

## CITY OF WEST DES MOINES STAFF REPORT COMMUNICATION

**Meeting Date:** October 5, 2022

**ITEM:** Kum & Go #0098, 5760 Raccoon River Drive – Approval to establish a convenience store with fuel pumps – Kum & Go, LC – PC-005615-2022

**RESOLUTION:** Approval to Establish Land Use

**Background:** Keith Weggen with Civil Design Advantage, on behalf of the applicant, and property owner, Kum & Go, LC, requests approval of a Permitted Conditional Use for that property located at 5760 Raccoon River Drive. Specifically, the applicant requests to operate a convenience store with 6 fuel pumps that will be open 24-hours. This property is located within the Glen Oaks PUD and has underlying zoning of Support Commercial. The 4.12 acres is being platted into 2 lots and the convenience store with fuel pumps will be located on the southern lot.

### **Staff Review & Comment:**

- **History:** The Glen Oaks Planned Unit Development (PUD) was approved by the City Council by Ordinance #1007 on May 26, 1992. The Kum & Go property was included in the 1992 adopted PUD and is designated as Parcel L. The Kum & Go property was identified as 'commercial' land use and was given an underlying zoning of C-1-A, Commercial Plaza District, which allowed convenience stores as a permitted use. The land use of the property has been identified as Support Commercial since the adoption of the 1993 Comprehensive Land use map. In November 2020, the Glen Oaks PUD was amended to remove a portion of Parcel L from the Glen Oaks PUD for the development of the Oaks on Grand office building to the west of Raccoon River Drive extension. At that time, the Glen Oaks PUD Ordinance was amended to specify the underlying zoning of the Kum & Go property as Support Commercial (SC), since the C-1-A zoning (as referenced in the PUD Ordinance) no longer exists within the City zoning code. According to the existing zoning code, a convenience store, with or without fuel pumps, may be permitted in a SC District with a Permitted Conditional Use.
- **Traffic Analysis Findings:** The proposed site is estimated to generate less traffic than estimated in earlier traffic studies. Grand Avenue is a major arterial roadway adjacent to this site. Based on the existing traffic levels and anticipated growth, additional capacity (road widening) is expected to be needed in the near future. This widening is due in part, but not entirely, to traffic generated by the proposed development. The widening of Grand Avenue is currently under design at the time of this study. With the currently forecasted volume, Grand Avenue is recommended to ultimately be a 6-lane roadway with a raised median and dedicated left-turn lanes at full accesses and right-turn lanes where needed. Raccoon River Drive is a minor collector street that was recently constructed north of Grand Avenue and connecting to Booneville Road. The existing 2-lane configuration, widening as it approaches Grand Avenue for turn lanes, is expected to have adequate capacity under full-build traffic levels.

The site's proposed access on Raccoon River Drive is shown slightly offset from the existing driveway on the opposing side of the street. In order to reduce the number of conflict points and potential for confusion, the proposed driveway needs to shift south slightly to line up with the existing driveway. The site's proposed access on Glen Oaks Drive is approximately 125' north of the cross walk at Glen Oaks Drive & Grand Avenue. This distance is adequate, but the driveway must not shift any farther south than its current location. Internal connections to the future commercial property to the north are needed to share driveways and minimize conflict points. The connections would also allow people to easily travel between the commercial properties and not force them to use the surrounding streets.

- Staff Comment:

- Subsequent Approvals: In addition to this PC consideration by the Board of Adjustment, the convenience store with fuel pumps will require approval of a separate Preliminary Plat/Site Plan and Final Plat. Staff recommends a condition of approval that the applicant acknowledge that a building permit can't be issued for the Kum & Go #0098 until the associated site plan is approved by the City Council.
- Access Easement: The Glen Oaks Owner's Association owns property that abuts Kum & Go's project site, which include County Parcels 32000399002010, 32000397001009, and 32002262129008. Kum & Go is proposing vehicular access to its site from Raccoon River Drive to the west and from Glen Oaks Drive to the east. Glen Oaks Owners Association has agreed to sell the three parcels listed above to allow access to the site without crossing property owned by the Glen Oaks Owner's Association. A price has been agreed upon, and the two parties are currently working through a Purchase Agreement. Attached is written confirmation from Glen Oaks Owners Association that a sale of the three parcels adjacent to the Kum & Go site is intended to take place (see exhibit A).
- Crime Analysis: Staff has received a "crime analysis" from Josh Janeczko, an adjacent resident that has expressed concerns about the development. The "crime analysis" was not completed by West Des Police Department staff (WDM PD). In response to an open records request by Mr. Janeczko, the WDM PD provided unfiltered raw data of all "calls for service" at all Kum & Go locations within West Des Moines from 2020 to present. A "call for service" is simply a designation given in the Records Management System (RMS) and does not necessarily indicate a police officer responded to a "crime" or even physically went to a Kum & Go location. For example, this raw data would include any time a citizen accidentally pocket dialed "911" and happened to be at a Kum & Go location. This is why "call for service" data is not reported to the FBI when reporting "crime stats".

Attached to the staff report is information prepared by Mr. Janeczko which includes his addition of classifying crime as "serious/non-serious" (see exhibit B). The conclusions drawn by this "crime analysis" are solely those of Mr. Janeczko.

Kum & Go submitted their own open records request and in speaking with the Chief of Police, specifically requested the Part I Crimes, which would be reportable to the FBI, that occurred on Kum & Go locations within West Des Moines. Including in the staff report is information provided by Kum & Go (see exhibit C).

- **Hours of Operation:** The applicant has indicated the proposed business hours of operation will be 24/7. No restrictions on hours of operations are listed in the Glen Oaks PUD. Staff is unaware of any situation in which a restriction to the hours of operation for convenience stores had been previously requested. Staff would note that there is a Kum & Go located just west of the Mills Civic Parkway entrance to Glen Oaks and that store has 24/7 business hours of operation.
- **Development & Planning Subcommittee:** On May 16, 2022, the Subcommittee was made aware of the proposed project as an upcoming project item. At the meeting Josh Janeczko noted his proximity to the convenience store location (owns property at 5637 Booneville Road) and expressed his concerns about the convenience store and inquired about the zoning. Director Twedt replied that its part of the Glen Oaks PUD and has been zoned as commercial use almost from the beginning. Mr. Janeczko asked why a conditional use permit would be required if commercial is allowed. Director Twedt responded that convenience store uses require such which allows the Board of Adjustment to put conditions on the site or operations as they feel warranted to address any aspect they feel is incompatible to the location. Mr. Janeczko replied that the 24/7 aspect of the gas station is the concern. Assistant City Attorney Jessica Grove clarified that Council does not have authority over this use, but the Board of Adjustment will.

**Recommendation:** Approve the Permitted Conditional Use request, subject to the applicant meeting all City Code requirements, and the following conditions of approval:

1. The applicant acknowledging and agreeing that a building permit may not be issued on Kum & Go #0098 until the associated preliminary plat and/or site plan is approved by City Council.

**Lead Staff Member:** Kate DeVine on behalf of Brian Portz

**Approval Meeting Date:**

Board of Adjustment	October 5, 2022
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**Staff Report Reviews:**

<input checked="" type="checkbox"/> Development Coordinator (or) <input checked="" type="checkbox"/> Director <input checked="" type="checkbox"/> Legal Department
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**Publications (if applicable)**

Published In:	Des Moines Register Community Section
Date(s) Published	8/16/22
Date(s) of Mailed Notices	8/16/22

**Council Subcommittee Review (if applicable)**

Subcommittee	Development & Planning			
Date Reviewed	5/16/22			
Recommendation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Split <input type="checkbox"/>	No Discussion <input type="checkbox"/>

# Location Map





Glen Oaks Owners Association  
1880 Glen Oaks Drive  
West Des Moines, Iowa 50266  
(515) 991-3617 Manager  
(888) 688-0438 Fax  
JamesMcClarnon@aol.com

July 8, 2022

City of West Des Moines  
Development Services Department  
ATTN: Kate DeVine  
4200 Mills Civic Parkway  
West Des Moines, Iowa 50265

RE: Proposed Kum & Go 0098 Access Easement

Dear Ms. DeVine:

We, the Glen Oaks Owners Association, understand that Kum & Go, LC is proposing to construct a new convenience store at 5760 Raccoon River Drive. We own parcels of property that abut Kum & Go's project site, which include County Parcels 32000399002010, 32000397001009, and 32002262129008. Through recent discussions with Kum & Go, LC, we understand Kum & Go, LC is proposing vehicular access to its site from Raccoon River Drive to the west and from Glen Oaks Drive to the east. Our parcel 320003970010089 lies between Kum & Go's property and Glen Oaks Drive. As such, we have negotiated a deal to sell the three parcels listed above. A price has been agreed upon, and we are currently working through the Purchase Agreement.

It also our understanding that Kum & Go has recently submitted applications for a Permitted Conditional Use, Preliminary Plat, Final Plat, and Site Plan to you. Furthermore, we understand that you have informed Kum & Go, LC that the Permitted Conditional Use Application cannot go forward without written confirmation from Glen Oaks Owners Association that a sale of that land is intended to take place. The letter serves as our written consent and our confirmation of intention to sell Kum & Go, LC the three parcels adjacent to their site.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "J. A. McClarnon", written in a cursive style.

James A. McClarnon  
Association Manager

CC: Alex Sappingfield, Kum & Go

# Board of Adjustment Powers

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Director of Development Services, or designee in the enforcement of the zoning regulations in title 9 of this Code.
2. To hear and decide special exceptions to the terms of title 9 of this Code upon which the Board is required to pass.
  - a) A "special exception" is known as a permitted conditional use and permits in a particular district a use not otherwise permitted when certain conditions specifically set out in title 9 of this Code are satisfied.
  - b) Required Permitted Conditional Use Permit Findings: Permitted conditional use permits (Pc) may only be granted if all the following findings are made; or if conditions and limitations, as the Board of Adjustment deems necessary, are imposed to allow it to make said findings. It shall be the responsibility of the applicant to prove to the satisfaction of the Board of Adjustment that the following findings can be made:
    1. That the proposed use is consistent with the West Des Moines comprehensive plan and any applicable sub area plan.
    2. That the proposed use does assure compatibility of property uses within the zone and general area.
    3. That all applicable standards and conditions have been imposed which protect the public health, safety and welfare.
    4. That there is adequate on-site and off-site public infrastructure to support the proposed use.
    5. That the proposed use has met all the requirements contained in this Code.
    6. That the proposed use be in keeping with the scale and nature of the surrounding neighborhood.

# Request the BOA limit operating hours to 5AM – 10PM

## Why are we making this request?

- C-store open 24/7 would not match the operating hours of any other commercial business in the neighborhood.
- C-stores operating 24/7 will increase crime in our neighborhood.



## Character of the Surrounding Neighborhood

- No other commercial property on the “Grand Technology Gateway” is open 24/7
  - RecPlex – Closes at 5PM
  - DMACC West Campus – Closes at 5PM
  - The Oaks on Grand – Closes at 6PM
  - Microsoft Corp – Unknown
  - Des Moines University - Still under construction
  - West Des Moines Public Works – Closes at 4PM

\*Operating hours are according to google maps or the properties website

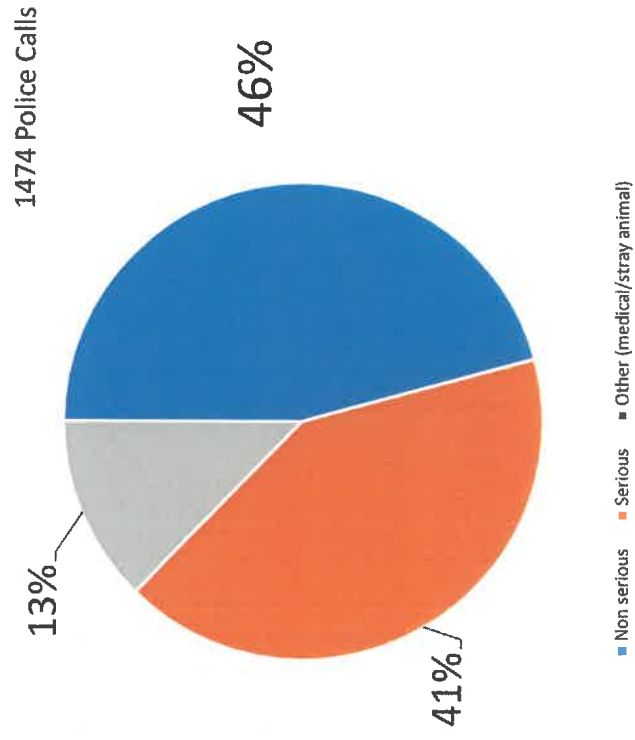


If allowed to be open 24/7, this will draw motorists traveling on I-35 and the crime that comes with them.



# Kum and Go Police Activity - West Des Moines

Data collected from January 2020 – August 2022



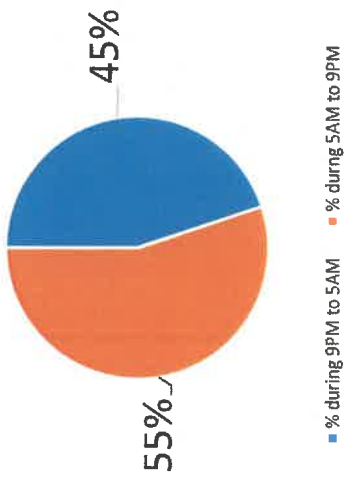
## Kum and Go Police Activity - West Des Moines

- **Serious includes:**
  - Assault
  - Domestic Dispute
  - Drugs
  - Fight
  - Harassment/Threat
  - Hit and Run
  - Hold-up
  - Impaired Driver
  - Road Rage
  - Robbery
  - Susp Activity/Person/Vehicle
  - Theft
  - Trespassing
  - Wanted Person/vehicle
  - Unwanted Person
  - Vandalism
  - Welfare Check
- **Non serious includes:**
  - Abandoned vehicle
  - Compliance check
  - Dispute
  - Document property pick up
  - Fraud/Forgery
  - Keep the peace
  - Lock in/out
  - MVC Accident
  - Nuisance
  - Public Assist
  - Reckless Driving
  - Traffic related
  - Violation of Court
- **Other includes:**
  - Assist other agency
  - Information
  - Motorist Assist
  - PD health issues
  - Stray animal
  - Supplemental

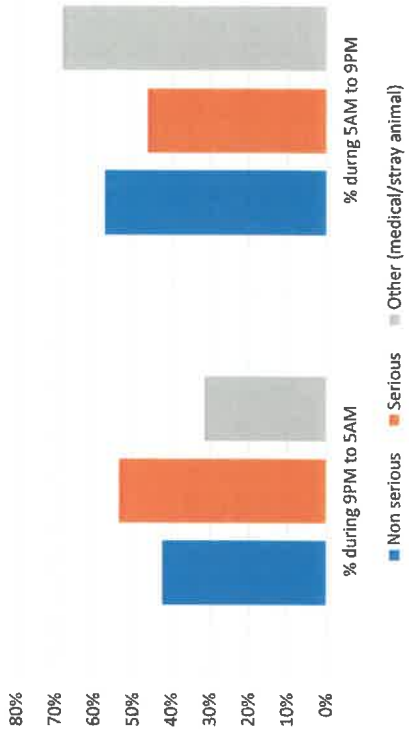
# Kum and Go Police Activity - West Des Moines

- During the eight-hour period of 9PM to 5AM: 45% of all police calls come in.
- Of those calls, 328 were of the serious nature, which is 53% of all the total serious calls.
- Limiting hours of operation to 5AM to 10PM would reduce crime.

When WDSM calls come in



When Police Activity Occurs



# Daytime vs. Overnight Crime Analysis

## Serious Police Incidents

Serious Incident Description	Daytime	Overnight	Grand Total	% Nighttime
Domestic WEAPON	0	1	1	100%
Fight WEAPON	0	1	1	100%
Robbery	0	2	2	100%
Robbery WEAPON	0	3	3	100%
Suspicious Vehicle WEAPON	0	1	1	100%
Trespassing WEAPON	0	1	1	100%
Suspicious Vehicle	13	86	99	87%
Susp Activity	3	15	18	83%
Fight PHYSICAL	3	8	11	73%
Impaired Driver/Person	28	49	77	64%
Assault	3	5	8	63%
Suspicious Person	15	24	39	62%
Drug Situation	3	3	6	50%
Suicide Threat	1	1	2	50%
Harassment/Threat	8	7	15	47%
Trespassing	5	4	9	44%
Wanted Person/Vehicle	7	5	12	42%
Unwanted Person	31	22	53	42%
Welfare Check	54	35	89	39%
Reckless Driving Complaint	13	8	21	38%
Theft	53	32	85	38%
Burglary to Vehicle	2	1	3	33%
Domestic FIGHT/PHYSICAL	4	2	6	33%
Domestic Past/One Half Only	2	1	3	33%
Vandalism Past	2	1	3	33%
Hold up Alarm/Panic/Duress	7	3	10	30%
Vehicle Theft	8	3	11	27%
Domestic Non-Physical	4	1	5	20%
Hit and Run No Injury	11	2	13	15%
Road Rage	5	0	5	0%
Sexual Assault	1	0	1	0%
<b>Grand Total</b>	<b>287</b>	<b>328</b>	<b>615</b>	<b>53%</b>

## Non-Serious Police Incidents

Non Serious Description	Daytime	Overnight	Grand Total	% overnight
Fraud/Forgery	0	2	2	100%
Landline 911 Call	0	3	3	100%
Mischief	0	1	1	100%
Missing Person	0	2	2	100%
MVC UNK Injury	0	1	1	100%
Traffic Stop	121	170	291	58%
Public Assist	39	46	85	54%
Traffic Hazard	1	1	2	50%
Dispute/Disturbance	14	10	24	42%
Document/Property Pickup	3	2	5	40%
Dispute/Disturbance Past	5	3	8	38%
Lock in/out	64	20	84	24%
Mental	5	1	6	17%
Fraud/Forgery Past	7	1	8	13%
MVC No Injury	62	8	70	11%
Nuisance	23	2	25	8%
Keep the Peace	17	1	18	6%
Abandoned Vehicle	2	0	2	0%
Abuse/Neglect/Abandon	1	0	1	0%
Compliance Check	26	0	26	0%
Illegal Dumping	1	0	1	0%
Indecency	1	0	1	0%
Lock in/out PERSON	2	0	2	0%
PD Struct Fire	1	0	1	0%
PD Vehicle Fire	1	0	1	0%
Suicide Threat	1	0	1	0%
Violation of Court Order Past	1	0	1	0%
<b>Grand Total</b>	<b>398</b>	<b>274</b>	<b>672</b>	<b>41%</b>

## Other options for 24/7 C stores within 1.5 miles

Our neighborhood is already serviced by 3 other K&G stores open 24/7.



# Three locations closest to Glen Oaks

- These account for 43% of all the police activity at the 18 K&G's located in WDM.
  - 220 50<sup>th</sup> Street = 17%
  - 5901 Mills Civic = 14%
  - 745 S 51<sup>st</sup> Street = 12%



## C - Stores within 100 feet of residential properties in WDM

- Phillips 66 at 3501 EP True Open 6AM – 11PM
- Casey's at 108 8<sup>th</sup> St Open 5AM – 10PM
- Casey's at 2125 Grand Ave Open 5AM – 11PM
- Hy-Vee at 9150 University Avenue Open 5AM – 11PM
- Kum & Go at 5969 Ashworth Open 24 Hours
- Quick Trip at 1451 22<sup>nd</sup> St Open 24 Hours



## Kum & Go - 5969 Ashworth Road Crime Data

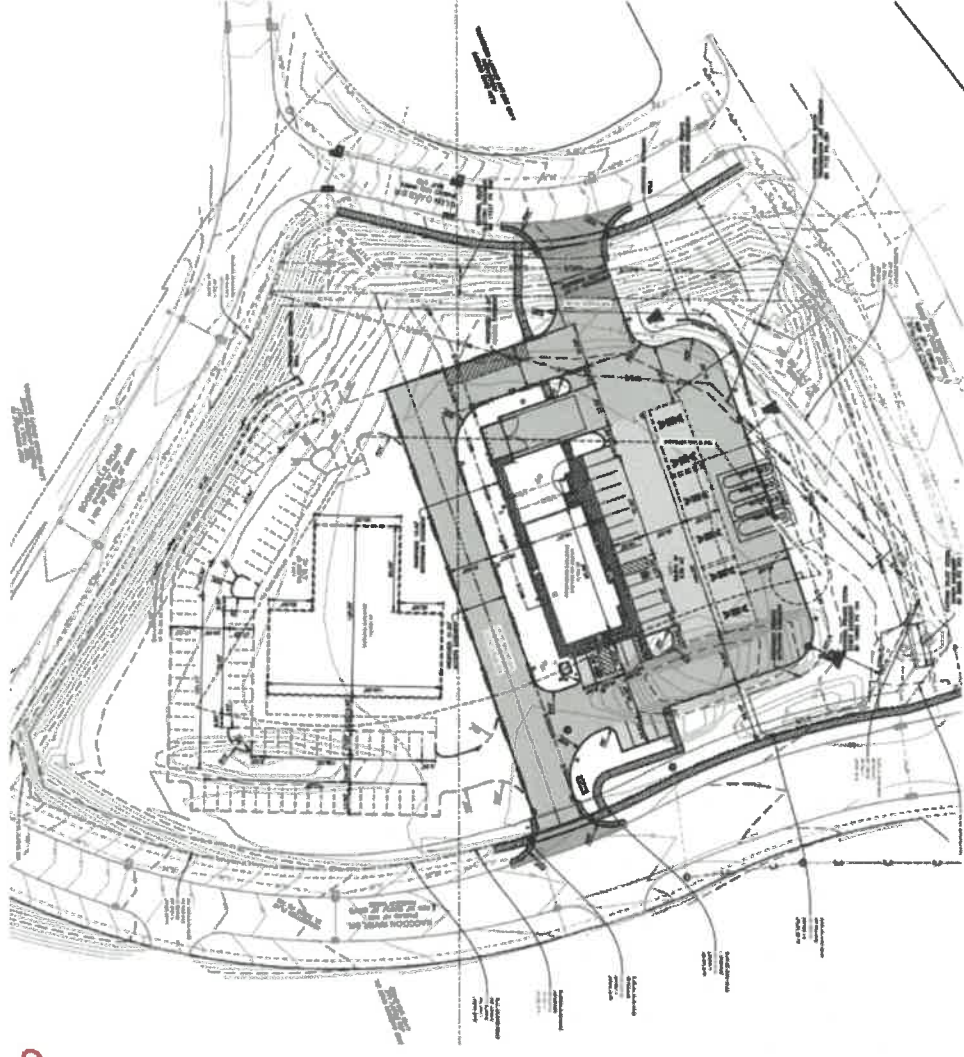
<b>Incident Description</b>	<b>5AM-9PM</b>	<b>9PM-5AM</b>	<b>Total Incidents</b>
<b>Non-Serious</b>	<b>39</b>	<b>30</b>	<b>69</b>
<b>Serious</b>	<b>25</b>	<b>47</b>	<b>72</b>
<b>Other</b>	<b>7</b>	<b>6</b>	<b>13</b>
<b>Grand Total</b>	<b>71</b>	<b>83</b>	<b>154</b>

This store ranks 5<sup>th</sup> out of the 18 Kum & Go's in WDM in total incidents.

54% of all police incidents happen from 9PM – 5AM

Store sits approximately 2,300 feet from the I-80 east bound exist.

**Item e: Kum & Go**



## Summary

- 24/7 C-Store is too close to the entrance of our property
- The proposed development does not meet the standards and conditions to protect the public health, safety and welfare.
- The proposed 24/7 use does not keep with the scale and nature of the surrounding neighborhood.

Therefore, we request the hours of this development be limited.



**Kum & Go, L.C. – Real Estate Department**

1459 Grand Ave – Des Moines, IA 50309

Sender's Direct Telephone: (515) 408-3377

Sender's E-mail: alex.sappingfield@kumandgo.com

September 29, 2022

To: West Des Moines Board of Adjustments

RE: Kum &amp; Go Proposed Development

Dear Members,

I am the Real Estate Development Manager for Kum & Go in the Des Moines area and I'm pleased to present a site located at 5959 Grand Avenue to the Board of Adjustment at the meeting on October 5<sup>th</sup> requesting a Conditional Use Permit. It has been brought to my attention that a concerned neighbor has submitted materials regarding the proposed development for your review. Through an open records request, he received raw data from the WDM Police Department regarding calls for service to Kum & Go Stores.

I along with the Senior Vice President of Store Development for Kum & Go met with this individual separately. His main concern surrounding the proposed development is potential crime it could bring to the area. I reached out to and communicated with a few members of the WDM PD, including Chief Chris Scott. Chief Scott had a chance to view the analysis that was provided to the board, and he does not believe it is an accurate representation of crime at Kum & Go stores. Breaking down calls between serious and non-serious is not something WDM PD practices. He instead recommended I submit a request for the Part I Crimes reported to the FBI that occurred on Kum & Go property. That breakdown is included in the attached packet. In a 33-month period across 12 locations there have been 67 - Part I crimes reported. If shoplifting is removed that number drops to 39, which results in an average of 3.25 Part I Crimes per Kum & Go Store per Year.

The concerned citizen also thought this site is unique because of its distance to existing residential development. I've compared the distance of the proposed development to the nearest residential unit with other existing Kum & Go stores. In the attached packet, I've illustrated that Kum & Go currently operates several stores in West Des Moines that has existing residential closer to the store than would occur at the proposed development.

I look forward to seeing you at the BOA Meeting on October 5<sup>th</sup> and will be happy to address all questions and concerns at that time.

Respectfully,

A handwritten signature in black ink, appearing to read "Alex Sappingfield".

Alex Sappingfield  
Real Estate Development Manager



*A Fresh Perspective*

# Where we started...1959



**4 generations, Family  
Owned and  
Operated....no  
Franchisees!**





# Kum & Go today

**14**  
states

**430**  
stores

**5,000**  
associates

**500,000**  
daily customers

**& growing into  
Grand Rapids and  
Michigan**

# Community impact when Kum & Go builds a store

- Approx \$7.5M investment
- Public infrastructure improvements
- Tax role (real estate, personal property)
- Fuel and sales tax on \$6-10 million dollars in sales





# Every new store means full-time jobs with benefits

## 70% of associates work full-time roles

## 15+ associates per store



### work-life balance

- Work the same schedule every week
- 6 days of paid time off
- Weekly pay

### plan for your future

- 401K with auto enrollment and match up to 4%
- Earn \$250 in our annual savings club

### health & wellness

- Medical, dental, and vision insurance for you & your family
- Paid maternity, paternity, & adoption leave
- Employee Assistance Program – free resource helping with life’s personal & mental health ups & downs

### additional perks

- Tuition reimbursement
- Associate discount
- Free work meals, soda, & coffee
- Company provided uniform
- Time off to vote



A Fresh Perspective

\*estimate includes insurance cost, 401k, PTO, & overtime

# Renewable Fuel Leadership

- **EV charging at 10% of stores by YE**
- **Conduit run for all new stores**
- **70M+ gallons total renewable fuels blend**

Kum & Go was one of the first retailers to begin offering E85 in the 1990s. The company started adding E15 to its product offering in 2015, and currently offers it at about 40% of stores. Today, Kum & Go builds all new stores with both E85 and E15 at the pump. In 2019, Kum & Go sold more than 72 million gallons of ethanol. E15 and E85 are used to describe a range of gas products containing higher blends of ethanol, a renewable biofuel. Kum & Go is also partnering with Tesla, ChargePoint, and others to bring electric vehicle charging stations to store locations that fill a network need for the providers. We put in the infrastructure for future EV charging at every new store we build.





10%

**of our profits are  
donated back to  
our communities**

Our commitment to **'Making Days Better'** is demonstrated through our commitment to giving back. We are proud to do this each year, reaching thousands of individuals and families throughout the country.

Through grants, sponsorships, and in-kind donations, we donated to 246 nonprofit organizations & schools last year.

In 2010, we became the first and only c-store chain certified in the U.S. Green Building Council's Leadership in Energy & Environmental Design (LEED) Volume Program.

Kum & Go recently ceased pursuing LEED certification and partnered with the National Association of Convenience Stores (NACS) and the Environmental Protection Agency (EPA) to develop the first c-store category for Energy Star certification.

Kum & Go has a long-standing commitment to efficient and environmentally-responsible new construction

**44%** More energy-efficient per square foot than our legacy stores (built 2004-2009)

**100%** LED-emitting diode (LED) lighting

**109**

Stores have achieved LEED certification.

**37**

Certified

**60**

Silver

**12**

Gold



# our food rescue program

Associates and volunteers across nine states and 300+ stores work to donate meals to over 150 agencies

- These agencies include
- food shelters
  - school pantries
  - low-income housing
  - domestic abuse shelters
  - youth & adult homeless shelters
  - elderly & disabled community centers
  - afterschool community programs serving low-income communities

*"Thank you for your generous gift of 334,615 lbs. of various fresh and shelf-stable food items throughout 2019. Your generous contribution makes it possible for Eat Greater Des Moines to fulfill our mission to connect communities through food."*

Eat Greater Des Moines

*"As a Food Bank, we cannot do what we do without tremendous partners like you. Please extend this thank you to your hardworking staff at each of your stores that make an impact within our region."*

Hawkeye Area Community Action Program



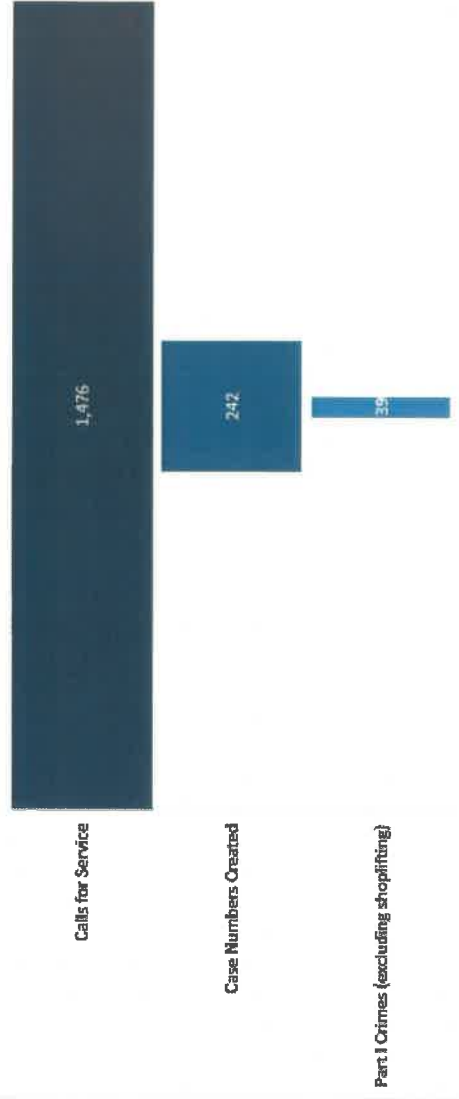
Pounds diverted from landfill  
**1,700,000+**

2020-2021 meals  
**3,100,000+**

# Existing Kum & Go Crime Stats

Row Labels	Count
AGGRAVATED ASSAULT	3
ALL OTHER LARCENY	17
MOTOR VEHICLE THEFT	6
POCKET PICKING	1
ROBBERY	8
SHOPLIFTING	28
THEFT FROM BUILDINGS	1
THEFT FROM MOTOR VEHICLE	2
THEFT OF MOTOR VEHICLE PARTS OR ACCESSORIES	1
(blank)	
<b>Grand Total</b>	<b>67</b>
SHOPLIFTING	28
	39

12 Locations over a 33-Month Period



# Proposed Site Distance to Residential



# Distance to Residential Existing Kum & Go Stores





Prepared by: Kate DeVine, City of West Des Moines Development Services Dept., 515-222-3620  
When Recorded, Development Services, City of West Des Moines, PO Box 65320, West Des Moines, IA  
Return to: 50265-0320

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**RESOLUTION NO. BOA-2022-17**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE  
CITY OF WEST DES MOINES, APPROVING A PERMITTED CONDITIONAL  
USE PERMIT TO ALLOW A CONVENIENCE STORE WITH FUEL PUMPS**

**WHEREAS**, pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, the applicant and property owner, Kum & Go, LC, request approval of a Permitted Conditional Use permit for that property located at 5760 Raccoon River Drive and legally described in attached Exhibit 'B'. The applicant is requesting approval allowing a convenience store with fuel pumps; and

**WHEREAS**, studies and investigations were made, and staff reports, and recommendations were submitted which is made a part of this record and herein incorporated by reference; and

**WHEREAS**, the request complies with applicable findings and provisions of Title 9, the Comprehensive Plan, and City Code; and

**WHEREAS**, on this day this Board of Adjustment held a duly noticed Public Hearing to consider the Permitted Conditional Use permit application.

**NOW, THEREFORE**, The Board of Adjustment hereby approves the Permitted Conditional Use permit (PC-005615 -2022) subject to compliance with all the conditions in the staff report, dated October 5, 2022, including conditions added at the meeting, and attached hereto as Exhibit "A". Violation(s) of any such condition(s) shall be grounds for revocation of the entitlement, as well as any other remedy which is available to the City.

**PASSED AND ADOPTED** on October 5, 2022.

\_\_\_\_\_  
Michele Stevens, Chairperson  
Board of Adjustment

ATTEST:

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment of the City of West Des Moines, Iowa, at a regular meeting held on October 5, 2022, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

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Recording Secretary

**Exhibit A: Conditions of Approval**

1. The applicant acknowledging and agreeing that a building permit may not be issued on Kum & Go 0098 until the associated preliminary plat and/or site plan is approved by City Council.

## Exhibit B: Legal Description

A PART OF GOVERNMENT LOT 4 OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 30 AND A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 19, AND A PART OF PARCEL "C" AS SHOWN ON THE ACQUISITION PLAT RECORDED IN BOOK 7117, PAGE 493, BEING A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 19 AND THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 30, ALL IN TOWNSHIP 7B NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER; THENCE NORTH 89°35'05" EAST ALONG THE NORTH LINE OF SAID SECTION 30, A DISTANCE OF 35.26 FEET TO THE SOUTHWEST CORNER OF TRACT 1 OF SAID PARCEL "C" AS SHOWN ON THE ACQUISITION PLAT RECORDED IN BOOK 18554, PAGE 468; THENCE CONTINUING NORTH 89°35'05" EAST ALONG SAID NORTH LINE, 0.44 FEET TO THE EASTERLY LINE OF SAID PARCEL "C"; THENCE SOUTHERLY ALONG SAID EASTERLY LINE AND A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 257.95 FEET, WHOSE ARC LENGTH IS 187.15 FEET AND WHOSE CHORD BEARS SOUTH 04°47'20" EAST, 183.07 FEET; THENCE SOUTHERLY CONTINUING ALONG SAID EASTERLY LINE AND A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 25.00 FEET, WHOSE ARC LENGTH IS 38.19 FEET AND WHOSE CHORD BEARS SOUTH 12°07'06" WEST, 34.58 FEET; THENCE SOUTHWESTERLY CONTINUING ALONG SAID EASTERLY LINE AND A CURVE CONCAVE SOUTHEASTERLY WHOSE RADIUS IS 1701.10 FEET, WHOSE ARC LENGTH IS 83.13 FEET AND WHOSE CHORD BEARS SOUTH 54°23'36" WEST, 83.12 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 940.00 FEET, WHOSE ARC LENGTH IS 177.96 FEET AND WHOSE CHORD BEARS SOUTH 68°21'59" WEST, 177.69 FEET TO THE SOUTHEAST CORNER OF THE ACQUISITION TRACT DEPICTED IN EXHIBIT 002-F2 AND RECORDED IN BOOK 18883, PAGE 159; THENCE NORTHEASTERLY ALONG THE EASTERLY LINE OF SAID ACQUISITION TRACT AND A CURVE CONCAVE SOUTHEASTERLY WHOSE RADIUS IS 1762.15 FEET, WHOSE ARC LENGTH IS 31.65 FEET AND WHOSE CHORD BEARS NORTH 48°11'13" EAST, 31.65 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF GRAND AVENUE; THENCE WESTERLY ALONG SAID NORTHERLY RIGHT OF WAY LINE AND A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 987.50 FEET, WHOSE ARC LENGTH IS 94.52 FEET AND WHOSE CHORD BEARS SOUTH 76°41'52" WEST, 94.49 FEET TO THE EASTERLY RIGHT OF WAY LINE OF RACCOON RIVER DRIVE; THENCE NORTH 55°08'59" WEST ALONG SAID EASTERLY RIGHT OF WAY LINE, 33.27 FEET; THENCE NORTHERLY CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE AND A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 550.00 FEET, WHOSE ARC LENGTH IS 185.20 FEET AND WHOSE CHORD BEARS NORTH 18°07'34" WEST, 184.33 FEET; THENCE NORTHERLY CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE AND A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 470.00 FEET, WHOSE ARC LENGTH IS 119.52 FEET AND WHOSE CHORD BEARS NORTH 20°29'15" WEST, 119.20 FEET; THENCE NORTHERLY CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE AND A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 470.00 FEET, WHOSE ARC LENGTH IS 23.27 FEET AND WHOSE CHORD BEARS NORTH 14°54'09" WEST, 23.27 FEET; THENCE NORTHERLY CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE AND A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 470.00 FEET, WHOSE ARC LENGTH IS 67.75 FEET AND WHOSE CHORD BEARS NORTH 09°23'17" WEST, 67.69 FEET; THENCE NORTHERLY CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE AND A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 475.00 FEET, WHOSE ARC LENGTH IS 237.53 FEET AND WHOSE CHORD BEARS NORTH 12°08'01" EAST, 235.06 FEET; THENCE NORTH 74°38'05" EAST CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE, 38.60 FEET; THENCE NORTH 30°58'59" EAST CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE, 6.43 FEET; THENCE SOUTH 58°40'18" EAST ALONG THE SOUTHERLY RIGHT OF WAY LINE OF BOONEVILLE ROAD, 288.58 FEET; THENCE SOUTHEASTERLY CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY LINE AND A CURVE CONCAVE NORTHEASTERLY WHOSE RADIUS IS 475.00 FEET, WHOSE ARC LENGTH IS 73.96 FEET AND WHOSE CHORD BEARS SOUTH 64°26'00" EAST, 73.89 FEET TO THE EAST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE EASTERLY CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY LINE AND A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 360.49 FEET, WHOSE ARC LENGTH IS 21.34 FEET AND WHOSE CHORD BEARS SOUTH 71°30'49" EAST, 21.34 FEET TO THE NORTHEASTERLY LINE OF SAID PARCEL "C"; THENCE SOUTHEASTERLY ALONG SAID NORTHEASTERLY LINE AND A CURVE CONCAVE SOUTHWESTERLY WHOSE RADIUS IS 211.71 FEET, WHOSE ARC LENGTH IS 15.47 FEET AND WHOSE CHORD BEARS SOUTH 50°15'08" EAST, 15.47 FEET; THENCE SOUTH 47°51'39" EAST CONTINUING ALONG SAID NORTHEASTERLY LINE, 8.44 FEET; THENCE SOUTH 31°58'30" EAST ALONG THE WESTERLY RIGHT OF WAY LINE OF BOONEVILLE ROAD, 27.04 FEET; THENCE SOUTH 13°36'19" WEST CONTINUING ALONG SAID WESTERLY RIGHT OF WAY LINE, 74.03 FEET; THENCE SOUTHERLY CONTINUING ALONG SAID WESTERLY RIGHT OF WAY LINE AND A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 230.00 FEET, WHOSE ARC LENGTH IS 11.02 FEET AND WHOSE CHORD BEARS SOUTH 12°13'59" WEST, 11.02 FEET TO THE POINT OF BEGINNING AND CONTAINING 4.73 ACRES (205,942 SQUARE FEET).

THE PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.