

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)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

#### 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.

City Clerk

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

ZON2013-00007



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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.				File # <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, 2013Agenda Item 20

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

March 13, 2013

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.



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9. **2020 Community Character Land Use Plan Designation:** Commercial: Auto-Oriented, Small-Scale Strip Development and Low Density Residential.

10. **Applicable Regulations:** The Commission reviews all proposals to amend zoning regulations or zoning district boundaries within the City of Des Moines. Such amendments must be in conformance with the comprehensive plan for the City and designed to meet the criteria in §414.3 of the Iowa Code. The Commission may recommend that certain conditions be applied to the subject property if the property owner agrees in writing, in addition to the existing regulations. The recommendation of the Commission will be forwarded to the City Council.

The application, accompanying evidence and Conceptual Plan shall be considered by the Plan and Zoning commission at a public hearing. The Commission shall review the conformity of the proposed development with the standards of this division and with recognized principles of civic design, land use planning, and landscape architecture. At the conclusion of the hearing, the Commission may vote to recommend either approval or disapproval of the Conceptual Plan and request for rezoning as submitted, or to recommend that the developer amend the plan or request to preserve the intent and purpose of this chapter to promote public health, safety, morals and general welfare. The recommendations of the commission shall be referred to the City Council.

## II. ADDITIONAL APPLICABLE INFORMATION

1. **Drainage/Grading:** The applicant must comply with the City's storm water management, soil erosion protection and grading requirements as approved by the City's Permit and Development Center's engineering staff during the Development Plan (site plan) review. The submitted Conceptual Plan identifies stormwater detention basins in the northeastern corner and southern portion of the site along Hickman Road. Because the site will exceed an acre, the developer will also be required to provide water quality type detention.
2. **Parking:** The City's standard off-street parking requirement for retail use is one (1) parking space per 400 square feet for the first 4,000 square-feet and one (1) space per 200 square feet thereafter. With a 12,900-square foot store this would require a minimum of 55 spaces. The submitted Concept Plan indicates an 80 space layout.
3. **Traffic:** The originally proposed placement of the building raised several concerns with regard to traffic. Primarily the median in Merle Hay Road restrict any driveway allowing a left-turn southbound to be at least a minimum of 20 feet north of the end of the median. The applicant has revised their site layout to accommodate this, which shifted the building north towards the residential neighborhood. Efforts to move the building south toward Hickman Road at staff request did not allow the applicant to have internal circulation or parking placement that met their needs.

The current layout alleviates the concerns by traffic and has provided unimpeded left-turn out lanes at each of the two proposed ingress/egress points along Merle Hay Road. The layout also provides a streetscape which ensures a five-foot sidewalk set five feet behind the street curbs on both Hickman Road and Merle Hay Road. As a result the typical 10-foot parking setback that would be recommended along Merle Hay Road had to be reduced to accommodate a proper circulation and parking configuration.

4. **Landscaping:** The Conceptual Plan indicates landscaping in accordance with the "C-2" Landscaping requirements. The open space is proposed to exceed the minimum 20% area by over 5,000 square feet. 37,884-square feet of existing tree canopy is proposed to be removed requiring 19 replacement trees at one per 2,000 square feet removed. This requirement is satisfied with 24 over story tree plantings proposed. This amount is still deficient 11 overstory trees that would be required along the perimeter lot landscaping on Hickman Road and Merle Hay Road. The applicant has indicated that as part of the Conceptual Plan approval that these 11 be waived due to the narrow setback along the street. In lieu of these trees the applicant is proposing to place a decorative three-foot wrought iron type fence within the perimeter lots setbacks, including extending it along Hickman Road in front of the ACE Hardware commercial center which does not have ample opportunity to add a landscaped setback. The intent is to give the streetscape a more uniform appearance.

5. **Urban Design:** The proposed store in the Conceptual Plan is comprised primarily of brick on all sides of the building with EIFS (stucco) material in the clear story area. The building has a flat roof design with a cornice molding at the parapet. There are brick column features at the primary entrance which is oriented toward the intersection, as well as along the building walls to break up the expanse. The entrance area is primary glass. With clear story glass extending away from the entrance part way along the south and west walls. This design is comparable to the approved store design located at 2<sup>nd</sup> Avenue and Euclid Avenue and another under review at East Park Avenue and Southeast 14<sup>th</sup> Street.

With regard to site urban design the Conceptual Plan proposes an open space feature at the south serving a dual purpose for detention. There are pedestrian routes identified through the parking from both Merle Hay Road and Hickman Road. The plan notes indicate that the trash and compactor enclosures will be brick to match the building and will have cedar plank gates. Staff recommends that this be modified to steel gates to adhere to standard requirements for new commercial sites. The plan provides for a six-foot tall cedar fence around the outdoor storage area to the north of the commercial center to the east. Staff wants to ensure that the trash enclosure for this area meets the same standards as those for the pharmacy store.

The submitted Conceptual Plan provides for a specific signage package in accordance with the approved elevations. The freestanding signage proposed includes a tall pylon type sign for the intersection. Staff recommends that this be revised to a tall monument type sign rather than a pylon sign that is open at the base. The monument sign proposed for the south Merle Hay Road entrance also includes area for the use on the adjoining commercial center to the east.

6. **2020 Community Character Plan:** Staff believes that the proposed amendment to the Des Moines' 2020 Community Character Plan future land use designation from Low Density Residential to Commercial, Auto-Oriented, Small-Scale Strip Development is appropriate in the context of a major Highway intersection and existing commercial development in the area.

7. **Liquor License:** Because the PUD Conceptual Plan is allowing for "C-2" uses and the proposed use for the pharmacy would be defined as general retail, the sale of alcoholic liquor and any license required may be obtained administratively through the Office of the City Clerk as approved by the City Council.



## SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

CJ Stephens asked how is the removal of trees mitigated. Replacing the trees with a fence is unacceptable. Asked if staff is working with the applicant to plant any mitigation trees off site.

Mike Ludwig stated all of the landscaping that is to be installed is not currently shown. The applicant has to submit a landscaping plan and the mitigation ordinance requires trees to be planted on the site and if there is no room on the site they have to plant the trees off of the site.

Jason Van Essen stated that with a PUD concept plan there are a lot of details that still have to be worked out once they get to the development plan stage.

CJ Stephens asked is there any way for some of the trees to be saved.

Jason Van Essen stated he believes the applicant has worked hard to satisfy a bunch of different parameters such as where the drive isle and access is. Traffic circulation and program needs have made this a complex development.

Mike Ludwig stated the initial PUD Plan set that was submitted had the landscape plan in it. Staff received the first two sheets of the revision that addressed the majority of staff's comments. They have to comply with the City's Landscape Standards and they are being required to meet the mitigation ordinance for any removals.

Greg Wattier stated he believes that this development is backwards and ask how did it get to this point.

Mike Ludwig stated on the review of this development staff did suggest that the applicant look at locating the building at the corner of Merle Hay and Hickman. There are a lot of different parameters impacting the site. One is that a portion of the property is actually being acquired from the owner of the Ace Hardware Building so right now they have some outdoor storage along Merle Hay Road that is getting relocated back behind the CVS building. When staff discussed moving the building to the south the applicant's concern was that the parking would be north of the building and their customers would have to walk through the drive thru lane to get to the store entrance if the store entrance was at the southwest corner of the building. If the building moved to the south but flipped so that the entrance was at the northwest corner of the building then the drive thru would face Hickman. The applicant is trying to provide some shared parking between the Ace Hardware building and the CVS store. That would put all of the parking to the north further away from the Ace Hardware building. Through all the land assemblage that occurred there were requirements of the Ace Hardware building owner on what they wanted for parking access, circulation, and number of stalls that pushed the plan to this configuration. Staff tried to offset those concerns. It is a better plan from the perspective of screening the outdoor storage than is currently out by Merle Hay Road. It improves the circulation for the parking behind the existing Ace Hardware store. It installs a 5 foot wide sidewalk along Merle Hay and Hickman that is separated from the curb by a 5 foot green strip. Staff asked for a wrought iron fence along the edge of that parking to create more of an urban edge, and staff asked for a monument sign. Even though it is tall it was a compromise between a pylon sign with two poles for the base. The other fencing and landscaping are

also to be installed in front of the Ace Hardware building to unify the design. The trash dumpster on the other side of the building will be contained within the outdoor storage area.

William Lillis 317 6<sup>th</sup> Avenue, Ste 300 representing all of the applicants stated there has been some trading of land back and forth between the Margulies property which is the Ace Hardware store and the back of the store and the common driveway that comes off of Hickman will serve Ace Hardware and CVS. Ace Hardware and others did not want the CVS store on the corner because it would take the visibility away from their stores. The geometry would not lend itself to do all of the things that staff wanted to do with a building at the corner, while satisfying traffic requirements, access and all the things that CVS wants to develop and what Mr. Margulies wanted to do with his existing building. The compromise is what the Commission is looking at tonight. Currently, the parking is very tight.. The applicant intends to take care of the trees that are going to be removed and will also put a wrought iron fence on the lineal footage of Merle Hay and Hickman. CVS will be all brick. The house next to the site on the north end will be provided with their own driveway if required. The applicant has met with the Merle Hay Neighborhood Association and has received their support.

### **CHAIRPERSON OPENED THE PUBLIC HEARING**

*The following spoke in favor of the applicant's request*

JoAnne Hanover 1406 Merle Hay Road stated that she will send in the letter of support dated January 13, 2013 from the Neighborhood Association Board to staff. She stated that she is happy that something will be going in on that corner. However, she does have some concerns. There are two pharmacists within a block of this property who are very well liked and have been there for a long time. She believes they might be impacted by this CVS store. The applicant is working very hard with the neighbors. Another concern is that the Merle Hay Road median needs to be repaired because it is going to be worse with more traffic.

CJ Stephens asked how does the neighborhood feel about the bottom half of the sign that just says welcome to the neighborhood. Did the neighborhood association request that?

JoAnne Hanover stated the neighborhood association did not request the bottom half of the sign to say welcome to the neighborhood. The sign started out with pillars and then she ask them about putting in a flower bed at the bottom of it and to build it up with bricks that match the building.

CJ Stephens stated she still believes that the sign is not attractive.

JoAnne Hanover stated when she first brought the sign concern up she was told that it met the City's ordinance.

Will Page stated he believes that there is an ongoing and increasing problem in Des Moines referring specifically to the electronic message unit. He asked staff if the size, lumens, actual speed and color of the message units are regulated by ordinance. He believes that the electronic message units are safety hazards that catch the motorist eye, detract from the business of driving and if they are not regulated he urge the City to study doing exactly that.



Greg Wattier asked if there were any neighborhood concerns about the building not being at the intersection of Hickman and Merle Hay.

JoAnne Hanover stated no there were no concerns.

Tim Fitzgerald stated that he is also concerned with the sign. He believes that the electronic message unit overpowers what is going on. He asked was there an agreement with the neighborhood association and the applicant as to what type of sign they would put up.

JoAnne Hanover stated that the neighborhood association did not have an input regarding the final decision about the sign. That was between the City and the applicant. She does not like the sign mainly because of the size.

*The following spoke in opposition of the applicant's request*

Brian Millard 3920 Lynner Drive stated his concern is also the size of the sign and believes that the sign does not have to be that tall. He showed pictures of other monument signs including a CVS sign that is not as tall as the proposed sign on this site. He suggest that the Commission request that the final plan come back to them because the neighbors deserve to see the plan as well as the Commission.

*Rebuttal*

William Lillis stated that this is a major development in the City of Des Moines. The applicant has met with the Merle Hay Neighborhood board members twice and had a neighborhood meeting that was well attended and did not hear of any concerns. The majority opinion was they are glad to have that corner redeveloped. There are challenges as far as the geometry in order to trade the property with Mr. Margulies. The contract requires Margulies to give up some land, and move the existing access off of Merle Hay Road in exchange for the property in the back. They believe that this is a nice plan and ask for the Commission's support.

Dann Flaherty asked why the building cannot be fronted closer to the Ace Hardware Store so that it would all look consistent.

William Lillis stated in order for the applicant to develop this site they had to buy land from Mr. Margulies. Mr. Margulies has a tenant there, Ace Hardware. The Ace Hardware owner does not want them to move closer to the corner. If the applicant was to move closer to the corner there would be no deal.

Ted Irvine asked if the Commission was being asked to also approve the sign tonight.

Mike Ludwig stated yes the Commission is making a recommendation to the City Council. The City Council will decide whether or not to approve the sign and the PUD.

William Lillis stated the applicant agrees with all of staff recommendations.

## CHAIRPERSON CLOSED THE PUBLIC HEARING

JoAnne Corigliano stated she would like to move staff recommendation. However, the height of the sign is a concern. The sign should not be any higher than what has been noted as standard.

Mike Ludwig stated that 8 feet is the maximum height without an exception, variance or PUD for monument sign in Des Moines.

JoAnne Corigliano stated then the sign should be 8 feet. 22 feet is imposing and does nothing for the design of the building.

John "Jack" Hilmes asked if the same thing could be accomplished by approving everything but asking for any free standing sign design be returned to the Commission for discussion and approval.

JoAnne Corigliano stated she would like to put a limit on the height of the sign.

Ted Irvine stated he would be comfortable if the Commission referred it back to staff to take another look at the design with the focus of making it not as tall and massive. There are other monument signs that are taller than 8 feet sign in the City of Des Moines.

JoAnne Corigliano amended her motion to say allow a 10 to 12 foot tall monument sign.

Greg Wattier stated he believes the restrictions the seller has put on this development is germane to this site plan. He believes the reason the sign is 22 feet is because the building is a 150 feet away. So the building should be up near the corner, not where it is located. There should not be a detention pond up on the corner of this intersection. This plan is backwards, there are examples in town where a building could be put up near the corner, such as the Walgreens on Ingersoll and Ace Hardware in Beaverdale. His opinion is the building is in the wrong spot and he will not support the layout.

Will Page asked that his question about the electronic message unit be addressed.

Mike Ludwig stated that the City of Des Moines does regulate electronic message boards and that applies to anything over 24 square feet. It is subject to the electronic sign regulations which the Commission reviewed and the City Council approved. There is nothing prohibiting it. There are numerous schools in residential districts that have electronic signs for messages. This is a "C-2" Commercial District along US Highway 6 which runs west along Hickman Road and north along Merle Hay Road. The standard zoning would not prohibit a message board on this site and so staff did not recommend a limit on that.

Will Page asked if the regulation was in terms of the speed, the action of movement changing the size.

Mike Ludwig stated for example on electronic billboard there are limits on change of message. There is a little more flexibility on signs that are less than 24 square feet in size.

Will Page stated these electronic message units are very distracting and is a safety hazard and respectfully requested R&O to look into this matter and see if there is some way to regulate the signs less than 24 square feet in size.

Greg Jones stated that R&O has looked at this request before but can look at it again.

Dann Flaherty asked for a friendly amendment that the plan be brought back to the Commission for final approval.

JoAnne Corigliano accepted.

John "Jack" Hilmes pointed out that the south elevation of this building has a 33.5 foot long sign on what appears to be about a 8 foot high bed and that is duplicated on the west elevation. He would hope the consumers would not be confused that this is a CVS location with 133.7 square feet of signage on each of the two roads facing façades.

Shirley Daniels stated that she was really excited to hear that something was finally going to clean this corner up. She hears the neighborhood association, staff, and the applicant say they will work together on the sign. Her concern is that a whole lot of time will be lost to have it come back to the Commission.

Dann Flaherty explained that it is the whole development plan that will be coming back to the Commission including landscaping, not just the sign itself.

William Lillis asked for clarification of the recommendation of the Commission.

Mike Ludwig stated the Commission could go forward with the recommendation of zoning and PUD Concept Plan. The final development plan would come back to the Commission for review and approval.

William Lillis stated the applicant is okay with the recommendation and would like to work with the neighborhood association and staff in regards to the sign.

### **COMMISSION ACTION:**

JoAnne Corigliano moved staff recommendation Part A) to find the requested rezoning not in conformance with the existing Des Moines' 2020 Community Character Plan.

Motion passed 14-0

JoAnne Corigliano moved staff recommendation 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.

Motion passed 13-1 (Greg Wattier voted in opposition)

JoAnne Corigliano moved Part C) approve the proposed rezoning to "PUD" Planned Unit Development District.

Motion passed 11-3 (Greg Wattier, Christine Pardee and CJ Stephens voted in opposition)

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JoAnne Corigliano moved Part D) to approve 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. 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.

Motion passed 11-3 (Greg Wattier, Dann Flaherty and Christine Pardee voted in opposition)

Respectfully submitted,



Michael Ludwig, AICP  
Planning Administrator

MGL:clw

Attachment



Item ZON2013-00007 Date 2-19-13 20

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

(Circle One)

Print Name Miriam A. Flattery

Signature Miriam A. Flattery

Address 2502 M. Hay Rd.

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

Keep the integrity of the neighborhood.

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Item ZON2013-00007 Date 2-14-13

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I (am) (am not) in favor of the request. OUTSIDE 250' BOUNDARY

(Circle One)

Print Name MARY LUCY

Signature Mary Lucy

Address 2513-57th St.

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

A Drug store on that corner is a bad choice!  
2 Drug store on Douglas at 70th & at Beaver  
We have a drug store at the K Mart on Hickman  
Every Dollar store has a pharmacy and I  
Count 3 - 86 & Hickman - Maple Hwy & Aurora  
and Beaver & Franklin

Item ZON2013-00007 Date 2-15-2013

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

(Circle One)

Print Name NAM PHAM

Signature Nam Pham

Address 7020 AURORA AVE URBANDALE

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

I do not want my neighbor are  
commercial, I want my neighbor  
are Resident, the same now.  
Too many stranger come in and go.

Item ZON2013-00007 Date \_\_\_\_\_

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

(Circle One)

Print Name VERNON E. SHELTON

Signature Vernon E. Shelton

Address 2415-60TH ST

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

WILL ADD TO MUCH TRAFFIC

OUTSIDE 250' BOUNDARY

Item ZON2013-00007 Date 2-15-13

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

(Circle One)

Print Name MARJORIE MAIN

Signature Marjorie Main

Address 2411-60th Ave. S.W. 50322-5116

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

More traffic! More Congestion!

OUTSIDE 250' BOUNDARY

Item ZON2013-00007 Date 2-13-13 20

☒ I (am) ☐ (am not) in favor of the request.  
(Circle One)



Print Name Mathew Jordan  
Signature Mathew Jordan  
Address 5705 Hickcomb Ave

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

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

Item ZON2013-00007 Date \_\_\_\_\_

☒ I (am) ☐ (am not) in favor of the request.  
(Circle One)



Print Name Paul L. Sayers Jr  
Signature Paul L. Sayers Jr  
Address 2409 59<sup>th</sup> D.S.M.

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

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



Item ZON2013-00007 Date 2-13-13 20

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

(Circle One)

TRINITY LAND HOLDINGS  
Print Name CLANCY SULLIVAN

Signature Clancy Sullivan

Address 4539 DOUGLAS AVE

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

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OUTSIDE 250' BOUNDARY

Item ZON2013-00007 Date February 18, 2013

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

(Circle One)

Clarice Steinbach  
Print Name Clarice Steinbach

Signature Clarice Steinbach

Address 2514 59th Street

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

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OUTSIDE 250' BOUNDARY

Item ZON2013-00007 Date 2/14/13

20

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

(Circle One)

Print Name

Jeff Strain

Signature

[Signature]

Address

2512 57th ST.

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

OUTSIDE 250' BOUNDARY

Item ZON2013-00007 Date \_\_\_\_\_

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

(Circle One)

Print Name

Terry Keele

Signature

[Signature]

Address

3015 Merle Hay Rd Ste 9

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

Mostly commercial already

OUTSIDE 250' BOUNDARY

Item ZON2013-00007 Date 2-16-13 20

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

(Circle One)

Print Name MARIO RODRIGUEZ

Signature [Signature]

Address 2522 MERLE WAY ROAD

DES MOINES IA

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

ECONOMIC DEVELOPMENT

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

Item ZON2013-00007 Date 2-13-13

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

(Circle One)

Print Name Glenn Aldrich

Signature [Signature]

Address 2517 57<sup>th</sup> ST Des Moines IA

50310

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

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

OUTSIDE 750' BOUNDARY

Item

ZON2013-00007

Date

FEB 15 2013

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

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(Circle One)

Print Name

JACKSON HUYNH

Signature

jacksonhuynh

Address

2403 MERIE HAY DES MOINES

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

I'm approving this plan

PART OF SUBJECT PROPERTY

Item

ZON2013-00007

Date

2-15-13

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

(Circle One)

Print Name

Dolores Sayers

Signature

Dolores Sayers

Address

2401 Merle Hay Rd, Des Moines

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

3 vacant properties. poor Residential  
LOCATION.The Area would Benefit from a  
Pharmacy.

PART OF SUBJECT PROPERTY



Item ZON2013-00007 Date 2/15/13

20

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

(Circle One)

Print Name MEM Investment

Signature  Eric Estes

Address 3607 Ingersoll AVE #107  
Des Moines, IA 50312

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

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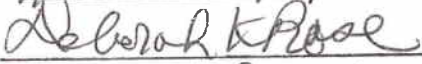
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Item ZON2013-00007 Date 2/15/2013

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

(Circle One)

Print Name Deborah Rose  
Rose Metro properties

Signature 

Address 5709 Holcomb

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

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Item ZON2013-00007 Date Feb. 20, '13 20

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

(Circle One)

Print Name M. J. Russell

Signature M. J. Russell

Address 2509 59<sup>th</sup> St.

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

Anything on this  
corner will be an  
improvement

OUTSIDE 250' BOUNDARY

Item ZON2013-00007 Date 2-19-2013

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

(Circle One)

Print Name Marvin Hertz

Signature Marvin Hertz

Address 5720 Hdcornb Ave

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

It's long over due to clean up that  
corner where sinclair used to be.  
Plus those rentals on medelhay  
don't clean their sidewalks, so  
I can soon walk my dog better

MERLE HAY NEIGHBORHOOD ASSOCIATION  
BOARD MEETING MINUTES  
JANUARY 13, 2013

OFFICERS PRESENT: Vice President Ben Taylor; Secretary Jane Linthicum; Treasurer Ron Stoen; Board Members Mary Keables and Jason Pulliam.

OFFICERS EXCUSED: President Steve Berry and Board Member Tim Schutte

COMMITTEE CHAIRS PRESENT: Special Events Coordinator Jo Ann Hanover; Newsletter and Tower Park Jason Pulliam; Social April Beck; Membership Marilyn Nizzi; Flowers Bill Linthicum

SPEAKERS: Attorneys Bill Lillis and Chris Pose; Amy Walters for CVS

Mr. Lillis said that CVS Pharmacy is planning to build on the NE corner of Merle Hay and Hickman. The old gas station will be removed as well as the four houses to the north. They have signed letters of intent from all the property involved. They will present before the Plan and Zoning Board in February and the City Council in March. Plans are for construction to begin in the fall. There will be two signs only, one on the corner and one along Merle Hay Road in the middle of the property. The median on Merle Hay is in poor shape, Mr. Lillis suggested we tell our legislators. Ms Walters presented plans. They were seeking our support. There was a vote and all present did give their support.

TOPICS DISCUSSED:

Tower Park Improvements – Jason said he will meet Friday with the Parks Department regarding the next steps.

Standpipe on Merle Hay by the Mall – A meeting is needed with the DM Water Works.

Update our Logo – Jason suggested we update the logo. There were two who were in favor and two who were not. No decision.

Jo Ann is making a list of accomplishments from our neighborhood to present to NFC as well as the City Council and NRB. She thinks by the time all the requests for loans are completed, MHNA will reach over \$15,000,000. Our privileges with NFC are now over and the new neighborhood receiving help will be Beaverdale.

Bylaws revision will be presented at the January 17<sup>th</sup> general meeting. The change will be asking that dues paid apply to the current year in which they are paid.

Respectfully submitted,  
Jane Linthicum, Secretary



## Westwood-HillsdalePatch

**Plans for the proposed CVS on the corner of Pascack Road and Washington Avenue include 15 signs of various sizes, but those plans will be revised by next month, according to signage expert Robert Oelenschlager.**

Several Zoning Board members and experts, as well as members of the public, expressed concern with the signs during a hearing Tuesday. **Those who spoke were particularly concerned with the size of two proposed monument signs, one of which would include an electronic message board.**

**"It's unappealing," board Vice Chairman Michael Ullman said. "The mass is just tremendous."**

The original plan called for three signs along the roofline and one smaller sign with the hours near the door on the side facing Washington Avenue, four roofline signs along the side facing Pascack Road and five small signs for the drive-thru and loading dock on the north side. The side of the building facing the brook and Meisten Street would have no signs, according to Oelenschlager.

There were also **two proposed freestanding monument signs. One, near the Pascack Road entrance across from Jefferson Avenue, would be about 11 feet tall. The other, near the intersection of Pascack Road and Washington Avenue, would include a LED message board and be about 15 feet tall.**

"It seems to be a lot of signs for a residential, low-speed area," board engineer Chris Statile said.

Oelenschlager said he would revise the signs before the board's next meeting.

**"The feedback I'm getting is: nobody likes this sign," Oelenschlager said.**

At the next hearing, Oelenschlager will present his revisions and, if there is time, the applicant's planning consultant may also testify. The next Washington Township Zoning Board meeting is scheduled for March 19 at 7:30 p.m. in the [Municipal Complex](#).