

**ORIGINAL**

**ORDINANCE NO. CO-2014-06**

**AN ORDINANCE APPROVING SPECIAL USES FOR AN ELECTRONIC MESSAGE BOARD SIGN AND FOR A DRIVE-THRU AND ADDITIONAL VARIATIONS RELATED TO A LANDSCAPE BUFFER, FENCE HEIGHT AND SIGNAGE IN A C-3 GENERAL COMMERCIAL ZONING DISTRICT – 1718 S. 1<sup>ST</sup> AVENUE (VEQUITY, LLC/CHECKERS DRIVE-IN)**

**WHEREAS**, a petition for the granting of special uses and for variations as set forth below relative to redevelopment of the restaurant site at 1718 S. 1<sup>st</sup> Avenue (the “Subject Property”) as a Checkers Drive-In restaurant has been filed with the Village of Maywood by Petitioner Vequity, LLC (“Petitioner”); and

**WHEREAS**, the Petition has been referred to the Plan Commission/Zoning Board of Appeals (the “Plan Commission”) of the Village and has been processed in accordance with the Village of Maywood Zoning Code (“Zoning Code”); and

**WHEREAS**, the Subject Property is legally described in **Exhibit A** attached hereto and made a part hereof; and

**WHEREAS**, said Plan Commission held a public hearing on the question of whether the requested Special Uses and Variations should be granted on December 12, 2013, at which time all persons present were afforded an opportunity to be heard; and

**WHEREAS**, public notice in the form required by law was given of said public hearing by publication not more than thirty (30) days nor less than fifteen (15) days prior to said public hearing. In addition, notice was sent to surrounding property owners; and

**WHEREAS**, on December 12, 2013, the Plan Commission voted to favorably recommend the requested Special Uses and Variations to the Village President and Board of Trustees of the Village of Maywood, subject to certain conditions; and

**WHEREAS**, the Plan Commission of this Village has reported its findings and recommendations regarding the Special Use and Variations to this Village President and Board of Trustees, and this Village President and Board of Trustees has duly considered said report and findings and recommendations.

**NOW, THEREFORE, BE IT ORDAINED**, by the President and Board of Trustees of the Village of Maywood, Cook County, Illinois, as follows:

**SECTION 1:** The Village President and Board of Trustees of the Village of Maywood approve and adopt the findings and recommendation of the Plan Commission, a copy of which is attached hereto as **Exhibit B**, and incorporate such findings and recommendation herein by reference as if they were fully set forth herein, except that the President and Board of Trustees find it to be in the best interests of the health, welfare and safety of the residents of the Village to add certain additional

conditions relative to the proposed electronic message board LED sign and redevelopment of the Subject Property. Those additional conditions are included as conditions 4 through 10 below in Section 3.

**SECTION 2:** Petitioner seeks the following zoning relief relative to its proposed reuse of the existing site layout at the Subject Property for development as a Checkers Drive-In restaurant:

1. Special Use Request – Drive-Thru – Request to reuse an existing drive-thru lane (Section 8.2/Table 8-1 of the Zoning Code)
2. Variance Requests – West Side of Property – Request no landscape buffer along the west property line (Zoning Code, § 14.11(D)), and to allow an 8-foot fence along west property line between property and adjacent residential district (Zoning Code, § 12.4(C)(3)(b))
3. Special Use Request – Electronic Sign – Request for installation of an electronic message board LED sign on existing pole located at the southwest corner of the property (Allowed as special use in C-3 Zoning Districts pursuant to Zoning Code, § 15.10(D)(1)).
4. Variance Requests – Signs – Request reuse of the existing two signs (1 monument, 1 pole) on-site at non-conforming heights of twenty (20) feet and forty-six (46) feet, three (3) inches, respectively (Zoning Code, §§ 15.10(F) & (G)) , and installation of oversized electronic message board LED sign (Zoning Code, § 15.10(D)(6 & 7)).

**SECTION 3:** The President and Board of Trustees, after considering and adopting the findings and recommendation of the Plan Commission and other matters properly before it, hereby grants the requested Special Uses and Variations as set forth above in Section 2, subject to the following conditions:

1. An increase in the fence height along the western edge of the property from 6 feet to 8 feet in height, to help decrease some on the noise from the drive-through menu board.
2. Relocation of the trash enclosure away from the northwest corner of the property to a location closer to the northeastern edge of the property; the new location will not interfere with the oncoming traffic.
3. Construction of the trash enclosure using masonry block or equivalent.
4. The electronic message board LED pole sign must comply with all electronic sign requirements set forth in Section 15.10(D) other than as to size, including minimum time of display, requirement that display be static, illumination and glare standards.
5. The electronic message board LED pole sign may only display text related to Checkers or any successor business, public service messages and

announcements, and time and weather text. Displays of any other commercial text or off-premises advertising are prohibited.

6. The gate of the trash enclosure shall be constructed of washable composite material or metal.
7. The existing fire hydrant shall be relocated to a location acceptable to the Village Engineer, at developer's cost.
8. A water spigot shall be installed at the rear of the building, near the trash enclosure.
9. Petitioner to obtain IDOT approval, if necessary, of curb cuts, driveway and drive-through prior to construction.
10. Petitioner to provide photometrics and lighting plan along the west lot line and install light shields as necessary to prevent light pollution on neighboring properties.

**SECTION 4:** Before Petitioner can legally occupy the Subject Property for the proposed Special Uses, Petitioner is required to execute the acknowledgment page attached to this Ordinance and to pay the applicable recording fee, so that this Ordinance may be recorded against the Subject Property.

**SECTION 5:** Any violation of any term or condition stated in this Ordinance or of any applicable code, ordinance, or regulation of the Village shall be grounds for the immediate rescission by the President and Board of Trustees of the approvals made in this Ordinance.

**SECTION 6:** This Ordinance shall be in full force and effect from and after its adoption, approval and publication in the manner provided by law.

**PASSED** this 21<sup>st</sup> day of January, 2014, by the Corporate Authorities of the Village of Maywood on a roll call vote as follows:

**AYES:** Mayor E. Perkins, Trustee(s) C. Ealey-Cross, A. Jaycox, A. Dorris, M. Rogers, M. Lightford and R. Rivers

**NAYS:** None

**ABSENT:** None

**APPROVED** by the Village President on the 21<sup>st</sup> day of January, 2014, and attested to by the Village Clerk this same day.



VILLAGE PRESIDENT



**ATTEST:**

  
VILLAGE CLERK

## EXHIBIT A

### Legal Description

PARCEL 1: LOT 12 (EXCEPT THAT PART OF LOT 12 BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 12; THENCE NORTH ALONG THE EAST LINE OF SAID LOT, 2.4 FEET; THENCE WEST AND PARALLEL WITH THE SOUTH LINE OF SAID LOT, 120 FEET PLUS OR MINUS; THENCE NORTH 5 FEET; THENCE WEST 5 FEET TO THE WEST LINE OF SAID LOT; THENCE SOUTH 7.4 FEET TO THE SOUTHWEST CORNER OF SAID LOT 12; THENCE EAST ALONG THE SOUTH LINE OF SAID LOT; 125 FEET, PLUS OR MINUS, TO THE POINT OF BEGINNING), TOGETHER WITH LOTS 13, 14, 15, 16 AND 17 (EXCEPT THE NORTH 2.4 FEET) IN BLOCK 183 IN MAYWOOD, A SUBDIVISION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 39 NORTH, RANGE 12, AND THE WEST HALF OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 12, AND THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2: LOT 11 AND THAT PART OF LOT 12, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 12; THENCE NORTH ALONG THE EAST LINE OF SAID LOT, 2.4 FEET; THENCE WEST AND PARALLEL WITH THE SOUTH LINE OF SAID LOT, 120 FEET; THENCE NORTH 5 FEET; THENCE WEST 5 FEET; THENCE SOUTH, 7.4 FEET TO THE SOUTHWEST CORNER OF SAID LOT 12; THENCE EAST ALONG THE SOUTH LINE OF SAID LOT; 125 FEET MORE OR LESS TO THE PLACE OF BEGINNING, IN BLOCK 183 IN MAYWOOD, A SUBDIVISION IN SECTIONS 2, 11 AND 14, TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, AS CREATED BY LICENSE AGREEMENT ENTERED INTO, BY AND BETWEEN THE COUNTY OF COOK AND PECORA REALTY ENTERPRISES DATED AUGUST 6, 1984 AND RECORDED NOVEMBER 16, 1984 AND RECORDED NOVEMBER 16, 1984 AS DOCUMENT 27339951 AND ASSIGNED BY ASSIGNMENT OF EASEMENT/LICENSE AGREEMENT IN FAVOR OF KFC NATIONAL MANAGEMENT COMPANY, A DELAWARE CORPORATION, AS ASSIGNEE, RECORDED ON NOVEMBER 16, 1984 AS DOCUMENT NUMBER 27339952.

Property commonly known as: 1718 S. 1<sup>st</sup> Avenue, Maywood, Illinois 60153  
P.I.N. #'s: 15-14-163-019-0000

**EXHIBIT B**

**FINDINGS OF FACT AND RECOMMENDATION OF THE PLAN  
COMMISSION**

**(ATTACHED)**

**ACKNOWLEDGMENT BY PETITIONER**

I, as an authorized officer of the Petitioner under the Petition for Special Uses and Variations related to Property located at 1718 S. 1<sup>st</sup> Avenue, Maywood, Illinois, certify that I have read and fully understand each and every term, provision and condition contained in the foregoing Ordinance granting the special uses and variations relative to site development and operation of a fast food restaurant on the Property, as specifically set forth above in Section 3 above, and, on behalf of Petitioner, voluntarily accept and agree to be bound by same.

Vequity LLC

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_, 2014.

# Village of



# MAYWOOD

Staff Report

TO: Maywood Village Board

From: David Myers, Assistant Village Manager

DATE: January 15, 2014

## FINDINGS OF FACT AND RECOMMENDATIONS OF THE PLAN COMMISSION/ZONING BOARD OF APPEALS TO THE PRESIDENT AND BOARD OF TRUSTEES

**RE: PBA Case#13-003**

On December 12, 2013 the Maywood Plan Commission/Zoning Board of Appeals held a Public Hearing to hear testimony and evidence on the advertised and posted request on the application from Vequity, LLC, for consideration of Special Use permits and several Zoning Variances from sections of the Zoning Ordinance of the Village of Maywood ("Zoning Code") relative to reuse of the former Kentucky Fried Chicken Restaurant located at 1718 S. 1<sup>st</sup> Avenue as a Checkers Drive-In Restaurant. The relief requested ("Proposed Zoning Relief") is as follows:

1. Special Use Request – Drive-Thru – Request to reuse an existing drive-thru lane (Section 8.2/Table 8-1 of the Zoning Code)
2. Variance Requests – West Side of Property – Request no landscape buffer along the west property line (Zoning Code, § 14.11(D)), and to allow an 8-foot fence along west property line between property and adjacent residential district (Zoning Code, § 12.4(C)(3)(b))
3. Special Use Request – Electronic Sign – Request for installation of an LED sign on existing pole located at the southwest corner of the property (Allowed as special use in C-3 Zoning Districts pursuant to Zoning Code, § 15.10(D)(1)).
4. Variance Requests – Signs – Request reuse of the existing two signs (1 monument, 1 pole) on-site at non-conforming heights of twenty (20) feet and forty-six (46) feet, three (3) inches, respectively (Zoning Code, §§ 15.10(F) & (G)) , and installation of oversized LED electronic message board sign (Zoning Code, § 15.10(D)(6 & 7)).

### APPLICANT INFORMATION

APPLICANT(S): Vequity LLC  
1400 16<sup>th</sup> Street, Suite 175  
Oakbrook, IL 60523

## PROPERTY INFORMATION

Property commonly known as: 1718 S. 1st Avenue, Maywood, Illinois 60153  
P.I.N. #'s: 15-14-163-019-0000

## PROJECT OVERVIEW

**PBA Case #13-003** Vequity LCC has a contract to purchase the property located at 1718 S. 1<sup>st</sup> Avenue, the former KFC site, and is proposing to open a Checkers Drive-In. The Developer intends to renovate the property, update the parking lot, the fence bordering the property and add additional landscaping to improve the curb appeal. In order for the project to proceed, the applicant is seeking the Proposed Zoning Relief described above.

## RECOMMENDATION:

Following a public hearing held on December 12, 2013, the Plan Commission/Zoning Board of Appeals (PC/ZBA) recommended approval of the Proposed Zoning Relief specified above on a vote of 4-0-0, pursuant to the following conditions:

1. An increase in the fence height along the western edge of the property from 6-feet to 8-feet in height, to help decrease some on the noise from the drive-through menu board.
2. Relocation of the trash enclosure away from the northwest corner of the property to a location closer to the northeastern edge of the property; the new location will not interfere with the oncoming traffic.
3. Construction of the trash enclosure using masonry block or equivalent.

## PUBLIC HEARING:

At the public hearing held on December 12, 2013, staff presented its understanding of the proposal and work to be undertaken. Petitioner Max Odom with Vequity was present. Mr. Odom described his situation and conditions of the property and the reasons for making the various requests. Staff went over each of the requests and staff recommendations.

1. The property is located in the C-3 General Commercial Zoning District. Based on the zoning district a drive-thru is required to have a special use permit. The applicant has submitted an application requesting the special use permit to allow the drive-through.

### **Special Use Request – To reuse the existing Drive-Through**

2. Based on the landscape requirement a landscape buffer is required along the west property line along the existing drive-thru lanes. The Zoning Code, at Section 14.11(D) requires a minimum of a 10-ft landscape buffer. The applicant is requesting to reuse the existing drive-thru lane, without modifying the driveway lane. If the landscape buffer was installed it would minimize the drive-thru lane. The applicant is requesting a variance for the landscape buffer along the west property line. Based on the proposed site plan they are adding additional landscape materials along the north, south and east property lines. During the Public Hearing members of the Plan

Commission, based on resident concerns, made the related request that the adjacent fence along the west side of the Property be eight (8) feet in height, and Petitioner agreed to the request.

**Variance Requests – Not to require a landscape buffer long the west property line and to allow an eight-foot high fence.**

3. Currently there are two signs located on the property. The applicant wants to reuse the existing signs the former KFC used.
  - a. One current sign is located on site at the corner of 1<sup>st</sup> & Harrison, and is 20 (20) feet in height. Based on the Zoning Code Section 15.10(G), in the C-3 Zoning District the maximum sign height on a monument sign is 6 (6) feet. The applicant wants to reuse the existing sign with modifications to fit Checkers Drive-In branding.
  - b. The second sign is a pole that was used by the previous restaurant. It is located at the southwest corner of the lot. The height of the sign was designed to capture the attention of the local traffic and the I-290 interstate traffic. The existing sign pole is forty six (46) feet, three (3) inches in height. The applicant provided photos of the existing pole and the proposed sign.
  - c. The applicant is proposing to install an oversized digital (LED) light emitting diode, electronic message board sign on the existing pole located at the southwest corner of the lot. The proposed size of the sign is nineteen (19) feet, eight (8) inches X nine (9) feet, seven (7) inches (approximately 190 sq.ft.). Based on Section 15.10(D), a special use permit and size variations are required for this electronic message board in a C3 Zoning district.

**Variance Requests – Reuse of the existing two signs on-site at current heights, and allowance of oversize electronic message board.**

**Special Use Request – An LED message board sign is proposed to be installed on existing pole located at the southwest corner of the property.**

Four (4) neighbors were present for the purpose of commenting on the Proposed Zoning Relief. Some objections were voiced based on the actions of the owner/operator of the previous KFC on the site. These included significant concerns about rodent infestation. According to the neighbors they experienced a major rodent problem, due to a failure of the previous owner/operator to properly maintain the trash enclosure.

Mr. Clifton Edwards of 1707 S. 2nd Avenue gave testimony that the previous KFC restaurant created a major rodent problem by not maintaining the trash enclosure and the patrons would throw their trash on the ground, creating nuisances for the neighbors. The residents currently do not have a rodent problem. Mr. Edwards also mentioned in another town, the restaurant owner required a masonry wall along the property line to prevent rodents from entering the adjacent properties.

Ms. Gwendolyn Crawford of 1707 S. 2nd Avenue gave testimony concerning the previous rodent problems.

Mr. Jeremy Crow of 1705 S. 2nd Avenue also gave testimony concerning the previous rodent problems. He was also concerned about the noise that may be coming from the menu board, in the drive-through.

Chairman Christian and Commissioner Ratley favored a masonry or concrete block enclosure for the trash receptacles to address these resident concerns.

Chairman Stelnicki requested that additional trash receptacles be installed on site for the patrons.

Mr. Max Odom and Ryan Murphy of Vequity gave testimony. They stated that they will ensure a maintenance plan to maintain the property and pest control schedule will be followed to prevent rodents from entering the trash enclosure. Mr. Odom also agreed to the following conditions to satisfy the residents' concerns:

1. Increase the fence height along the western edge of the property from 6-feet to 8-feet in height, to help decrease some of the noise from the drive-through menu board.
2. Relocation of the trash enclosure away from the northwest corner of the property to a location closer to the northeastern edge of the property; the new location will not interfere with the oncoming traffic.
3. Vequity also agreed to a masonry block or equivalent, trash enclosure.

Attached is a copy of the revised site plan, showing the changes.

The Commission members debated and discussed the site plan, Proposed Zoning Relief, and issues that were raised by the residents. A motion was made by Commissioner Ratley and seconded by Commissioner Stelnicki to recommend approval of the proposed Zoning Variances and Special Uses, with the three conditions specified above.

**The PC/ZBA approved the motion on a vote of 4-0-0.**

**FINDINGS:** The PC/ZBA makes the following Findings as to the proposed Special Uses:

### Approval Standards for Special Use

1. That the establishment, maintenance and operation of the special use in the specific location proposed will not be unreasonably detrimental to or endanger the public health, safety or general welfare of any portion of the community. **The Commission found that the granting of the special uses for the drive-thru and electronic message board would not be detrimental to the health, safety and welfare of the neighborhood. Neighbors were not concerned about glare from the sign, the applicant is addressing glare, the drive-thru will be located in the same spot as the previous drive-thru, and concerns for noise will be partially addressed by the taller fence between the drive-thru and adjacent residential area.**
2. The proposed special use is compatible with adjacent properties and other property within the immediate vicinity of the special use. **The Commission found that the requested electronic message board sign and drive-thru, with the steps taken by the Petitioner and increased fence height, were compatible with the nearby uses.**
3. The proposed special use will not substantially diminish and impair property values within the immediate vicinity. **Locating the drive-thru in the same location as the previous drive-thru, and installing an electronic message board sign in place of a previous non-electronic pole sign adjacent to the highway, will not diminish or impair property values in the area. Instead, reuse of this long-vacant site for a commercial purpose should benefit nearby properties.**
4. The establishment of the proposed special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. **The surrounding area will not be impeded in normal development.**
5. Adequate utilities, access roads, drainage or other necessary facilities have been or are being provided. **Adequate utilities relative to the proposed use are already in place.**
6. The special use in the specific location proposed is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan. **The requests are in line with the Zoning Ordinance and goals and objectives of the Comprehensive Plan.**

**FINDINGS:** The PC/ZBA makes the following Findings as to the requested Variations:

### Approval Standards for Variance

- a. The strict application of the terms of this Zoning Ordinance will result in undue hardship. **The Commission found that strict application of the ordinance will result in a hardship on the owner due to, among other things, the fact that the existing layout and location of the drive-thru is already in place, as are the existing signs, and the importance of the proposed signage to Petitioner's business at this location adjacent to the highway.**
- b. The plight of the owner is due to unique circumstances and not applicable generally to other property within the same zoning classification. **The reuse of the existing**

building, site, and signs and location adjacent to the highway and residential areas were among the unique circumstances present here.

- c. The variations, if granted, will not alter the essential character of the locality. The Commission found that the granting of these variations would not adversely alter the essential character of the locality. In fact, the fence variation will help create separation between this commercial site and nearby residential uses.

**SUMMARY OF RECOMMENDATIONS:** Based upon the foregoing Findings, the Plan Commission/Zoning Board of Appeals, by a unanimous vote of 4-0-0, recommends approval to the President and Board of Trustees the Requested Zoning Relief as set forth above, subject to the various conditions outlined above, for the location of 1718 S. 1<sup>st</sup> Avenue, Maywood, Illinois.

Signed:   
Clifford Christian Chairman  
Plan Commission/Zoning Board of Appeals  
Village of Maywood

