



Date October 23, 2017

**RESOLUTION SETTING HEARING ON REQUEST FROM
HY-VEE, INC. TO REZONE PROPERTY AT 2412 MERLE HAY ROAD,
2416 MERLE HAY ROAD, AND 2325 59TH STREET**

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on October 5, 2017, its members voted 9-0-1 in support of a motion to recommend **APPROVAL** of a request from Hy-Vee, Inc. (purchaser), represented by Rob Wadle (officer), to rezone property locally known as 2412 Merle Hay Road, 2416 Merle Hay Road, and 2325 59th Street (collectively "Property") from "R1-60" One-Family Low-Density Residential District to Limited "C-2" General Retail and Highway-Oriented Commercial District, to allow for anticipated redevelopment with a 10,500 square foot gas station/convenience store with sixteen (16) fueling locations and a coffee shop with drive-through window, subject to the following rezoning conditions:

1. Any commercial use of the Property must be conducted in conjunction with the parcels to the south that have frontage on Merle Hay Road and Hickman Road. The Property shall not be developed separately with independent commercial uses. Communication towers/antennas uses are exempt from this provision.
2. Any accessory buildings, including but not limited to, a communication tower equipment building on the Property shall be sided with durable materials that are compatible with the primary building on the Property.
3. Any communication tower on the Property shall consist of a stealth tower design.
4. The following uses are prohibited:
 - a. Adult entertainment businesses,
 - b. Any business that derives more than 50% of its gross sales from the sale of tobacco products,
 - c. Billiard parlors/game rooms,
 - d. Delayed deposit services,
 - e. Liquor stores,
 - f. Off-premises advertising signs,
 - g. Pawn brokers,
 - h. Taverns or nightclubs, and
 - i. Vehicle display lots; and

WHEREAS, the Property to be rezoned is legally described as follows:



Roll Call Number

Agenda Item Number

23

Date October 23, 2017

-2-

The North 1/2 of Lot 2 (Except the West 125 feet and that portion conveyed to City of Des Moines for ROW acquisition along Merle Hay Road recorded in Book 6528, Page 438), BISHOP PLACE, an Official Plat; and the East 1/2 of the South 1/2 of Lot 2 (Except that portion conveyed to City of Des Moines for ROW acquisition along Merle Hay Road recorded in Book 6571, Page 827), BISHOP PLACE, an Official Plat; and Lot 7 BISHOP PLACE, an Official Replat; all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

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

1. That the attached communication from the Plan and Zoning Commission is hereby received and filed.
2. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held at the Richard A. Clark Municipal Service Center (MSC), located at 1551 E. Martin Luther King, Jr. Parkway, Des Moines, Iowa, at 5:00 p.m. on November 6, 2017, at which time the City Council will hear both those who oppose and those who favor the proposal.
3. 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.

MOVED BY TO ADOPT.

FORM APPROVED:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

(ZON2017-00163)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
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



Date October 23, 2017

Agenda Item 23

Roll Call 4

October 17, 2017

Honorable Mayor and City Council
City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their October 5, 2017 meeting, the following action was taken regarding a request from Hy-Vee, Inc. (purchaser) represented by Rob Wadle (officer) to rezone property at 2412 Merle Hay Road, 2416 Merle Hay Road, and 2325 59th Street. The subject properties are owned by David Nelsen, MEM Investment II, LLC, and Magdelana Shivers.

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-0-1 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus				X
Dory Briles	X			
JoAnne Corigliano	X			
David Courard-Hauri				X
Jacqueline Easley	X			
Jann Freed				X
John "Jack" Hilmes			X	
Lisa Howard	X			
Carolyn Jenison	X			
Greg Jones	X			
William Page				X
Mike Simonson	X			
Rocky Sposato	X			
Steve Wallace	X			
Greg Wattier				X

APPROVAL of Part A) that the proposed rezoning be found not in conformance with the existing PlanDSM Creating Our Tomorrow future land use designations, approval of Part B) to amend the existing PlanDSM Creating Our Tomorrow future land use designation from Low Density Residential and Low-Medium Density Residential to Community Mixed Use

and approval of Part C) the requested rezoning from "R1-60" District to "C-2" District subject to the following conditions: (21-2017-4.10 & ZON2017-00163)

1. Any commercial use of the subject parcels must be conducted in conjunction with the parcels to the south that have frontage on Merle Hay Road and Hickman Road. The subject parcels shall not be developed separately with independent commercial uses. Communication towers/antennas uses are exempt from this provision.
2. Any accessory buildings, including but not limited to, a communication tower equipment building shall be sided with durable materials that are compatible with the primary building on the site.
3. Any communication tower shall consist of a stealth tower design.
4. The following uses are prohibited:
 - a. Adult entertainment businesses,
 - b. Any business that derives more than 50% of its gross sales from the sale of tobacco products,
 - c. Billiard parlors/game rooms,
 - d. Delayed deposit services,
 - e. Liquor stores,
 - f. Off-premises advertising signs,
 - g. Pawn brokers,
 - h. Taverns or nightclubs, and
 - i. Vehicle display lots.

Written Responses

5 in Favor

4 in Opposition

STAFF RECOMMENDATION

Staff recommends denial of the requested amendment to the Stoney Pointe PUD Conceptual Plan.

STAFF REPORT TO THE PLANNING COMMISSION

I. GENERAL INFORMATION

Part A) Staff recommends that the proposed rezoning be found not in conformance with the existing PlanDSM Creating Our Tomorrow future land use designations.

Part B) Staff recommends approval of amending the existing PlanDSM: Creating Our Tomorrow Plan future land use designation from Low Density Residential and Low-Medium Density Residential to Community Mixed Use.

Part C) Staff recommends approval of the requested rezoning from "R1-60" District to "C-2" District subject to the following conditions:

1. Any commercial use of the subject parcels must be conducted in conjunction with the parcels to the south that have frontage on Merle Hay Road and Hickman Road. The subject parcels shall not be developed separately with independent commercial uses. Communication towers/antennas uses are exempt from this provision.
2. Any accessory buildings, including but not limited to, a communication tower equipment building shall be sided with durable materials that are compatible with the primary building on the site.
3. Any communication tower shall consist of a stealth tower design.
4. The following uses are prohibited:
 - a. Adult entertainment businesses,
 - b. Any business that derives more than 50% of its gross sales from the sale of tobacco products,
 - c. Billiard parlors/game rooms,
 - d. Delayed deposit services,
 - e. Liquor stores,
 - f. Off-premises advertising signs,
 - g. Pawn brokers,
 - h. Taverns or nightclubs, and
 - i. Vehicle display lots.

SUMMARY OF DISCUSSION

Jason Van Essen presented the staff report and recommendation.

Mike Simonson asked how many times this has been in front of the Commission.

Jason Van Essen stated this is the third time and the site plan will also come back to the Commission.

John "Jack" Hilmes asked for a staff definition of a stealth tower.

Jason Van Essen stated a stealth tower is a single pole, with antennas enclosed within the pole.

Rob Wiley with Hy-vee stated they can give a better product if the three parcels are rezoned. This will allow them to move the access point further north on Merle Hay Road, making traffic flow better. The only condition he would disagree with is condition #3. He believes the design of the stealth tower should be discussed when they bring the site plan to the Commission.

CHAIRPERSON OPENED THE PUBLIC HEARING

Jack Voss 5723 Allison Ave stated his concern is the fast-moving traffic on Merle Hay Road and the amount of traffic that comes up 63rd to Merle Hay Road.

Rebuttal

Rob Wiley stated the access on the site plan that was previously approved was further south. With this adjustment they would be moving further north and away from the stop light.

CHAIRPERSON CLOSED THE PUBLIC HEARING

COMMISSION ACTION:

Greg Jones moved staff recommendation Part A) that the proposed rezoning be found not in conformance with the existing PlanDSM Creating Our Tomorrow future land use designations, approval of Part B) to amend the existing PlanDSM Creating Our Tomorrow future land use designation from Low Density Residential and Low-Medium Density Residential to Community Mixed Use and approval of Part C) the requested rezoning from "R1-60" District to "C-2" District subject to the following conditions:

1. Any commercial use of the subject parcels must be conducted in conjunction with the parcels to the south that have frontage on Merle Hay Road and Hickman Road. The subject parcels shall not be developed separately with independent commercial uses. Communication towers/antennas uses are exempt from this provision.
2. Any accessory buildings, including but not limited to, a communication tower equipment building shall be sided with durable materials that are compatible with the primary building on the site.
3. Any communication tower shall consist of a stealth tower design.
4. The following uses are prohibited:
 - a. Adult entertainment businesses,
 - b. Any business that derives more than 50% of its gross sales from the sale of tobacco products,
 - c. Billiard parlors/game rooms,
 - d. Delayed deposit services,
 - e. Liquor stores,
 - f. Off-premises advertising signs,

- g. Pawn brokers,
- h. Taverns or nightclubs, and
- i. Vehicle display lots

Motion Passed: 9-0-1 (John "Jack" Hilmes abstained from the vote)

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

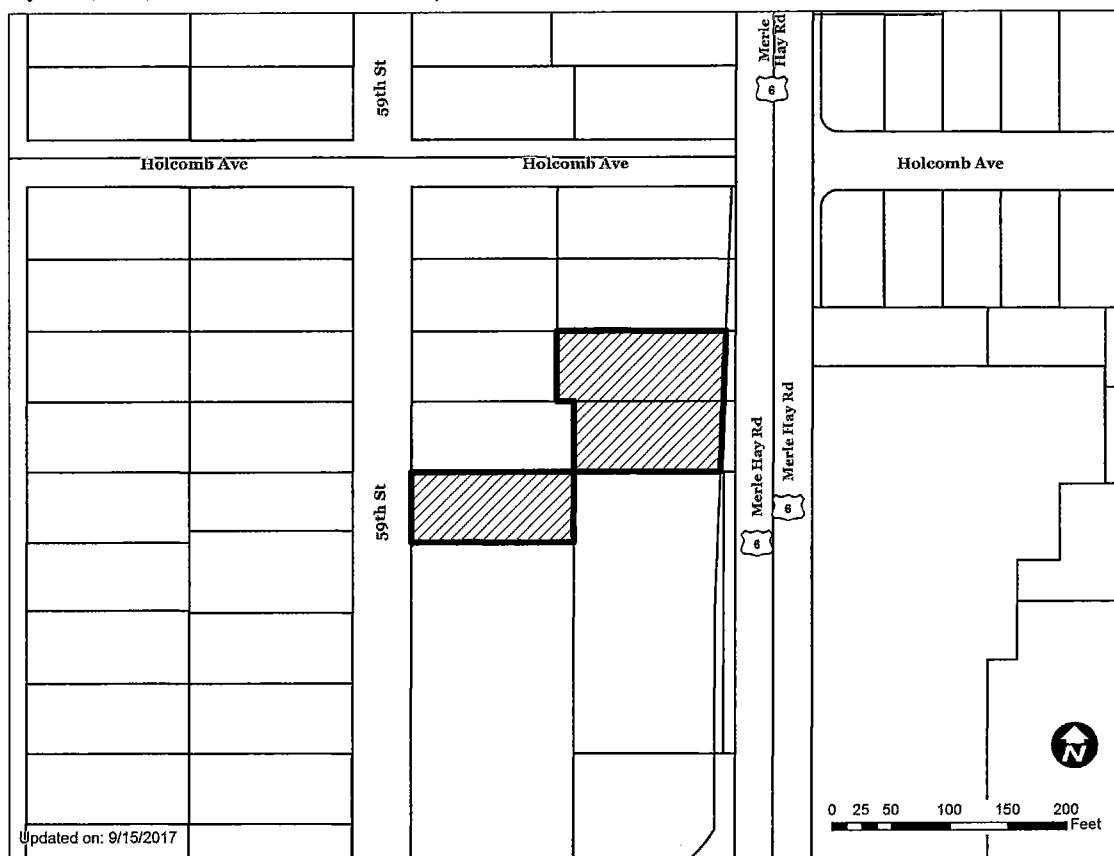
MGL:tjh
Attachments

7B

Hy-Vee, Inc. (purchaser) represented by Rob Wadle (officer) for property at 2412 Merle Hay Road, 2416 Merle Hay Road, and 2325 59th Street. The subject properties are owned by David Nelsen, MEM Investment II, LLC, and Magdalena Shivvers.				File # 21-2017-4.10	
Description of Action	Approval of request to amend the existing PlanDSM Creating Our Tomorrow future land use designation from Low Density Residential and Low-Medium Density Residential within a Neighborhood Node to Community Mixed Use within a Neighborhood Node.				
PlanDSM Future Land Use	Current: Low/Medium Density Residential and Low Density Residential within a Neighborhood Node. Proposed: Community Mixed Use within a Neighborhood Node.				
Mobilizing Tomorrow Transportation Plan	2015 -2024 Merle Hay/Hickman Intersection Improvements				
Current Zoning District	"R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	"C-2" General Retail and Highway-Oriented Commercial District and "FSO" Freestanding Signs Overlay District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Subject Property					
Outside Area (200 feet)	5	4			
Plan and Zoning Commission Action	Approval	9-0-1	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Hy-Vee, Inc., 2412 and 2416 Merle Hay Road and 2325 59th Street

21-2017-4.10



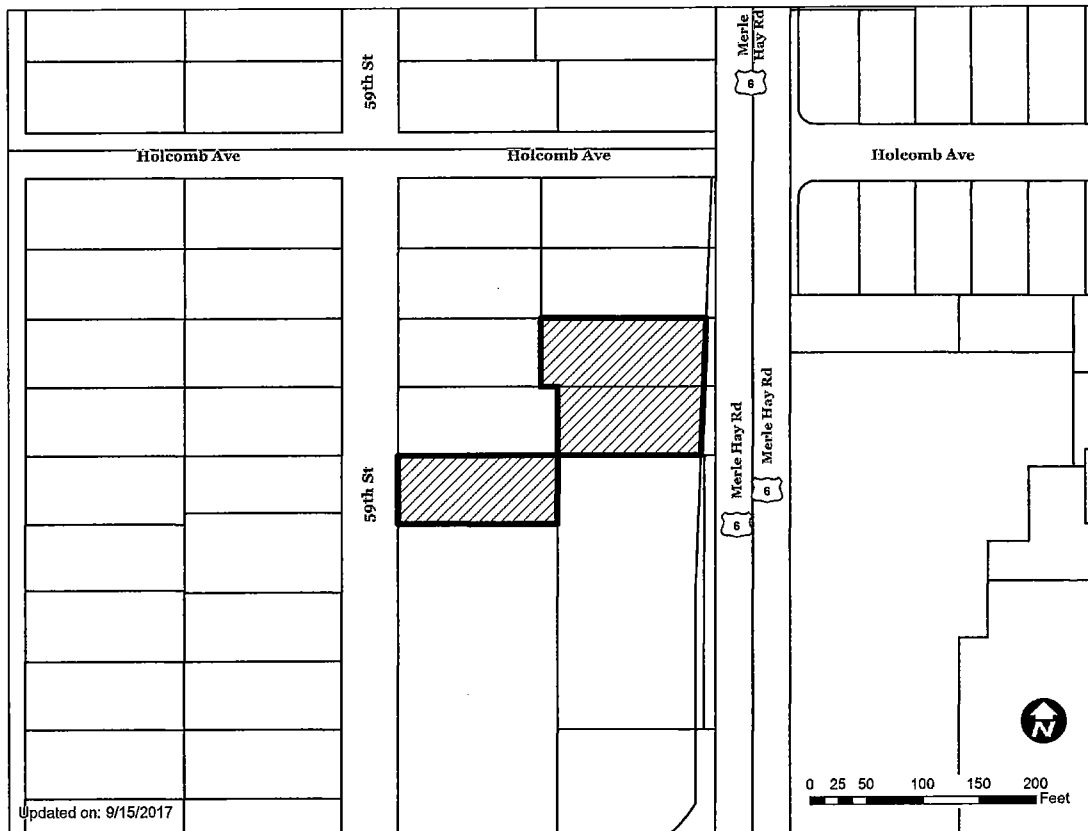
1 inch = 97 feet

7C

Hy-Vee, Inc. (purchaser) represented by Rob Wadle (officer) for property at 2412 Merle Hay Road, 2416 Merle Hay Road, and 2325 59th Street. The subject properties are owned by David Nelsen, MEM Investment II, LLC, and Magdalena Shivvers.				File # ZON2017-00163	
Description of Action	Approval of request to rezone property from "R1-60" One-Family Low-Density Residential District to "C-2" General Retail and Highway-Oriented Commercial District to allow for redevelopment with a 10,500-square foot gas station/with limited food/retail store with (16) fueling locations and a coffee shop with drive-thru window, subject to conditions.				
PlanDSM Future Land Use	Current: Low/Medium Density Residential and Low Density Residential within a Neighborhood Node. Proposed: Community Mixed Use within a Neighborhood Node.				
Mobilizing Tomorrow Transportation Plan	2015 -2024 Merle Hay/Hickman Intersection Improvements				
Current Zoning District	"R1-60" One-Family Low-Density Residential District and "FSO" Freestanding Signs Overlay District.				
Proposed Zoning District	"C-2" General Retail and Highway-Oriented Commercial District and "FSO" Freestanding Signs Overlay District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Subject Property					
Outside Area (200 feet)	5	4			
Plan and Zoning Commission Action	Approval	9-0-1	Required 6/7 Vote of the City Council	Yes	
	Denial			No	X

Hy-Vee, Inc., 2412 and 2416 Merle Hay Road and 2325 59th Street

ZON2017-00163



1 inch = 97 feet

ZON2017-00163

Date Sept 28, 17

23

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

(Circle One)
RECEIVED

COMMUNITY DEVELOPMENT

OCT 02 2017

Print Name Margaret Russell

Signature M. Russell

Address 2509 59th St.

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

My only concern is the
increased traffic on 59th
St. and wish further
study of this when the
project is complete.

ZON2017-00163

Date 9-27-2017

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

(Circle One)
RECEIVED

COMMUNITY DEVELOPMENT

OCT 02 2017

Print Name Jerry A. STANSberry

Signature Jerry A. Stansberry

Address 2501-59th St

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

COMMUNITY DEVELOPMENT

OCT 03 2017

Address 2418 Melrose Dr, Ash

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

This will be a very nice addition to the area & increase the tax base.

Item ZON2017-00163

Date 9/26/17

IN FULL SITE NOTIFICATION BOUNDARY

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

(Circle One) RECEIVED

Print Name

Cheri Year

Signature

Item ZON2017-00163

Date 9-26-17

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

(Circle One) RECEIVED

Print Name

Cheri Year

Signature

Cheri Year

OCT 04 2017

Address

2401 59th St

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

I do not want to live by a gas station! The area is small like gas! The traffic is going to be terrible on this street! Do not want to live right on the line to new fence

ZON2017-00163

Item

Date 9-1-17

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

IN FULL SITE NOTIFICATION BOUNDARY

(Circle One) RECEIVED

Print Name

Norma J. Hull

COMMUNITY DEVELOPMENT

Signature

Norma J. Hull

OCT 04 2017

Address

9225 Cascade Av. WDM IA 50266

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

Good for the neighborhood.

Item ZON2017-00163 Date 10/2/2017

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT
Print Name Mary S Clark
Signature M S Clark

OCT 04 2017

Address 2322 59th

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

Traffic on 59th.

Item ZON2017-00163 Date 10-1-2017

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT
Print Name Dori Tew
Signature Dori Tew

OCT 06 2017

Address 2326 59th St

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

Having an entrance/exit on 59th St will increase
traffic on 59th - a residential street. The traffic study
was done one day/time when neighborhood children are
in school - Do a study during hours when kids are home and
outside playing - BIG difference. Drive thru lane at

Item

ZON2017-00163

Date

11/24/17

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

(Circle One)

RECEIVED
COMMUNITY DEVELOPMENT
Print Name Eugenia Kulsh-Sutton
Signature Eugenia Kulsh-Sutton

OCT 04 2017

Address 2419 59th Street

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

Opposing because of the expected
increase in traffic and decrease
in property value.

Van Essen, Jason M.

From: Jason Pulliam <jason.pulliam@gmail.com>
Sent: Thursday, October 05, 2017 11:25 AM
To: Ludwig, Michael G.; Van Essen, Jason M.
Cc: Gray, William S.; Downs, Randy; Wadle, Rob
Subject: MHNA Feedback on Item #7 on 10/5/2017 Plan and Zoning Commission Meeting Agenda

Dear Mike and Jason:

Good morning. The Merle Hay Neighborhood Association Board of Directors had an opportunity to discuss Hy-Vee's request to rezone 2412 Merle Hay Road, 2416 Merle Hay Road, and 2325 59th Street when the board met on Tuesday, October 3. Several MHNA board members were also able to attend the informational meeting that Mr. Downs and Mr. Wadle hosted at the Franklin Avenue Library on September 25 to share details about Hy-Vee's revamped proposal to redevelop the northwest corner of Merle Hay and Hickman roads as a Fast and Fresh store. We thank Mr. Downs and Mr. Wadle for hosting the meeting to share information and field questions from residents.

Big picture, the MHNA board continues to offer conditional support to Hy-Vee's redevelopment proposal. Our prior conditions for support are summarized as follows:

- Ensure that redevelopment does not result in an influx of commercial traffic on 59th Street, which is single-family residential.
- Ensure that intersection improvements are made during or before redevelopment to facilitate better traffic flow at Merle Hay Road and Hickman Road.
- Ensure that there is adequate screening/buffering between the commercial property and adjoining residential property.
- Ensure that the location and design are neighborhood friendly if the site's cell tower is relocated.

I will preface the following comments by saying that we recognize they are more geared toward site plan review and cell-tower approval at the Zoning Board of Adjustment. MHNA board members want to be transparent about where we are coming from as things proceed.

At this point, we would like to see Hy-Vee staff, City staff, Council members, and eventually, Zoning Board of Adjustment members, give further consideration to the proposed relocation site for the cell tower. At the September 25 informational meeting at the Franklin Avenue Library, site renderings appeared to show the cell tower being relocated near the far northwest corner of the redevelopment site. The MHNA Board is concerned about housing a cell tower in this location since it would appear to essentially abut a single-family residential property. We think it would be more appropriate to have the cell tower closer to Merle Hay Road with adequate setbacks from nearby residential properties. We also want to reemphasize that we will be paying close attention to the cell-tower design, and again ask everyone to focus on methods to stealth the tower to every extent possible. A cell tower with spread antenna arrays, for instance, would not be neighborhood friendly.

Lastly, since the orientation of the grocery store under the latest proposal would appear to essentially run parallel to 59th Street, we want to make sure there is no commercial signage on the westward facing side of the building.

HOLCOMB AVENUE

2410

2412

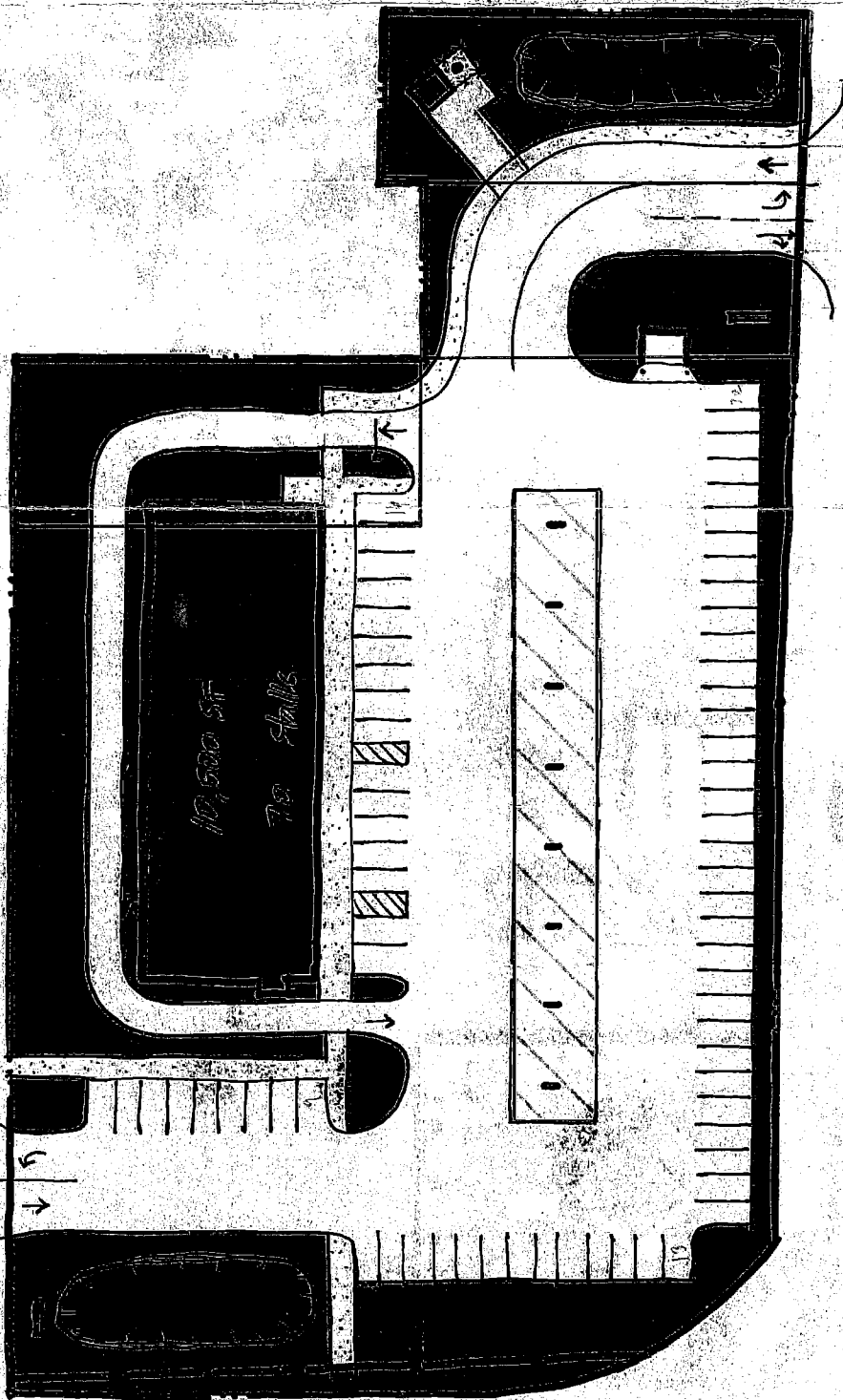


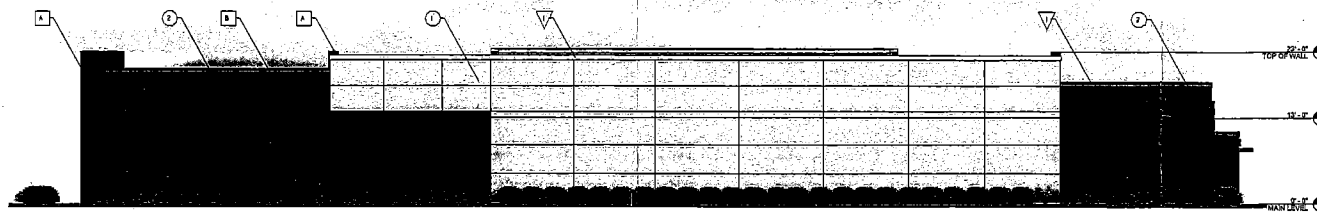
DATE 7-31-17

59TH STREET

MERLE HAY ROAD

HICKMAN ROAD



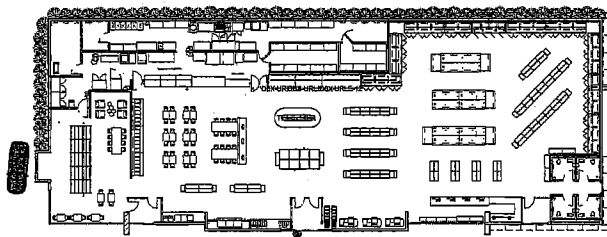


2 WEST ELEVATION
SCALE: 1/8" = 1'-0"

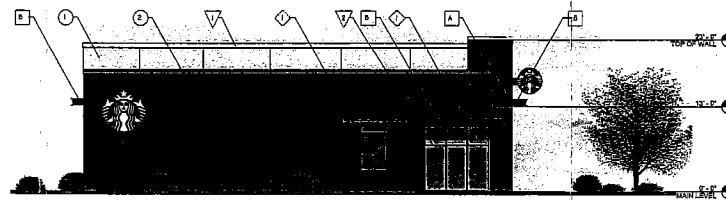


3 EAST ELEVATION
SCALE: 1/8" = 1'-0"

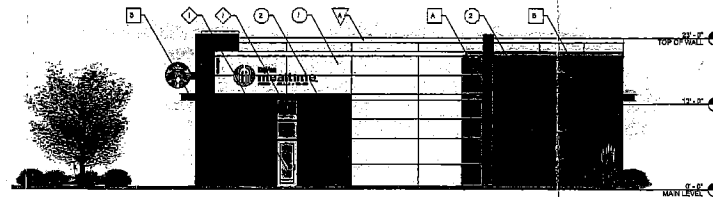
FIBER CEMENT:		GLASS & GLAZING:	
①	12" FIBER CEMENT PANELS	◇	1" CLEAR VISION GLAZING, TEMPERED AND INSULATED
②	5/8" FIBER CEMENT PANELS, WOOD	METAL FLASHINGS:	
METAL WALL PANELS & TRIM:		▽	PREFINISHED METAL WALL COPING / CAP
A	PREFINISHED METAL WALL PANELS	▽	PREFINISHED METAL WINDOW TRIM / FLASHING
B	ALUMINUM CANOPY STRUCTURE COLOR AS SELECTED BY ARCHITECT		



1 KEY PLAN
SCALE: 1/16" = 1'-0"



4 SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



5 NORTH ELEVATION
SCALE: 1/8" = 1'-0"

REVISION	DATE

LOCATION
DES MOINES, IOWA
FAST & FRESH
HyVee
EMPLOYEE OWNED

HYVEE, INC.
8800 WESTTOWN PARKWAY
DES MOINES, IOWA 50318
TELEPHONE: (515) 267-2900
FAX: (515) 267-2935



EXTERIOR
ELEVATIONS

Drawn	DATE
As Indicated	SEPT. 2017
Sheet	20170928

A6.0