



Date March 25, 2013

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on March 7, 2013, its members voted 11-3 in support of a motion to recommend APPROVAL of a request from First Equity Property Holdings – Acquisitions Fund II, LLC (purchaser) represented by Anne Walters (officer), Roanoke Holdings, LLC; Joan Thaler, MEM Investments, LLC; Dolores Sayers; and Jackson Huynh (owners) to rezone property in the vicinity of 2303 Merle Hay Road from R1-60 One-Family Low-Density Residential District and C-1 Neighborhood Retail Commercial District to PUD Planned Unit Development District and a PUD Concept Plan for a 12,900 square foot pharmacy store with drive-thru, a 2,348 square foot outdoor storage area and up to 84 parking spaces subject to conditions.

The subject property is more specifically described as follows:

LOTS 2, 3, 4, 5, 6, 7, 8 AND 9 IN NEIMAN PLACE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA,

AND,

AN IRREGULAR SHAPED PORTION OF LOTS 10, 17, 18, 19, 20, 21 AND A IN SAID NEIMAN PLACE, MORE ACCURATELY DESCRIBED AS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 2; THENCE SOUTH 89°(DEGREES) 36' (MINUTES) 00" (SECONDS) EAST ALONG THE NORTH LINE OF SAID LOT 2 AND ALONG THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 2, A DISTANCE OF 250.00 FEET TO THE EAST LINE OF SAID LOT 21; THENCE SOUTH 00°17'15" WEST ALONG THE EAST LINE OF SAID LOT 21, A DISTANCE OF 100.00 FEET TO THE NORTH LINE SAID LOT A; THENCE SOUTH 89°36'00" EAST ALONG THE NORTH LINE OF SAID LOT A, A DISTANCE OF 11.66 FEET; THENCE SOUTH 00°15'00" WEST, A DISTANCE OF 50.00 FEET TO THE NORTH LINE OF SAID LOT 17; THENCE SOUTH 89°36'00" EAST ALONG THE NORTH LINE OF SAID LOT 17, A DISTANCE OF 38.24 FEET TO THE NORTHEAST CORNER OF SAID LOT 17; THENCE SOUTH 00°12'25" WEST ALONG THE EAST LINE OF SAID LOT 17, A DISTANCE OF 99.89 FEET; THENCE NORTH 89°36'15" WEST, A DISTANCE OF 112.79; THENCE SOUTH 00°26'54" WEST, A DISTANCE OF 189.61 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF HICKMAN ROAD AS IT IS PRESENTLY ESTABLISHED, SAID POINT BEING 10.50 FEET NORTH OF THE SOUTH LINE OF SAID LOT 10; THENCE NORTH 89°36'15" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID HICKMAN ROAD, A DISTANCE OF 36.41 FEET TO THE EAST LINE OF SAID LOT 9; THENCE SOUTH 00°17'15" WEST ALONG THE EAST LINE OF SAID LOT 9, A DISTANCE OF 3.50 FEET; THENCE NORTH 89°36'15" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID HICKMAN ROAD, A DISTANCE OF 132.00 FEET; THENCE NORTH 44°39'30" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID HICKMAN ROAD, A DISTANCE OF 25.48 FEET TO THE WEST LINE OF SAID LOT 7 AND TO THE EAST



Roll Call Number

Agenda Item Number

20

Date March 25, 2013

RIGHT-OF-WAY LINE OF MERLE HAY ROAD AS IT IS PRESENTLY ESTABLISHED; THENCE NORTH 00°17'15" EASET ALONG THE EAST RIGHT-OF-WAY LINE OF SAID MERLE HAY ROAD, A DISTANCE OF 425.02 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 2.38 ACRES.

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 April 8, 2013, 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.

FORM APPROVED: MOVED by \_\_\_\_\_ to adopt.

Michael F. Kelley
Assistant City Attorney

(ZON2013-00007)

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.

MOTION CARRIED APPROVED

Mayor

City Clerk

First Equity Property Holdings-Acquisitions Fund II LLC  
(CVS/Pharmacy Store No. 10329) - 2303 Merle Hay Road

ZON2013-00007



Request from First Equity Property Holdings – Acquisitions Fund II, LLC (purchaser) represented by Anne Walters (officer) to rezone property in the vicinity of 2303 Merle Hay Road. The subject property is owned by Roanoke Holdings, LLC; Joan Thaler, MEM Investments, LLC; Dolores Sayers; and Jackson Huynh.				<b>File #</b> <b>ZON2013-00007</b>	
<b>Description of Action</b>	Approval of request to rezone property from "R1-60" One-Family Low-Density Residential District and "C-1" Neighborhood Retail Commercial District to "PUD" Planned Unit Development and approval of a PUD Conceptual Plan "CVS/Pharmacy Store No. 10329" to allow redevelopment of 2.38 acres for a 12,900-square foot one-story pharmacy and general retail store with a two-lane drive-thru window and up to 84 off-street parking spaces subject to conditions including review and approval of the Final Development Plan by the Plan and Zoning Commission.				
<b>2020 Community Character Plan</b>	Low-Density Residential (current) Commercial: Auto Oriented Small Scale Strip Commercial (proposed)				
<b>Horizon 2035 Transportation Plan</b>	No Planned Improvements				
<b>Current Zoning District</b>	"R1-60" One-Family Low-Density Residential District and "C-1" Neighborhood Retail Commercial District				
<b>Proposed Zoning District</b>	"PUD" Planned Unit Development				
<b>Consent Card Responses</b>	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	9	2			
Outside Area	6	3			
<b>Plan and Zoning Commission Action</b>	Approval	11-3	<b>Required 6/7 Vote of the City Council</b>	Yes	
	Denial			No	X

First Equity Property Holdings-Acquisitions Fund II LLC  
(CVS/Pharmacy Store No. 10329) - 2303 Merle Hay Road ZON2013-00007





Date March 25, 2013

March 13, 2013

Agenda Item 20

Roll Call # \_\_\_\_\_

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 March 7, 2013, the following action was taken regarding a request from First Equity Property Holdings – Acquisitions Fund II, LLC (purchaser) represented by Anne Walters (officer) to rezone property in the vicinity of 2303 Merle Hay Road.

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 14-0 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			
John "Jack" Hilmes	X			
Ted Irvine	X			
Greg Jones	X			
William Page	X			
Christine Pardee	X			
Mike Simonson				X
CJ Stephens	X			
Vicki Stogdill	X			
Greg Wattier	X			

**APPROVAL** of Part A) to find the proposed rezoning is **not** in conformance with the existing Des Moines' 2020 Community Character

By separate motion Commissioners recommended 13-1 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			
John "Jack" Hilmes	X			
Ted Irvine	X			
Greg Jones	X			
William Page	X			



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

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
Christine Pardee	X			
Mike Simonson				X
CJ Stephens	X			
Vicki Stogdill	X			
Greg Wattier		X		

**APPROVAL** of Part B) to approve the proposed amendment to the Des Moines' 2020 Community Character Plan Future Land Use Map from Low Density Residential to Commercial, Auto-Oriented, Small-Scale Strip Development. (21-2013-4.03)

By separate motion Commissioners recommended 11-3 as follows:

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

**APPROVAL** of Part C) to approve the proposed rezoning to "PUD" Planned Unit Development District:

By separate motion Commissioners recommended 11-3 as follows:

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

**APPROVAL** of Part D) to approve the proposed Conceptual Plan, subject to the following modifications: (ZON2013-00007)

- 1) All trash enclosures having a brick enclosure with solid metal gates.
- 2) Any freestanding sign shall be of a monument type with an enclosed base similar to the sign approved for the applicant's store at 2<sup>nd</sup> Avenue and Euclid Avenue. However, the height of the monument sign can be no more than 10 – 12 feet tall.
- 3) Inclusion of a statement that any development plan will comply with all provisions of the City, State, and Federal traffic codes.
- 4) Inclusion of a statement in the permitted uses that the general retail store may include the sale of beer, wine, and alcoholic liquor.
- 5) Plan and Zoning review of the final development plan including landscaping and signage.

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

Part A) Staff recommends the Plan and Zoning Commission find the requested rezoning not in conformance with the existing Des Moines' 2020 Community Character Plan.

Part B) Staff recommends approval of the proposed amendment to the Des Moines' 2020 Community Character Plan Future Land Use Map from Low Density Residential to Commercial, Auto-Oriented, Small-Scale Strip Development.

Part C) Staff recommends approval of the proposed rezoning to "PUD" Planned Unit Development District.

Part D) Staff recommends approval of the proposed Conceptual Plan, subject to the following modifications:

- 1) All trash enclosures having a brick enclosure with solid metal gates.
- 2) Any freestanding sign shall be of a monument type with an enclosed base similar to the sign approved for the applicant's store at 2<sup>nd</sup> Avenue and Euclid Avenue.
- 3) Inclusion of a statement that any development plan will comply with all provisions of the City, State, and Federal traffic codes.
- 4) Inclusion of a statement in the permitted uses that the general retail store may include the sale of beer, wine, and alcoholic liquor.

#### Written Responses

15 In Favor

5 In Opposition

### **STAFF REPORT**

#### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The proposed PUD would allow development of a 12,900-square foot pharmacy store with a drive-thru window on the vacant gas station site on the northeast corner of Hickman Road and Merle Hay Road. This would involve

removal of four (4) residential properties to the north and the relocation of outdoor storage for the seasonal garden center for the hardware store to the east.

2. **Size of Site:** 2.38 acres. The pharmacy store site would be 1.88 acres.
3. **Existing Zoning (site):** "R1-60" One-Family, Low-Density Residential District and "C-1" Neighborhood Retail Commercial District.
4. **Existing Land Use (site):** Vacant gas station and single-family dwellings.
5. **Adjacent Land Use and Zoning:**
  - North** – "R1-60"; Uses are single-family dwellings.
  - South** – "C-2" & "C-1"; Uses are the Hickman Auto Repair shop and George's Chili King drive-in restaurant.
  - East** – "C-1" & "R1-60"; Uses are commercial strip center with ACE hardware store anchor and single-family dwellings.
  - West** – "C-1" & "R1-60"; Uses are Marino's Restaurant and Knox Presbyterian Church.
6. **General Neighborhood/Area Land Uses:** The proposed development is located at the intersection of two major traffic corridors. U.S. Highway 6 is Merle Hay Road to the north of the site and Hickman Road to the west of the site.
7. **Applicable Recognized Neighborhood(s):** The subject property is within the Merle Hay Neighborhood. This neighborhood was notified of the meeting by mailing of the Preliminary Agenda to all recognized neighborhoods on February 15, 2013. Additionally, separate notifications of the hearing for this specific item were mailed on February 1, 2013 (20 days prior to the originally scheduled February 21, 2013 hearing) and February 11, 2013 (10 days prior to the originally scheduled February 21, 2013 hearing) to Martin Luther King Jr. Park Neighborhood Association and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. A Final Agenda for the meeting was mailed to all the recognized neighborhood associations on March 1, 2013.

All agendas and notices are mailed to the primary contact person designated to the City of Des Moines Neighborhood Development Division by the recognized neighborhood association. The Merle Hay Neighborhood Association mailings were sent to Steve Berry, 2743 53<sup>rd</sup> Street, Des Moines, IA, 50310.

The applicant is required to schedule a neighborhood meeting prior to the hearing which includes invitation to Merle Hay Neighborhood Association contact and to the primary titleholder on file with the Polk County Assessor for each property within 250 feet of the site. The applicant has reported that a meeting was held on February 19, 2013 and a summary of the meeting will be provided at the public hearing.

8. **Relevant Zoning History:** On October 23, 1989 the City Council approved a limited "C-1" District zoning on the property immediately north of the vacant gas station which is contiguous to the ACE Hardware commercial center. This rezoning limited the property to one directory sign not to exceed 75 square feet in area.



