Council Chambers, West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines, Iowa.

Roll Call: Blaser, Cunningham, Christiansen, Pfannkuch..... Present  
Celsi..... Absent

**Item 1 – Consent Agenda**

**Item 1a – Minutes of February 24, 2016**

**Item 1a – Minutes of March 9, 2016**

Chairpeson Christiansen indicated that he does not believe that there is a quorum to take action on either set of minutes and requested that the minutes of the February 24, 2016 meeting and the March 9, 2016 meeting be deferred to the next Board meeting.

Linda Schemmel, Development Coordinator, added that she would inquire of the City Attorney on accepted methods of approving the minutes when a transition of Board members results in a lack of quorum with the members present at the meeting.

Moved by Board Member Blaser, seconded by Board Member Cunningham, that the Board of Adjustment defer action on the February 24, 2016 meeting minutes and the March 9, 2016 meeting minutes to the next Board meeting due to a lack of quorum present to be able to vote on the meeting minutes.

Vote: Blaser, Cunningham, Christiansen, Pfannkuch..... Yes  
Celsi..... Absent

Motion carried.

**Item 2 – Old Business**

There were no Old Business items reported.

**Item 3 – Public Hearings**

**Item 3a – Renewal by Andersen Warehouse, 517 Railroad Avenue – Approval of a Permitted Conditional Use permit to allow construction of a 5,700 sq. ft. warehouse/office building – Renewal by Andersen – PC-002967-2016**

Chairperson Christiansen opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary indicated that the notice was published on March 18, 2016, in the Des Moines Register.

Chairperson Christiansen then asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Board Member Cunningham, seconded by Board Member Pfannkuch, the Board of Adjustment accepts and makes a part of the record all testimony and documents received at this public hearing.

Vote: Blaser, Cunningham, Christiansen, Pfannkuch.....Yes  
Celsi.....Absent  
Motion carried.

Chuck Bishop, Bishop Engineering, 3501 104<sup>th</sup> Street, Des Moines, representing applicants, Dave and Wendy Steffes, explained that they are proposing to expand the existing site with a 5,700 sq. ft. office/warehouse building. He continued to review the proposed project with the Board members. Mr. Bishop indicated that the applicant is in compliance with all of staff’s recommendations and conditions.

Kara Tragesser, Planner, stated that the condition that was outlined in the staff report relating to the storm water management plan has been met. Staff recommends approval of the proposed project.

Moved by Board Member Blaser, seconded by Board Member Cunningham, the Board of Adjustment adopts a resolution to approve the Permitted Conditional Use Permit to allow a 5,700 sq. ft. warehouse/office building at 517 Railroad Avenue, subject to meeting all City Code requirements and the following:

- 1. Provide two copies of the signed/sealed storm water management plan and final site plans to the City prior to obtaining a building permit.

Vote: Blaser, Cunningham, Christiansen, Pfannkuch.....Yes  
Celsi.....Absent  
Motion carried.

**Item 3b – Imani Family Church, 815 8<sup>th</sup> Street – Approval of Permitted Conditional Use permit to allow a church facility, including youth ministry and fellowship hall in existing building – PC-002911-2015**

Chairperson Christiansen opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary indicated that the original notice was published on November 27, 2015, in the Des Moines Register and was re-noticed on March 18, 2016, in the Des Moines Register.

Chairperson Christiansen then asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Board Member Cunningham, seconded by Board Member Pfannkuch, the Board of Adjustment accepts and makes a part of the record all testimony and documents received at this public hearing.

Vote: Blaser, Cunningham, Christiansen, Pfannkuch.....Yes  
Celsi.....Absent

Motion carried.

Joshua Kyande, lead pastor of Imani Family Church, briefly stated that he is asking for approval of a Permitted Conditional Use permit to operate at religious facility at 815 8<sup>th</sup> street, with plans to use the existing building as a multi-cultural house of worship and other related activities such as funerals and youth ministry.

Board member Blaser asked the applicant if it was explained to him that, as a requirement in order to receive approval of the Permitted Conditional Use, that 15 feet of street right-of-way would need to be granted to the City to expand the street.

Pastor Kyande stated that it was explained to him by the attorney and the city planner that it was a condition of approval and that it was agreed to in the event it was a requirement.

Chairperson Christiansen then asked for any other questions or comments from the audience and upon hearing none, declared the public hearing item closed.

Brian Portz, Planner, stated that the condition of approval regarding the ingress/egress easement is required because the applicant purchased the parking area on the south side of the building from the West Des Moines School District it resulted in a small portion of School District property that the Church would need to cross over to access 7<sup>th</sup> Street. The School District has agreed to provide the ingress/egress easement for that area and that it will be discussed at the district board meeting on April 11, 2016.

Regarding the storm water maintenance covenant, the storm water detention area for this site and the School District site is located on the northeast corner of the School District property. An agreement has been created for the maintenace of the detention area. This agreement will also be considered at the School District meeting on April 11, 2016. The applicant is aware that services cannot be held until after staff receives those documents.

With regard to the irrevocable offer of right-of-way, staff does have the signed agreement in hand and the applicant has agreed to offer the right-of-way to the City in the event it is needed in the future.

Board member Blaser stated that the Board is not in favor of the City conditioning Permitted Conditional Use Permits on items that the applicant would not otherwise have to do because of the Conditional Use Permit. His concern is with the fact that the applicant has already signed the document and the staff report indicates that the document was required but when presented to the Board of Adjustment, is no longer a condition. He is concerned that there not be circumvention of the Board’s views on requiring these types of things when they are not really tied to the Conditional Use

Permit. He asked for further clarification from city staff regarding this.

Planner Portz explained that staff already had the document in hand which is why the condition for that was not included in the staff report. It is the City's practice to require the dedication of right-of-way with a Permitted Conditional Use Permit.

Board member Blaser stated that the Board respectfully disagrees with the City policy and that they have been promised for over a year that the City Attorney would provide policy documentation regarding this type of issue. He concluded that he believes that this circumvents the prior decisions of the Board on this issue when the applicant is approached prior to the Board meeting to have them sign a document.

Board member Cunningham expressed exasperation where the Board has made it very clear their opposition to City staff informing an applicant of a requirement that is not applicable to a Permitted Conditional Use Permit.

Development Coordinator Schemmel answered that it was not the intent of City staff to circumvent any authority that the Board would have. Staff is working as a team to come up with a policy to provide clear direction on both Board of Adjustment, Plan and Zoning Commission and City Council actions.

Board member Blaser stressed that from his perspective, he does not wish to review future applications in which the applicant has already signed their rights away to the City to obtain a Permitted Conditional Use Permit.

Board member Pfankuch asked for conformation that the WDM School District believes that the two items requiring School Board action will pass and the documents will be provided by April 15<sup>th</sup>. Planner Portz did confirm that the School District believes that will be the case.

Moved by Board Member Cunningham, seconded by Board Member Pfankuch, the Board of Adjustment adopts a resolution to approve the Permitted Conditional Use Permit to allow a religious organization (SIC 8661) with youth ministry and fellowship hall within the existing building at 815 8<sup>th</sup> Street, subject to meeting all City Code requirements and the following:

1. By April 15, 2016, the West Des Moines School District shall provide an ingress/egress easement to the city providing for access from the Imani Church property to 7<sup>th</sup> Street over a portion of the School District property. If the signed ingress/egress easement has not been received by April 15, 2016, church services will not be permitted to occur in the 815 8<sup>th</sup> Street building; and,
2. By April 15, 2016, the Imani Family Church and the West Des Moines School District shall provide the City with a signed storm water maintenance covenant for the future maintenance of the detention area that serves the Imani Family Church property and the West Des Moines School District property. If the signed storm water maintenance covenant agreement has not been received by April 15, 2016, church services will not be permitted to occur in the 815 8<sup>th</sup> Street building.

Vote: Blaser, Christiansen, Cunningham, Pfannkuch.....Yes  
Celsi.....Absent

Motion carried.

**Item 3c – Kum & Go #532, 5901 Mills Civic Parkway, Building 2000 – Construction of a 6,231 sq. ft. convenience store with six (6) fuel pumps – Kum & Go, LLC – OSP-002563-2014**

BOA Cunningham indicated that he would be recusing himself from voting on this particular item.

Chairperson Christiansen opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary indicated that the notice was published on March 18, 2016, in the Des Moines Register.

Chairperson Christiansen then asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Board Member Blaser, seconded by Board Member Pfannkuch, the Board of Adjustment accepts and makes a part of the record all testimony and documents received at this public hearing.

Vote: Blaser, Christiansen, Pfannkuch.....Yes  
Cunningham.....Abstain  
Celsi.....Absent

Motion carried.

Siobhan Harmon, Kum & Go, 6400 Westown Parkway, West Des Moines, briefly stated that they are seeking site plan approval for a convenience store to be located at 5901 Mills Civic Parkway The proposed Kum & Go is part of a new store prototype that replaces the 5,000 sq. ft. building with a 6,300 sq. ft. building with emphasis on fresh food, inside and outside seating, and new fuel products. This store will be LEED certified.

Ed Arp, Civil Engineering Consultants, 2400 86<sup>th</sup> Street, Urbandale, reviewed the project with the Board noting site amenities and engineering elements.

Robert Fiebig III, Kum & Go, 6400 Westown Parkway, West Des Moines, briefly highlighted the architectural details and noted that they hope to open this fall.

Chairperson Christiansen asked for any questions or comments from the audience and upon hearing none, declared the public hear closed.

Planner Tragesser briefly noted that the conditions of approval are those to be completed after the approval of the item and that staff recommended the approval of proposed project. Moved by Board Member Pfannkuch, seconded by Board Member Blaser, the Board of Adjustment adopt a resolution to approve the Permitted Conditional Use Permit to allow construction of a 6,231 sq. ft. convenience store with six fuel pumps at 5901 Mills Civic Parkway, Building 2000, subject to meeting all City Code requirements and the following:

- 1. A storm water compliance letter and drainage map be submitted to the City confirming that the site is in conformance with the approved storm water management plan for Mills Crossing.
- 2. That the site landscaping associated with this building and site be installed prior to issuance of any occupancy permit, including temporary occupancy permits or surety provided in the amount of 1½ times the bid amount for materials and installation for a temporary occupancy permit to be issued.
- 3. Prior to any building permit, the applicant submitting final site plan drawings for approval stamping.

Vote: Blaser, Christiansen, Pfannkuch..... Yes  
 Cunningham..... Abstain  
 Celsi..... Absent

Motion carried.

**Item 4 – New Business**

There were no New Business items presented.

**Item 5 – Staff Reports**

Development Coordinator Schemmel briefly introduced new Board member, Angie Pfannkuch.

Board member Pfannkuch stated that she is employed with Christiansen Development and that they are involved with development work and construction consulting. She was previously involved with land development and recently moved to construction development. She looks forward to becoming more involved as a Board of Adjustment member.

**Item 6 – Adjournment**

Chairperson Christiansen asked for a motion to adjourn the meeting.

Moved by Board member Blaser, seconded by Board Member Pfannkuch, the Board of Adjustment meeting adjourns.

Vote: Blaser, Christiansen, Cunningham, Pfannkuch..... Yes  
 Celsi..... Absent

Motion carried.

The meeting adjourned at 6:03 p.m.

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Erik P. Christiansen, Chairperson  
Board of Adjustment

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Michelle Riesenber, Recording Secretary