



.....
Date April 6, 2009

WHEREAS, on March 9, 2009 by Roll Call No. 09-380, the City Council of the City of Des Moines set the date of hearing on a request from Menard, Inc. to rezone property located at 1201 East Diehl Avenue from R1-60 One-Family Low-Density Residential District and C-2 General Retail and Highway Oriented Commercial District to Limited C-2 General Retail and Highway Oriented Commercial District to allow an expansion of the existing outdoor merchandise area and a 23,760 square foot roofed garden center to the north side of the existing Menard's home improvement retail center, for 5:00 p.m. on March 23, 2009 in Council Chambers, City Hall, Des Moines, Iowa. The proposed rezoning is subject to the following conditions:

1. The westernmost 100 of the subject property shall remain zoned "R1-60" One-Family Low-Density Residential District. (Any commercial development must provide the minimum required 10-foot rear yard setback from this zoning boundary.)
2. The following uses of structures and land shall be prohibited upon the Property:
 - a. Vehicle display lots, including but not limited to used car sales lots;
 - b. Adult entertainment businesses;
 - c. Taverns and nightclubs;
 - d. Off-premises advertising signs; and
 - e. Package goods stores for the sale of alcoholic beverages.
3. Any commercial development on the site shall be setback at least 40 feet from the north side property line.
4. Any commercial development on the site shall be screened with a continuous 14-foot tall solid wall that is setback at least 40 feet from the north side property line. The bottom 4 feet shall be constructed of a masonry material the upper 10 feet may be constructed of 2-inch by 8-inch vertical treat lumber with not spacing between boards.
5. No outdoor storage of merchandise in the outdoor display area shall be stacked higher than the perimeter fencing.
6. Any external lighting on the site shall have a maximum height of 14 feet in height and shall be down-directed cut-off fixtures.
7. Any commercial use of the Property shall be in conformance with an approved site plan that shall:
 - a. Contain a landscape plan and building elevations demonstrating general conformance with the site sketch submitted by the applicant incident to this rezoning, to the satisfaction of the Community Development Director. (This includes providing 8 evergreen trees and 4 overstory trees per 100 lineal feet along the north property line.); and
 - b. Provide landscaped bufferyards and open space in conformance with the City's adopted landscape standards.
8. Any commercial expansion onto the property shall be subject to the entire commercial development being brought into conformance with the current storm water management requirements.

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Date April 6, 2009.....

9. All necessary permits shall be obtained for the construction of any building or wall upon the Property.
10. Prior to issuance of the Certificate of Occupancy for any commercial use of the Property, the professional who signed the site plan shall submit a letter to the Community Development Director certifying that the Property has been improved in substantial conformance with the approved site plan.

WHEREAS, the subject property is legally described as follows:

A part of the North 1/2 of the Northeast 1/4 of the Southeast 1/4 of Section 27, Township 78 North, Range 24 West of the 5th P.M., and described as follows:

Commencing at the Southeast corner of Lot 26, Jordan Place Plat Two, an Official Plat; thence North 89° (degrees) 28' (minutes) 14" (seconds) West along the south line of Lots 26, 25, 24 and 23 of said Jordan Place Plat Two, a distance of 227.11 feet to the West line of the East 160.00 feet of the West 590.20 feet of the South 155.90 feet of said North 1/2 of the Northeast 1/4 of the Southeast 1/4 and the Point of Beginning; thence South 00° 08' 49" East along said West line, 155.67 feet to the South line of said North 1/2 of the Northeast 1/4 of the Southeast 1/4; thence North 89° (degrees) 29' (minutes) 10" (seconds) West along said South line, 430.23 feet to the East line of Lot 3, Jordan Place Plat Three, an Official Plat; thence North 00° (degrees) 12' (minutes) 03" (seconds) West along said East line of Lot 3 and along the East line of Lot 2 and Lot 1 of said Jordan Place Plat 3, a distance of 155.79 feet to the Northeast corner of said Lot 1 and the South line of Lot 16 of said Jordan Place Plat 2; thence South 89° (degrees) 28' (minutes) 14" (seconds) East along the South line of said Lot 16 and along the South line of Lots 17 through 23, a distance of 430.38 feet to the Point of Beginning, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

WHEREAS, due notice of the March 23rd hearing was published in the Des Moines Register on March 14, 2009 as provided by law, setting forth the time and place for hearing on the proposed application; and

WHEREAS, on March 23, 2009 by Roll Call No. 09-495 the City Council continued the hearing to the April 6, 2009 Council meeting at 5:00 p.m. in City Council Chambers, City Hall to allow Community Development Department staff to meet with Jordan Task Force, South Park Neighborhood Association and Menard, Inc. prior to the public meeting. These parties met regarding the proposed rezoning on March 31, 2009; and

★ Roll Call Number

Agenda Item Number

57B

Date April 6, 2009

WHEREAS, pursuant to the published notice, those interested in the proposed rezoning, both for and against, have been given the opportunity to be heard with respect thereto and have presented their views to the City Council; and

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Des Moines that upon due consideration of the facts and statements of interested persons and arguments of counsel, the hearing is closed and the application to rezone the above described property to a Limited C-2 district classification is hereby:

(Six votes needed for approval)

APPROVED: _____

DENIED: _____

Moved by _____ to _____

APPROVED AS TO FORM:



Michael F. Kelley
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
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

LANDSCAPE LEGEND

SYMBOL	SCIENTIFIC COMMON NAME	SIZE	QUANTITY
⊙	EXISTING TREES	EXISTING	17
⊙	EXISTING LAZER SCACCHAM WHORT BROTHERS' BUDAR MARIE	EXISTING	14
⊙	EXISTING TUA CORONATA, LITTLELEAF LINDEN	EXISTING	21
⊙	EXISTING MAUIS 'ADAM'S' FORKING	EXISTING	23
⊙	EXISTING RYKA PHUNGKE OLIVARI SPRUCE	EXISTING	31
⊙	EXISTING SYENKA ZORNHANS CHINCE LLAC	EXISTING	24
⊙	REMOVED ASER SACCHAM WHORT BROTHERS' BUDAR MARIE	REMOVED AND REPLANTED	1
⊙	REMOVED TUA CORONATA, LITTLELEAF LINDEN	REMOVED AND REPLANTED	6
⊙	REMOVED MAUIS 'ADAM'S' FORKING	REMOVED AND REPLANTED	11
⊙	REMOVED RYKA PHUNGKE OLIVARI SPRUCE	REMOVED AND REPLANTED	3
⊙	REMOVED SYENKA ZORNHANS CHINCE LLAC	REMOVED AND REPLANTED	5
⊙	REMOVED ASER SACCHAM WHORT BROTHERS' BUDAR MARIE	REMOVED AND REPLANTED	8
⊙	REMOVED TUA CORONATA, LITTLELEAF LINDEN	REMOVED AND REPLANTED	8
⊙	REMOVED MAUIS 'ADAM'S' FORKING	REMOVED AND REPLANTED	11
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LEGEND

15	40W M.H.S. PARKING LOT LIGHTING ON 50'-0"
16	TALL POLES
17	AND SALVAGED FOR REUSE TO BE REMOVED
18	NEW 40W M.H.S. CHU-CHU LUMINAIRE LIGHTING
19	NEW 40W M.H.S. CHU-CHU LUMINAIRE LIGHTING
20	NEW 40W M.H.S. CHU-CHU LUMINAIRE LIGHTING
21	NEW 40W M.H.S. CHU-CHU LUMINAIRE LIGHTING
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23	NEW 40W M.H.S. CHU-CHU LUMINAIRE LIGHTING
24	NEW 40W M.H.S. CHU-CHU LUMINAIRE LIGHTING
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77	NEW 40W M.H.S. CHU-CHU LUMINAIRE LIGHTING
78	NEW 40W M.H.S. CHU-CHU LUMINAIRE LIGHTING
79	NEW 40W M.H.S. CHU-CHU LUMINAIRE LIGHTING
80	NEW 40W M.H.S. CHU-CHU LUMINAIRE LIGHTING

SITE PLAN

Des Moines, Iowa

REVISED PROPOSED

SCALE: 1" = 30'-0"

DATE: 10-24-88

BY: [Signature]

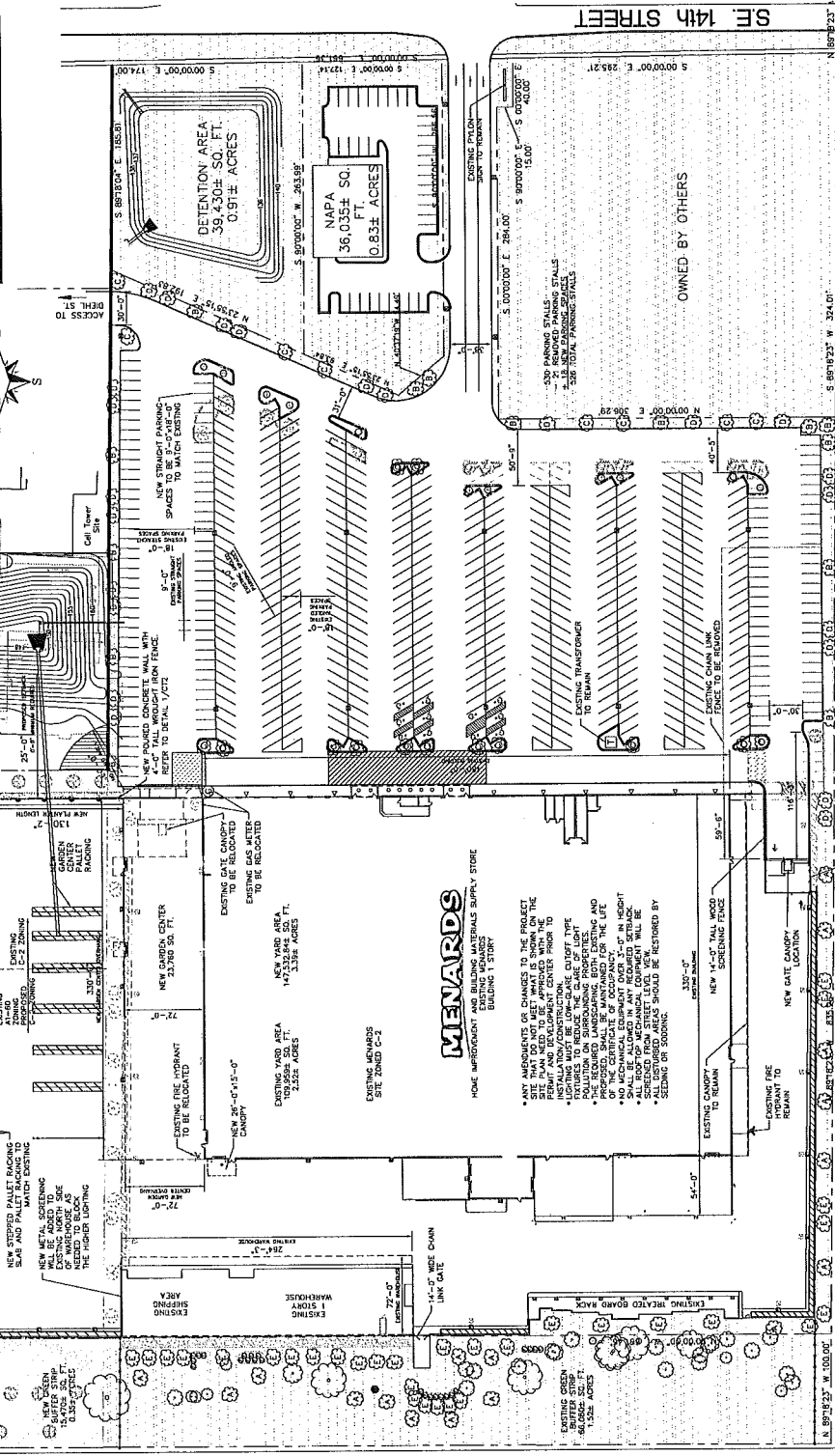
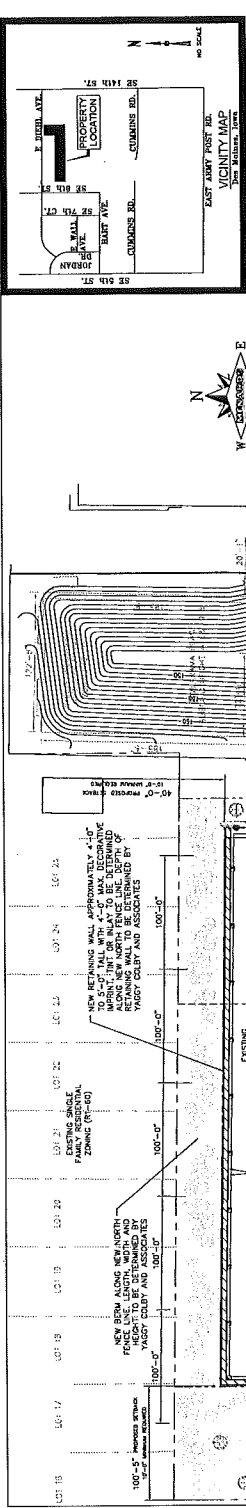
CHECKED BY: [Signature]

DESIGNED BY: [Signature]

DRAWN BY: [Signature]

DATE: 10-24-88

PROJECT NO.: [Number]



REVISIONS

1. REVISED PROPOSED SITE PLAN. SCALE 1" = 30'-0"

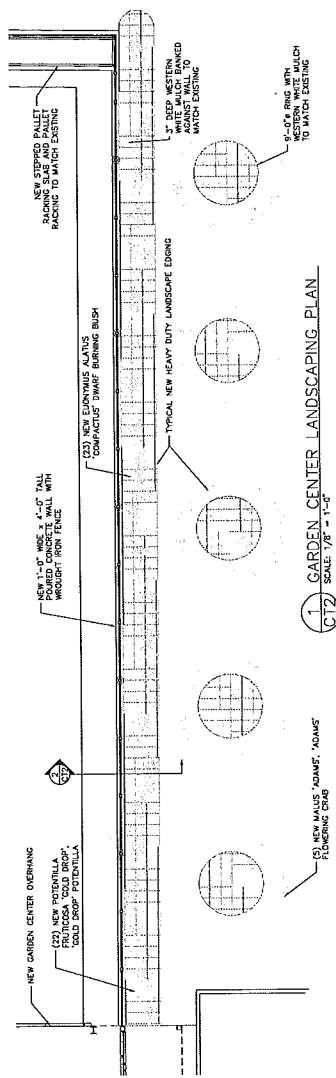
APPLICANT: TOM O'NEIL
REAL ESTATE ASSOCIATE
6600 SE 14TH STREET
DES MOINES, IOWA 50320

SITE PLAN PREPARATION:
KARL W. KOTH
CARL DRACHMAN
EQUUS CLARE, WI 54703
PHONE: (715) 878-2870
FAX: (715) 878-5989

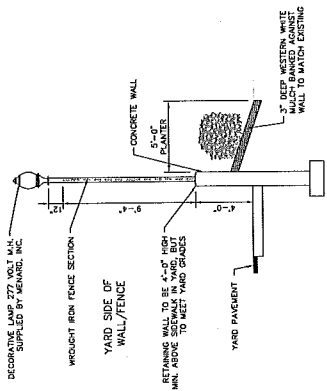
DESIGNED BY: [Signature]
DATE: 10-24-88

DRAWN BY: [Signature]
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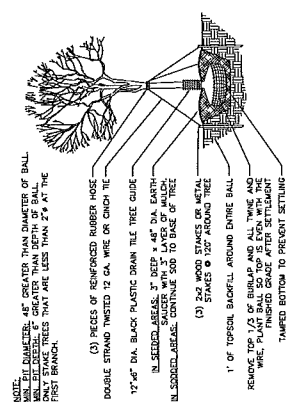
CHECKED BY: [Signature]
DATE: 10-24-88



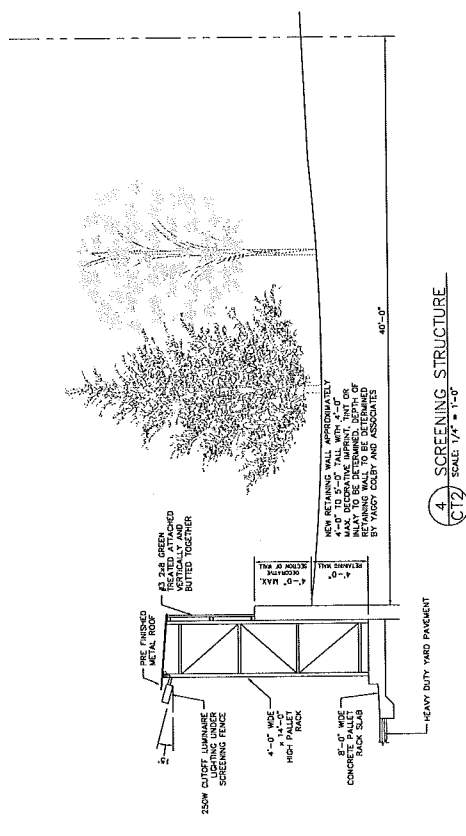
1 GARDEN CENTER LANDSCAPING PLAN
SCALE: 1/8" = 1'-0"



2 FENCE POST SECTION
SCALE: 1/4" = 1'-0"




3 TREE PLANTING AND STAKING DETAIL
FOR NEW AND RELOCATED TREES
SCALE: NONE




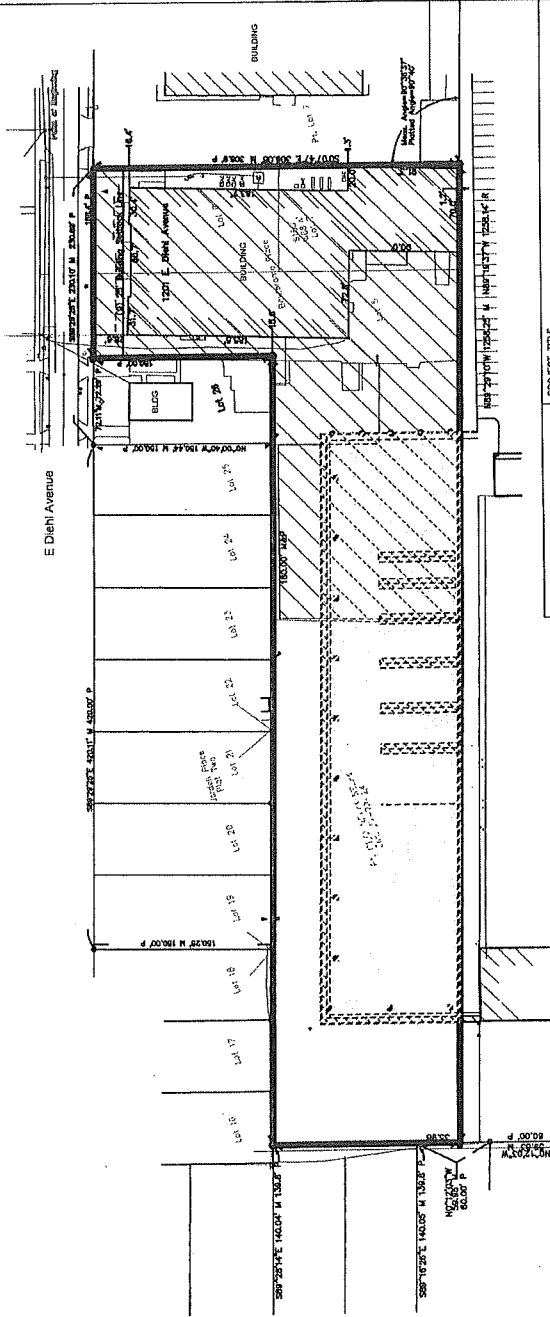
4 SCREENING STRUCTURE
SCALE: 1/4" = 1'-0"

<input type="checkbox"/> SITE PLAN <input type="checkbox"/> APPENDIX <input type="checkbox"/> APPROVE WITH COMMENTS		PROJECT TITLE MENARD INC. Des Moines, Iowa	
STATE OF IOWA COUNTY OF DES MOINES AS NOTED DATE 10-7-08		SHEET TITLE REVISIONS NO. DATE DESCRIPTION 1 10-7-08 REVISIONS AND PLANS PER CITY REQUESTS 2 10-14-08 REVISIONS AND PLANS PER CITY REQUESTS 3 10-14-08 REVISIONS AND PLANS PER CITY REQUESTS	
SCALE DRAWN BY DATE 1/8" = 1'-0" KMK 10-7-08		PROJECT NO. 08-0000-000	
DRAWN BY DATE KMK 10-7-08		CHECKED BY DATE KMK 10-7-08	
DATE 10-7-08		PROJECT NO. 08-0000-000	

WYCKOFF PROPERTY = 150,695± SQ. FT./3.46± ACRES


 -IMPERVIOUS SURFACE AREA PERCENTAGE FOLLOWING COMPLETION OF THE PROPOSED MENARDS GARDEN CENTER/YARD EXPANSION IMPROVEMENTS =56.925± SQ. FT./150.695± SQ. FT. = 37.77% IMPERVIOUS


 -IMPERVIOUS SURFACE AREA PERCENTAGE AT PRESENT BASED ON THE EXISTING WYCKOFF INDUSTRIES IMPROVEMENTS =78.472± SQ. FT./150695± SQ. FT. = 52.07% IMPERVIOUS



MENARD, INC.		PROJECT TITLE	
PLANNING & DEVELOPMENT DEPARTMENT EAU CLAIRE, WISCONSIN		MENARDS DES MOINES, IOWA	
REVISIONS		SHEET TITLE WYCKOFF PROPERTY IMPERVIOUS PERCENTAGES	
NO.	DATE	BY	DATE
1			
2			
3			

SCALE 1" = 60'		LAD DWG NAME	
DRAWN BY		SHEET NO.	
DATE		DATE	

Prepared by: Michael F. Kelley, Assistant City Attorney, 400 Robert Ray Dr., Des Moines, IA 50309 515/283-4124
Return Address: City Clerk - City Hall, 400 Robert Ray Dr., Des Moines, IA 50309
Taxpayer: No change
Title of Document: Acceptance of Rezoning Ordinance
Grantor's Name: Don Wyckoff Heating, Inc. and Menard, Inc.
Grantee's Name: City of Des Moines, Iowa
Legal Description:

A part of the North 1/2 of the Northeast 1/4 of the Southeast 1/4 of Section 27, Township 78 North, Range 24 West of the 5th P.M., and described as follows:

Commencing at the Southeast corner of Lot 26, Jordan Place Plat Two, an Official Plat; thence North 89° (degrees) 28' (minutes) 14" (seconds) West along the south line of Lots 26, 25, 24 and 23 of said Jordan Place Plat Two, a distance of 227.11 feet to the West line of the East 160.00 feet of the West 590.20 feet of the South 155.90 feet of said North 1/2 of the Northeast 1/4 of the Southeast 1/4 and the Point of Beginning; thence South 00° 08' 49" East along said West line, 155.67 feet to the South line of said North 1/2 of the Northeast 1/4 of the Southeast 1/4; thence North 89° (degrees) 29' (minutes) 10" (seconds) West along said South line, 430.23 feet to the East line of Lot 3, Jordan Place Plat Three, an Official Plat; thence North 00° (degrees) 12' (minutes) 03" (seconds) West along said East line of Lot 3 and along the East line of Lot 2 and Lot 1 of said Jordan Place Plat 3, a distance of 155.79 feet to the Northeast corner of said Lot 1 and the South line of Lot 16 of said Jordan Place Plat 2; thence South 89° (degrees) 28' (minutes) 14" (seconds) East along the South line of said Lot 16 and along the South line of Lots 17 through 23, a distance of 430.38 feet to the Point of Beginning, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

ACCEPTANCE OF REZONING ORDINANCE

The undersigned hereby states, warrants and agrees as follows:

1. That Don Wyckoff, as titleholder and Menard, Inc. as contract purchaser are the sole owners of the Property in the vicinity of 1201 East Diehl Avenue, more specifically described above.

2. That in the event the City of Des Moines, Iowa, acts to rezone the Property from the R1-60 One-Family Low-Density Residential District and C-2 General Retail and Highway Oriented Commercial District to C-2 General Retail and Highway Oriented Commercial District

to allow an expansion of the existing outdoor merchandise area and 23,760 square-foot roofed garden center to the north side of the existing Menard's home improvement retail center, we agree and accept on behalf of the owners to the imposition of the following conditions to run with the land and be binding upon all successors, heirs and assigns as part of the ordinance so rezoning the Property:

1. The westernmost ^{90 Feet} 100 of the subject property shall remain zoned "R1-60" One-Family Low-Density Residential District. (Any commercial development must provide the minimum required 10-foot rear yard setback from this zoning boundary.)
2. The following uses of structures and land shall be prohibited upon the Property:
 - a. Vehicle display lots, including but not limited to used car sales lots;
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 - e. Package goods stores for the sale of alcoholic beverages.
3. Any commercial development on the ~~site~~ shall be setback at least 40 feet from the north side property line.
4. Any commercial development on the ~~site~~ ^{Property Property} shall be screened with a continuous 14-foot tall solid wall that is setback at least 40 feet from the north side property line. The bottom 4 feet shall be constructed of a masonry material the upper 10 feet may be constructed of 2-inch by 8-inch vertical treat lumber with ~~no~~ spacing between boards.
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 - a. Contain a landscape plan and building elevations demonstrating general conformance with the site sketch submitted by the applicant incident to this rezoning, to the satisfaction of the Community Development Director. (This includes providing 8 evergreen trees and 4 overstory trees per 100 lineal feet along the north property line.); and
 - b. Provide landscaped bufferyards and open space in conformance with the City's adopted landscape standards.
8. Any commercial expansion onto the ~~Property~~ ^{Property} shall be subject to the entire commercial development being brought into conformance with the current storm water management requirements.
9. All necessary permits shall be obtained for the construction of any building or wall upon the Property.
10. Prior to issuance of the Certificate of Occupancy for any commercial use of the Property, the professional who signed the site plan shall submit a letter to the Community Development Director certifying that the Property has been improved in substantial conformance with the approved site plan.

NOTE
90+10
= 100'
total
setback


3. A certified copy of the rezoning ordinance shall be attached hereto, and a certified copy of this document and the rezoning ordinance shall be recorded by the City in the land records of the County Recorder to memorialize the rezoning of the Property as identified above.

4. That in the event any portion of the Property is hereafter rezoned to a district classification different from Limited C-2, then this Acceptance shall be immediately terminated as applied to the real estate so rezoned on the effective date of such rezoning, and the conditions agreed to herein shall be rendered null and void, provided, if there be any such rezoning to a more restricted zoning classification, any then legal actual use of such real estate shall become a legal non-conforming use.

The words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

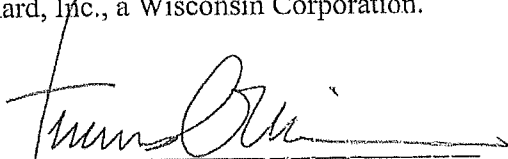
(Signature pages to follow)

MENARD, INC.

By 
Marv. Prochaska, Vice President
Menard, Inc., a Wisconsin Corporation

STATE OF WISCONSIN)
) ss:
COUNTY OF EAU CLAIRE)

This instrument was acknowledged before me on March 20th, 2009, by **Marv Prochaska**, Vice President who is personally known to me and has been authorized by the Board of Directors to execute this document on behalf of Menard, Inc., a Wisconsin Corporation.



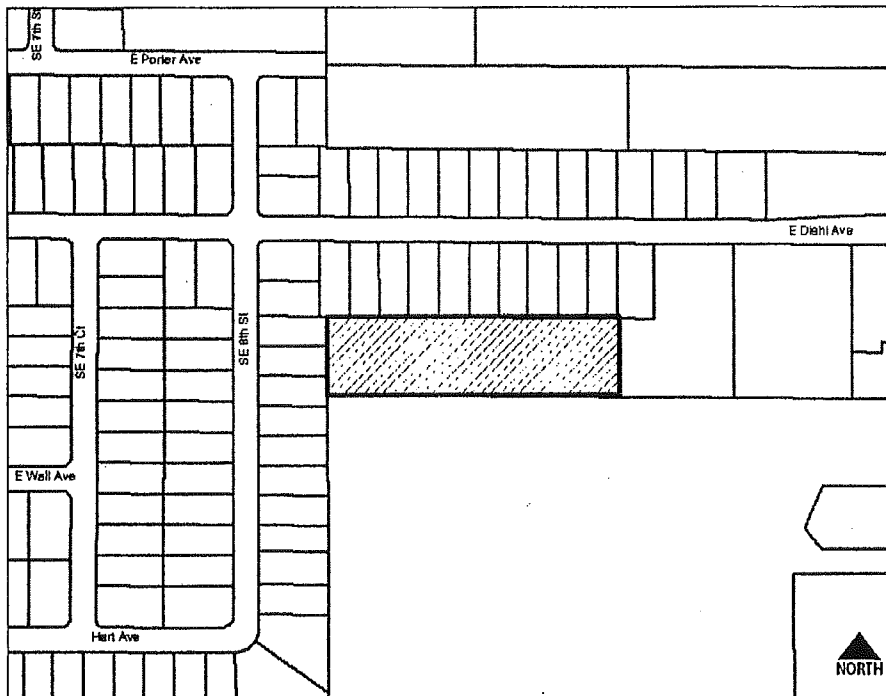
Notary Public in the State of Wisconsin
My commission ~~expires~~: is Permanent

18
57B

Request from Menard, Inc. (purchaser) represented by Thomas O'Neil (officer) to rezone property located at 1201 East Diehl Avenue. The subject property is owned by Don Wyckoff Heating, Inc.			File # ZON2008-00194		
Description of Action	Rezone property from "R1-60" One-Family Low-Density Residential District to "C-2" General Retail and Highway Oriented Commercial District, to allow an expansion of the existing outdoor merchandise area and 23,760 square-foot roofed garden center to the north side of the existing Menard's home improvement retail center.				
2020 Community Character Plan	Low-Density Residential				
Horizon 2025 Transportation Plan	No Planned Improvements				
Current Zoning District	"R1-60" One-Family Low-Density Residential District				
Proposed Zoning District	"C-2" General Retail and Highway Oriented Commercial District				
Consent Card Responses	In Favor	Not In Favor	Undetermined	% Opposition	
Inside Area	3	12		>20	
Outside Area					
Plan and Zoning Commission Action	Approval	7-5	Required 6/7 Vote of the City Council	Yes	X
	Denial			No	

Menards - 6000 SE 14th Street

ZON2008-00194



Date _____ 18
 Agenda Item 570
 Roll Call # _____

February 25, 2009

Honorable Mayor and City Council
 City of Des Moines, Iowa

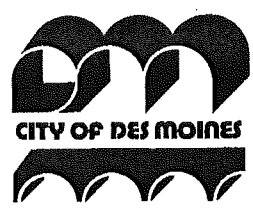
Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held February 19, 2009, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 7-5 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Leisha Barcus	X			
JoAnne Corigliano	X			
Shirley Daniels	X			
Jacqueline Easley		X		
Dann Flaherty		X		
Bruce Heilman		X		
Ted Irvine	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Jim Martin		X		
Brian Millard		X		
Mike Simonson	X			
Kent Sovern				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

APPROVAL of staff recommendation Part A) To find the proposed "C-2" General Retail and Highway-Oriented Commercial District not in conformance with the existing Des Moines' 2020 Community Character Plan's current land use designation of Low-Density Residential.

Part B) To recommend the Des Moines' 2020 Community Character Plan future land use designation be amended from Low Density Residential to Community Commercial.

Part C) To rezone the site to a Limited "C-2" General Retail and Highway-Oriented Commercial District subject to the owner agreeing to the following conditions:

1. The westernmost 100 of the subject property shall remain zoned "R1-60" One-Family Low-Density Residential District. (Any commercial development must provide the minimum required 10-foot rear yard setback from this zoning boundary.)
2. The following uses of structures and land shall be prohibited upon the Property:
 - a. Vehicle display lots, including but not limited to used car sales lots;
 - b. Adult entertainment businesses;
 - c. Taverns and nightclubs;
 - d. Off-premises advertising signs; and

- e. Package goods stores for the sale of alcoholic beverages.
- 3. Any commercial development on the site shall be setback at least 40 feet from the north side property line.
- 4. Any commercial development on the site shall be screened with a continuous 14-foot tall solid wall that is setback at least 40 feet from the north side property line. The bottom 4 feet shall be constructed of a masonry material the upper 10 feet may be constructed of 2-inch by 8-inch vertical treat lumber with not spacing between boards.
- 5. No outdoor storage of merchandise in the outdoor display area shall be stacked higher than the perimeter fencing.
- 6. Any external lighting on the site shall have a maximum height of 14 feet in height and shall be down-directed cut-off fixtures.
- 7. Any commercial use of the Property shall be in conformance with an approved site plan that shall:
 - a. Contain a landscape plan and building elevations demonstrating general conformance with the site sketch submitted by the applicant incident to this rezoning, to the satisfaction of the Community Development Director. (This includes providing 8 evergreen trees and 4 overstory trees per 100 lineal feet along the north property line.); and
 - b. Provide landscaped bufferyards and open space in conformance with the City's adopted landscape standards.
- 8. Any commercial expansion onto the property shall be subject to the entire commercial development being brought into conformance with the current storm water management requirements.
- 9. All necessary permits shall be obtained for the construction of any building or wall upon the Property.
- 10. Prior to issuance of the Certificate of Occupancy for any commercial use of the Property, the professional who signed the site plan shall submit a letter to the Community Development Director certifying that the Property has been improved in substantial conformance with the approved site plan.

Written Responses

3 In Favor

12 In Opposition

STAFF RECOMMENDATION TO THE P&Z COMMISSION

Part A) Staff recommends the Commission find the proposed "C-2" General Retail and Highway-Oriented Commercial District not in conformance with the Des Moines' 2020 Community Character Plan's current land use designation of Low-Density Residential.

Part B) Staff recommends that the Des Moines' 2020 Community Character Plan future land use designation be amended from Low Density Residential to Community Commercial.

Part C) Staff recommends rezoning the site to a Limited "C-2" General Retail and Highway-Oriented Commercial District subject to the owner agreeing to the following conditions:

1. The westernmost 100 of the subject property shall remain zoned "R1-60" One-Family Low-Density Residential District. (Any commercial development must provide the minimum required 10-foot rear yard setback from this zoning boundary.)
2. The following uses of structures and land shall be prohibited upon the Property:
 - a. Vehicle display lots, including but not limited to used car sales lots;
 - b. Adult entertainment businesses;
 - c. Taverns and nightclubs;
 - d. Off-premises advertising signs; and
 - e. Package goods stores for the sale of alcoholic beverages.
3. Any commercial development on the site shall be setback at least 40 feet from the north side property line.
4. Any commercial development on the site shall be screened with a continuous 14-foot tall solid wall that is setback at least 40 feet from the north side property line. The bottom 4 feet shall be constructed of a masonry material the upper 10 feet may be constructed of 2-inch by 8-inch vertical treat lumber with not spacing between boards.
5. No outdoor storage of merchandise in the outdoor display area shall be stacked higher than the perimeter fencing.
6. Any external lighting on the site shall have a maximum height of 14 feet in height and shall be down-directed cut-off fixtures.
7. Any commercial use of the Property shall be in conformance with an approved site plan that shall:
 - a. Contain a landscape plan and building elevations demonstrating general conformance with the site sketch submitted by the applicant incident to this rezoning, to the satisfaction of the Community Development Director. (This includes providing 8 evergreen trees and 4 overstory trees per 100 lineal feet along the north property line.); and
 - b. Provide landscaped bufferyards and open space in conformance with the City's adopted landscape standards.
8. Any commercial expansion onto the property shall be subject to the entire commercial development being brought into conformance with the current storm water management requirements.
9. All necessary permits shall be obtained for the construction of any building or wall upon the Property.
10. Prior to issuance of the Certificate of Occupancy for any commercial use of the Property, the professional who signed the site plan shall submit a letter to the Community Development Director certifying that the Property has been improved in substantial conformance with the approved site plan.

STAFF REPORT

I. GENERAL INFORMATION

1. **Purpose of Request:** The applicant is seeking to expand the Menard's home improvement store onto a 150-foot-wide parcel of land adjoining the north side of the site that would be vacated by Wyckoff Industries. The proposed expansion of Menard's would include a 72-foot-wide by 330-foot (23,760 square feet) enclosed garden center addition to the north side of the

existing Menard's store and an approximate 145-foot by 490-foot outdoor display area.

The submitted site sketch demonstrates that the outdoor display area would be screened by a 14-foot-tall solid wall constructed entirely with vertical 2-inch by 8-inch treated lumber with no spacing between boards. The applicant has proposed a 25-foot setback from the north side property line and a 100-foot setback from the west rear property line. Staff believes that a 40-foot setback from the north property line is more appropriate in order to minimize its impact on the adjoining residential properties.

If rezoned to the "C-2" District, future development of the site (and any modifications to the existing Menard's site) would be subject to administrative review and approval of a site plan. The site plan must comply with all requirements, including those regarding stormwater management, landscaping, and off-street parking.

2. **Size of Site:** 150 feet by 614 feet or 92,250 square feet (2.12 acres).
3. **Existing Zoning (site):** The easternmost 180 feet is zoned Limited "C-2" General Retail and Highway-Oriented Commercial District (conditions are noted in the "Relevant Zoning History" subsection), while the balance of the site is zoned "R1-60 One-Family Low-Density Residential District.
4. **Existing Land Use (site):** The subject property currently contains a contractor storage yard used by Wyckoff Industries and an undeveloped area.
5. **Adjacent Land Use and Zoning:**
 - North – "R1-60", Uses are single-family residential.*
 - South – "C-2", Use is the Menard's home improvement store.*
 - East – "C-2"; Use is a commercial building currently occupied by Wyckoff Industries and the Bowlerama bowling alley.*
 - West – "R1-60", Uses are single-family residential.*
6. **General Neighborhood/Area Land Uses:** The subject property is located along the SE 14th Street major commercial corridor in an area that transitions from the Menard's retail business to a low-density residential area to the north.
7. **Applicable Recognized Neighborhood(s):** South Park Neighborhood Association.
8. **Relevant Zoning History:** On February 20, 2006, the City Council adopted Ordinance 14,547 to rezone a portion of the subject property from "R1-60" One-Family Low-Density Residential District to a Limited "C-2" General Retail and Highway-Oriented Commercial District with the following limitations:
 - 1) The following uses of structures and land shall be prohibited upon the Property:
 - a) Vehicle display lots, including but not limited to used car sales lots;
 - b) Adult entertainment businesses;
 - c) Taverns and nightclubs;
 - d) Off-premises advertising signs; and
 - e) Package goods stores for the sale of alcoholic beverages.
 - 2) Any commercial use of the Property shall be in conformance with an approved site plan. In the site plan approval process, the submitted site plan shall:

- a) Contain a landscape plan and building elevations demonstrating general conformance with the site sketches and sample photographs submitted by the applicant incident to this rezoning, to the satisfaction of the Community Development Director.
 - b) Provide landscaped bufferyards and open space in conformance with the City's adopted landscape standards.
 - c) Provide for the enclosure of any outdoor dumpsters in conformance with the Zoning Ordinance.
- 3) Any building constructed upon the property shall have a maximum building height at the peak of 21 feet.
 - 4) All necessary permits shall be obtained for the construction of any building upon the Property.
 - 5) Prior to issuance of the Certificate of Occupancy for any commercial use of the Property, the professional who signed the site plan shall submit a letter to the Community Development Director certifying that the Property has been improved in substantial conformance with the approved site plan.

9. 2020 Community Character Land Use Plan Designation: Low-Density Residential and Community Commercial.

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, prior to the City Council Hearing. The recommendation of the Commission will be forwarded to the City Council.

II. ADDITIONAL APPLICABLE INFORMATION

- 1. **2020 Community Character Plan:** Staff recommends that the westernmost 100 feet of the subject property be excluded from both the rezoning and the land use plan amendment in order to be consistent with the existing Menard's property. Future construction on the subject property is required to provide a 10-foot rear yard setback measured the zoning line, not from the property line.

The proposed "C-2" General Retail and Highway-Oriented Commercial District would be in conformance with the proposed Community Commercial future land use designation, which allows for large-scale commercial development with over 150,000 square feet of building coverage.

Due to the proximity to single-family residential properties, staff recommends the following uses of structures and land shall be prohibited upon the property: vehicle display lots, including but not limited to used car sales lots; adult entertainment businesses; taverns and nightclubs; off-premises advertising signs; and package goods stores for the sale of alcoholic beverages.

Staff also recommends that any external lighting shall have a maximum height of 14 feet in height and be down-directed cut-off fixtures and that no outdoor storage of merchandise in the outdoor display area shall be stacked higher than the perimeter fencing.

- 2. **Landscaping/Screening:** Future redevelopment of the site would be subject to administrative review and approval of a site plan. Any such site plan would be required to adhere to the landscape standards applicable to the "C-2" District.

The submitted site sketch demonstrates that the outdoor display area would be screened by a 14-foot-tall solid wall constructed with 2-inch by 8-inch vertical treated lumber. The site sketch

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demonstrates that this wall would be setback 100 feet from the west rear property line and 25 feet from the north side property line. In order to buffer the commercial operations appropriately, staff recommends that the wall be setback at least 40 feet from the north side property line rather than the proposed 25 feet. In order to minimize the visual impact and improve the durability of the wall, staff recommends that at least the bottom 4 feet of any wall be constructed with masonry materials.

The site sketch demonstrates that the buffer yard along the north property line would include 8 evergreen trees and 4 overstory trees per 100 lineal feet of property line. The plantings include a total of 48 evergreen trees and 24 overstory trees. The site sketch demonstrates that the 100-foot-wide buffer from the west property line would include 9 evergreen trees and 7 overstory trees. Staff recommends that any future site plan be required to comply with the planting scheme demonstrated on this site sketch submitted with the rezoning application.

3. **Traffic/Street System:** The proposed expansion of Menard's would not impact access to the site. The site is currently accessed by an entrance from SE 14th Street and by an entrance from East Diehl Avenue through Bowlerama's parking lot. The City's Traffic and Transportation staff has determined that adjoining streets can adequately handle the traffic generated by any future development of the site.
4. **Access & Parking:** The number of required off-street parking spaces would be determined during the review of any future site plan for an expansion of Menard's. Any expansion of the building's footprint would require additional off-street parking. Based on the submitted site sketch, the opportunity for additional on-site parking is limited so any expansion would likely require an Exception to the parking requirement from the City's Zoning Board of Adjustment.

The proposed expansion of Menard's would eliminate much of the off-street parking for the building to be vacated by Wyckoff Industries. Future reuse of this building would be subject to satisfying the off-street parking requirement.

5. **Drainage/Grading:** Future redevelopment of the site would be subject to administrative review and approval of a site plan. Drainage and grading shall be evaluated during the site plan review process before the site can be graded or developed. Any site plan must conform to the storm water management requirements in the site plan policies. In addition, the applicant would be required to comply with Iowa DNR requirements for a Storm Water Pollution Prevention Plan (SWPPP).

Due to storm water concerns in the area, staff recommends a zoning condition that any commercial expansion of Menard's onto the proposed area shall be subject to the entire Menard's site being brought into conformance with the current storm water management requirements. The original Menard's site was developed prior to the adoption of more stringent storm water management requirements adopted in 2007.

SUMMARY OF DISCUSSION

Erik Lundy presented the staff report and recommendations.

Tom O'Neil 4777 Menard Drive, Eau Claire WI, representing Menard, Inc. Stated that Menards looked at the concerns addressed on the response cards, and have met with residents of the immediate notice area as well as, the South Park Neighborhood Association (SPNA) since the last P&Z meeting. They have modified plans to comply with staff recommendation of a 40 feet setback and plan to adjust some existing lights. They have also tried to address the perception that Menards is a bad neighbor by communicating better with the neighbors.

Menards engineering company has addressed the drainage issue by designing the entire site to comply with the City of Des Moines current stormwater standards including some corrections and some additional capacity to the existing pond. This includes the removal of the Wyckoff building for an additional detention basin for increased stormwater capacity. The engineering company has confirmed that the flooding into basements would not be an issue and the basin will not hold water all of the time.

Menards is proposing to put up signs to be respectful to our neighbors – no vulgarity, and watch the noise level. The City of Des Moines came out to gage some of the noise level in and around the area and found that there were areas around the apartment complexes and other retail areas in the corridor that were in violation of the noise ordinance while Menards was within the ordinance.

Gary Fox was also at the neighborhood meeting and stated that Menards will need to continue to use Diehl Avenue. Tom asked that the P&Z commission recommend the rezoning to the Council.

Jeffrey Johannsen arrived @ 6:10 p.m.

Bruce Heilman expressed his concern regarding the foul language and Menard's solution of putting up signs to combat this problem, stating that just putting up signs are not enough; the correct answer should be Menards will do everything in their power to control the language in the yard.

Tom O'Neil stated he agreed and they will do everything in their power to control the language in the yard.

CHAIRPERSON OPENED THE PUBLIC HEARING

The following spoke in favor

Jan Goode, 4501 SE 6th Street, President of the South Park Neighborhood Association (SPNA) stated that this project has brought Menards and the SPNA together. Menards has agreed to be responsive, open minded and considerate of the families affected by the proximity of this commercial operation and SPNA has agreed to consider and present issues and concerns to Menards management in a timely and respectful manner, with proposed options and workable solutions.

It has since been learned that Menards noise level was found to be within the ordinance parameters, and all the noise that was in violation of the noise ordinance is coming from somewhere else. SPNA has also learned that Diehl is designated by the City of Des Moines Traffic and Transportation department as a residential collector street which means the heavy traffic flow of the area is due to the convenience of the stop light access at SE 14th Street.

Menards should only be held accountable for the things that they are responsible for and can change. SPNA is in support of the rezoning and expansion at this point because they believe that Menards will follow through with their commitment of being better neighbors and respecting the neighbors. Menards is going to become an active member of the SPNA. An active group of neighbors will be working with Menards management; they are going to be called the Menards Action Plan committee. SPNA ask for the P&Z support if for any reason the agreement between Menards and SPNA become unmanageable or challenged to move forward successfully.

Mike Simonson asked about the attendance of the meetings held between the neighborhood and Menards.

Jan Goode stated that she took the initiative to send out post cards to immediately adjoining property owners and surrounding areas. At the last meeting 13 people were in favor of working with Menards and 8 people opposed working with Menards.

Andy Wyckoff co-owner of Wyckoff Heating stated that they used to be a bad neighbor which may be the cause of why the opponents feel the way they do and they apologize for that but in the past three years they have changed and are now good neighbors. Wyckoff also has a good relation with Menards, they have purchased from Menards and Menards have referred some business to them. They were happy when Menards came to Wyckoff offering to buy the Wyckoff building. Due to the downturn of economy Wyckoff no longer uses this building to full capacity. Wyckoff asked that the P&Z Commission approve Menards request for rezoning.

The following spoke in opposition and represent the Jordan Place Task Force and not represented by the South Park Neighborhood Association.

Ed Bartelt, 1011 E. Diehl Avenue, stated that meetings were held as suggested by the Plan & Zoning Commission but the neighbors most impacted by these issues were neither informed or invited to the private meeting and therefore, had no input. The only meeting the neighbors most impacted by these issues were informed of and invited to was the open meeting on February 11, 2009. He still has concerns about the existing lights.

Michelle Ogle-Riccelli, 920 SE Diehl Avenue stated the SPNA failed to represent the neighbors most impacted by the issues of the sound, traffic, access way, water runoff, lighting and property value. She also ask that Jan Goode recuse herself from these issues because of the appearance of conflict of interest based on her relationship to the Wyckoff's noted at the first meeting and ask that the Jordan Place Task Force be more involved.

Vicky Luna, 817 E. Diehl Avenue, concerned about her property value because of the lights, traffic, and noise. She is concerned about the wall and trees taking away the sun that she needs for her garden, losing her yard and the runoff and the soil that will be taken away.

Amy Siemer, 921 E. Diehl, stated that she is concerned about the noise and the vulgar language.

Scott Siemer, 921 E. Diehl, stated that he is concerned with the noise and that the lumber storage will be too close which will cause concern for fire issues.

Chad Ogle, 920 E Diehl Avenue is concerned with the traffic and the thought that Menards is just not listening.

Jim Martin asked if the right turn only median was discussed.

Chad Ogle stated the right turn median was not 100% discussed and the problem would be parking lots would have to be separated which would obscure other business parking lots.

Mike Hurst, 811 E Diehl stated that he is a star gazer and Menards existing lights interfere with his gazing and moving the lights closer to his property will make it more difficult. He also is concerned with the noise, traffic, the safety of the children in the neighborhood, and that legitimate concerns of being overlooked.

Brian Millard suggested that the lighting should be less intrusive to the adjoining properties according to the requirements of the current lighting ordinance.

Larry Hulse suggested the applicant address how they are going to handle the lighting on their property.

Applicant's Rebuttal

Tom O'Neil addressed the question of rectifying the lighting issue – he answered the question if Menards would address the existing lighting issue if the rezoning did not go forward, the answer was no if they did not have a construction project and if it was not an overall project.

Brian Millard asked if the City put a right turn only median at Diehl and a light at the entrance on SE 14th, would Menards support it.

Tom O'Neil stated Menards would support the light and help pay for it, however it was rejected when the store was originally constructed. As to the median – if the westbound traffic on Diehl doesn't have the capability of making a left turn they will continue to go through the neighborhood.

Brian Millard asked Jim Jillian the store manager about the foul language in the yard and how he proposed to manage it.

Jim Jillian stated he will be walking the yard more and the people that work out in the yard have been talked to, so he will make sure the foul language is under control.

JoAnne Corigliano asked if there was a fence between Menards and Bowlerama, and if not, would a fence possibly help the traffic through unwanted areas.

Tom O'Neil stated there is no fence between Menards and Bowlerama. However, there is a fence between Wyckoff and Menards. A fence would not add much traffic relief.

Jeffrey Johannsen asked if Menards could make the basin safer for children in the neighborhood and noted there been a big garbage problem. He also wanted to know if Menards would clean it up regularly.

Jim Jillian stated there would be no problem putting grates on the pipe to make it safer for children in the neighborhood.

Tom O'Neil stated the store has been notified, to clean the stormwater detention pond. However they have noticed some "fly dumping", which is people driving by and tossing their garbage in the air.

CHAIRPERSON CLOSED THE PUBLIC HEARING

Mike Ludwig explained that a 40 feet setback is recommended and that the 10 feet to 15 feet tall wall would not cast a shadow onto the garden. However, there are pine and honey locust trees that might cast shadow on the yard and staff can work with Menards and the property owner to amend the landscaping plan.

Leisha Barcus asked if the new storm water standards are going to be applied to this project.

Mike Ludwig noted that condition number 8 states that any commercial expansion onto the property shall be subject to the entire commercial development being brought into conformance with the current storm water management requirements.

Leisha Barcus asked about condition number 4 – the bottom 4 feet of the fence shall be constructed of a masonry material.

Mike Ludwig stated that it is staff's recommendation to go keep the condition as is because the requirement helps to bring the scale of the fence down.

Greg Jones asked applicant if they were okay with condition number 4.

Tom O'Neil stated he plans to get with his engineers to come up with a plan to eliminate the necessity for a 4 feet high masonry material fence before they go to council to try and change staff's mind.

Mike Simonson stated Menards has addressed every issue except the traffic on Diehl and asked if a traffic common island could be installed on Diehl or just on the west side of the vehicular entrance to prevent semis from exiting onto Diehl and turning west.

Larry Hulse stated that was the island median idea and maybe it can be suggested to the traffic department but there needs to be a budget and enough room to do it.

Bruce Heilman stated that he is going to vote against this project because of the noise issue.

Brian Millard stated that he likes Mike Simonson idea but the streets are not wide enough.

COMMISSION ACTION

Leisha Barcus moved staff recommendation Part A) To find the proposed "C-2" General Retail and Highway-Oriented Commercial District not in conformance with the existing Des Moines' 2020 Community Character Plan's current land use designation of Low-Density Residential.

Part B) To recommend the Des Moines' 2020 Community Character Plan future land use designation be amended from Low Density Residential to Community Commercial.

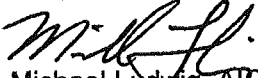
Part C) To rezone the site to a Limited "C-2" General Retail and Highway-Oriented Commercial District subject to the owner agreeing to the following conditions:

11. The westernmost 100 of the subject property shall remain zoned "R1-60" One-Family Low-Density Residential District. (Any commercial development must provide the minimum required 10-foot rear yard setback from this zoning boundary.)
12. The following uses of structures and land shall be prohibited upon the Property:
 - a. Vehicle display lots, including but not limited to used car sales lots;
 - b. Adult entertainment businesses;
 - c. Taverns and nightclubs;
 - d. Off-premises advertising signs; and
 - e. Package goods stores for the sale of alcoholic beverages.
13. Any commercial development on the site shall be setback at least 40 feet from the north side property line.
14. Any commercial development on the site shall be screened with a continuous 14-foot tall solid wall that is setback at least 40 feet from the north side property line. The bottom 4 feet shall be constructed of a masonry material the upper 10 feet may be constructed of 2-inch by 8-inch vertical treat lumber with not spacing between boards.
15. No outdoor storage of merchandise in the outdoor display area shall be stacked higher than the perimeter fencing.
16. Any external lighting on the site shall have a maximum height of 14 feet in height and shall be down-directed cut-off fixtures.

17. Any commercial use of the Property shall be in conformance with an approved site plan that shall:
 - a. Contain a landscape plan and building elevations demonstrating general conformance with the site sketch submitted by the applicant incident to this rezoning, to the satisfaction of the Community Development Director. (This includes providing 8 evergreen trees and 4 overstory trees per 100 lineal feet along the north property line.); and
 - b. Provide landscaped bufferyards and open space in conformance with the City's adopted landscape standards.
18. Any commercial expansion onto the property shall be subject to the entire commercial development being brought into conformance with the current storm water management requirements.
19. All necessary permits shall be obtained for the construction of any building or wall upon the Property.
20. Prior to issuance of the Certificate of Occupancy for any commercial use of the Property, the professional who signed the site plan shall submit a letter to the Community Development Director certifying that the Property has been improved in substantial conformance with the approved site plan.

Motion passed 7-5 (Bruce Heilman, Jacqueline Easley, Dann Flaherty, Jim Martin, Brian Millard voted in opposition)

Respectfully submitted,



Michael Ludwig, AICP
Planning Administrator

MGL:clw

Attachment

Item ZON2008-00194 Date 2-12-09

I (am not) in favor of the request.

(Circle One)

Print Name Frma L. Cogley
Signature Frma L. Cogley
Address 5807 SE 8th St, Seemore

RECEIVED
19 2009

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

Increase in traffic on Diehl a traffic sign
Menards - don't always yield for Diehl traffic
to safe at times. Noise from menards affects to.
they don't keep yard mowed or tree limbed up
when we complain they get nasty or ignore requests
 rude, poor neighbors. But help promised

Item ZON2008-00194 Date 2/12/09

I (am not) in favor of the request.

(Circle One)

Print Name Chadon Michele O
Signature Chadon Michele O
Address 120 E Diehl Ave.

Reason for opposing or approving this request may be listed below:
When menards asked for them to have a chance
to meet with us again to "listen and come to
agreements" they ~~did~~ NOT follow through.
We just met with them for the first time ~~fall~~
they had already made their minds up to come to
an agreement w/ out us. When I asked them questions
such as "If this expansion or rezoning does not go
as the lights" we were told NO, they do not
act on things. We're ~~the~~ And the store
manager did not even know a "Sound ordinance."

Item ZON2008-00194

Date 2-12-09

I (am not) in favor of the request.

RECEIVED

FEB 16 2009

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Edwin Bartelt

Signature Edwin Bartelt

Address 1011 E. Diehl Ave.

Reason for opposing or approving this request may be listed below:
Menards response (no response) to issues in the past demonstrates to me
a total lack of caring about the neighborhood. Right now they are verbally making
concessions on paper to win approval from the city for the re-zoning. Once approval
is received that paper can be discarded, neighbors ignored, and on with
business as usual. The neighbors within the 200 ft. distance were not
included in the private negotiations with Menards. When asked about
correcting existing conditions Menards said flat "no." I've heard no
resolutions to the negative impact of the increase in traffic or
safety issues on Diehl. Property values will likely fall because of the
negative of all the issues regarding Menards.
impact

Item ZON2008-00194 Date FEB. 10 2009

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

(Circle One)

Print Name DAN J Bobenhouse
Signature Dan J Bobenhouse
Address 1313 EAST Diehl Ave.

RECEIVED FEB 19 2009

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

As the owner of BOWLERAMA LAWS
The main concern that I have is
A continuation of UNNECESSARY COMMERCIAL
TRUCK traffic going west on Diehl Ave.
FROM THE PROPOSED LOCATION. I see no need
for semis to go through the residential AREA.

Item ZON2008-00194 Date 2-13-09

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

RECEIVED

Print Name JACOBET N. ZAGAR
Signature J. N. Zagar
Address 5806-5487 H

FEB 24 2009

COMMUNITY DEVELOPMENT DEPARTMENT

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

Too Much TRAFFIC

578

Item ZON2008-00194 Date 2/11/09

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

RECEIVED
(Circle One)
FEB 16 2009
COMMUNITY DEVELOPMENT DEPARTMENT

Print Name EVERLYN DUNCAN
Signature Everlyn Duncan
Address 1000 E. Diehl D.M.

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

Depreciation of Property Value
Trucks from Menards using
Diehl shakes our whole house
so far Menards shown any regard
to neighborhood concerns.

Item ZON2008-00194 Date 2/10/09

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

RECEIVED
FEB 13 2009
COMMUNITY DEVELOPMENT DEPARTMENT

Print Name RENATA O'NEARA
Signature Renata O'Neara
Address 5811 S.E. 8TH ST

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

Every spring and summer they play
not maintain the area behind
my home until I have to call
weed control. How will they maintain
more ground he wanted of this

Item ZON2008-00194 Date 2-10-09

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

RECEIVED
(Circle One)
FEB 12 2009
COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Charles Lynn
Signature Charles Lynn
Address 817 DIEHL

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

They will be to close to the house. They don't keep it is
behind them clean a trimmed for those on 8th street. I can
see this from my yard. Planting fire or fire trees destroys
the soil to have a garden mine is off of my back chain link
fence. Already have problems with theft from people being in the

Item ZON2008-00194 Date 2/10/09

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

RECEIVED
FEB 13 2009
COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Mrs. Frank D. Funaro
Signature _____
Address 903 E Diehl Ave.

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

Noise early in morning from
Menards - fork lifts, etc - bright
lights flood my back yard - Too
many large Menard trucks using
Diehl Ave. - Should use SE 4th exit -

Item ZON2008-00194 Date 2-12-09

I (am) in favor of the request.

RECEIVED

Print Name Chad Parting
Signature Chad Parting
Address 915 E. Diehl Ave.

FEB 16 2009
COMMUNITY DEVELOPMENT DEPARTMENT

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

Property Value, Lighting & sound

Item ZON2008-00194 Date 2-10-2009

I (am) in favor of the request.

RECEIVED

Print Name James L. Sage
Signature James L. Sage
Address 1001 E Diehl Ave.

FEB 16 2009
COMMUNITY DEVELOPMENT DEPARTMENT

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

Water run off, Property valuation, Traffic Control
Lighting from Messerle, noise from Messerle.
Issue to Bill from Menards to stop sign.
street not wide enough for trucks to turn on Bill
To go to stop light. 57B
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Item ZON2008-00194 Date 2-12-09

I (am) in favor of the request.

(Circle One)

RECEIVED FEB 19 2009

Print Name Amy & Scot Siemer
Signature Amy Siemer
Address 921 E. Diehl Ave.

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

- Noise from lumber yard & foul language/don't want to hear it any closer to property line. Menards says they have no control over foul language. Why would they impose this on neighbors moving closer to our homes & affecting quality of my children's lives.
- Traffic - Too Much

Item ZON2008-00194 Date 2-14-09

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

(Circle One)

Print Name Dana Butrum
Signature [Signature]
Address 810 E. Diehl

RECEIVED FEB 19 2009

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

Item ZON2008-00194 Date 2/12/09

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

(Circle One)

Print Name Gary S. Lovan
Signature [Signature]
Address 5703 SE 8th Street

RECEIVED FEB 16 2009 COMMUNITY DEVELOPMENT DEPARTMENT

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

So it will create more jobs in the community.

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Item ZON2008-00194 Date 2/10/09

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

(Circle One)
RECEIVED FEB 13 2009

COMMUNITY DEVELOPMENT DEPARTMENT

Print Name Andrew Wyckoff
Signature [Signature]
Address 124 SE Diehl Ave.

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

Approve: Helps my company, and
Brings Revenue to the City.

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South Park Neighborhood Association

Boundaries: Army Post to Park Ave – SE 14th to SE 5th

Pres.- Jan Goode Vice Pres -Darren Hansen Sec/Treas - Arlene Lamptey

South Park is a safe, clean and family friendly neighborhood with good schools and easy access to shopping, dining and recreation.

February 19, 2009

Menards and South Park Neighborhood Association consent to enter into a working agreement to address current and future issues affecting the quality of life for South Park Neighbors.

This partnership agreement encourages an active and open line of communication, frank discussions and mutually satisfactory solutions.

The goal of this agreement is to establish an amicable and workable relationship and ongoing partnership, now and in years to come.

It is agreed that Menards will be responsive, open minded and considerate of the families affected by the proximity of this commercial operation.

South Park Neighborhood Association agrees to consider and present issues and concerns to Menards management in a timely and respectful manner, with proposed options and workable solutions.

This agreement outlines current concerns and frustrations without total anticipation or knowledge of future unknown issues that may arise due to the construction, expansion and changes in the operation and the addition of the Garden Center.

The following list of concerns is current as of the signing of this agreement. Additional concerns will be reviewed and discussed on NO LESS than a quarterly basis by Menards Management and the **South Park Neighborhood Association–Menards Action Plan** committee (MAP).



Menards INC.

2-19-09

Date



South Park Neighborhood Assoc

2-19-09

Date

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**(Fluid - Working document with notes and comments)
Issues and NOTES FROM 2-11-09 NEIGHBORHOOD MEETING**

<p>Sound issues</p>	<p>Neighbors are asking Menards to comply with the City of Des Moines Sound Ordinance- as presented to Jim Julian at the 2-11-09 meeting.</p> <p>This ordinance outlines the acceptable time frames for sound levels and acceptable sound levels permitted for neighborhoods.</p> <p>The sounds in question are: Trash pickup – loading and unloading Material shipments – loading and unloading Unacceptable language and conversations by employees in the yard Forklifts – do not have back up beepers Early morning start times (summer hours) and associated sounds Construction noise will be limited to sound ordinance parameters Customer/contractor language, yard employees will monitor and report to Jim or other managers to approach customers (sign at guard shack?). Neighbors can call as issues arise. Chris: monitoring noise coming from Menards ... at or below ambient sound levels. Will continue monitoring. 237-1486 Stoney Point responsible for loud crashing/banging sound in early morning? Brian Vance provided number for dispatch for sound complaints in early morning 283-4811 (will be low priority call)</p>
<p>Traffic issues</p>	<p>Stop illegal Menards heavy-truck traffic exiting to residential area-west on Diehl (Menards can ask their contractors to comply. Neighbors can report to Menards so they can follow thru) Install a stop sign at the bowling alley exit right of way -north of the store (on order) Serious consideration of a south exit to Cummins Dr.. (for later consideration if other options do not work?) NO heavy-truck traffic entering or exiting the bowling alley exit – due to inadequate turning radius and wear and tear on the residential street Widen Diehl at intersection to allow turning of semis without blocking west-bound lanes.</p> <p>Construction traffic will NOT be allowed on residential streets NO TRUCKS BEYOND THIS POINT sign</p> <p>Neighborhood issues:</p> <ul style="list-style-type: none"> • Children Playing sign • Local Traffic only sign • Speed limit signs • Bring speed trailer to the neighborhood • Ticket trucks, speeders and improperly parked cars on Diehl <p>City required Menards to provide this for access to light for northbound traffic, but not supposed to go into neighborhood (Gary Fox) >1200 lb gross wt is violation of truck route (3 or more axles) Chad Ogle 167 vehicles in 1 hour past his home too much traffic on residential st. Get a light at Menards exit on 14th and remove it from Diehl? Gary: traffic study to evaluate spacing of signals (drive is too close to Diehl to put a signal at Menards exit) Brian Vance provided number for traffic complaints 271-4650</p> <ul style="list-style-type: none"> • Gary (truck route complaints) 283-4973

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<p>Neighborhood issues</p>	<p>Maintenance and upkeep of berm, fencing, outlots and property perimeter clean and maintained.</p> <p>Menards will put the berm and back lot on a weekly maintenance schedule The back lot will be maintained to the same quality as the front lots</p> <p>Consider having Bob Booth of SPNA bid the mowing contract –</p> <ul style="list-style-type: none"> • Bob has a mowing/snow removal business and is an active member of SPNA. • Bob would maintain the property as required by contract with the interest of the neighborhood in mind <p>Neighbors would like to see a wooden gate installed on the back fence line to replace the current chain link to provide a better sound barrier.</p> <p>Trash, limbs, debris and weeds will be cleaned up and removed from the backlot and berm area in a timely manner.</p> <p>Menards will put trash cans in the parking lot</p> <p>Replacement of 1 dead tree and a spring walk through to determine if more.</p>
<p>Water runoff issues</p> <p>(Revised storm water plan may be available at the meeting Feb 11)</p>	<p>Menards agrees to aggressively manage water runoff issues Menards agrees to review and revise their site plan and operation to better manage storm water</p> <p>Menards will participate in meetings and collaborative efforts to reduce, mitigate and control water runoff issues on Diehl Menards will meet current stds on water retention for entire site, not just the expansion area Access to storm drains available to adults, children, animals, garbage that ends up in yards Will detention ponds cause water table issues for neighbors (wet basements) Must be reviewed and addressed (have engineer address this) and solve before the fact</p>
<p>Light Flood</p>	<p>Menards agrees to review existing building fixtures, yard and security lights. Lighting will be revised and installed to satisfy neighbors Revise and alter the outdoor warehouse –canopy to block bright indoor light flood Construction lights will also be respectful to neighbors Lights in new area will comply with concerns and old issues will be resolved, new fixtures and recessed fixtures, drop metal siding on canopy to cut off light further If expansion does not go forward, Menards is unlikely to replace lights that are an existing issue</p>
<p>Trust & Cooperation</p>	<p>South Park Neighborhood Association agrees to assume positive intent South Park Neighborhood Association agrees to ask questions, check facts and research concerns then present the issues to Menards management. South Park Neighborhood Association agrees to give Menards time to review, consider and address issues as presented. South Park Neighborhood Association will welcome Menards as a member of the association</p>

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	<p>Menards agrees to work with SPNA in a spirit of cooperation and partnership. Menards agrees to be open and truthful with SPNA as we seek mutual resolution. Menards agrees to address these issues as a priority and respond in a timely manner both on the local and corporate level.</p>
<p>Site Plan Expansion and Development</p>	<p>SPNA asks for a chance to have input into the site plan – as there will be issues that affect the quality of life in our neighborhood. Issues such as:</p> <ul style="list-style-type: none"> • Aesthetics • Type of trees used in the buffer area • Light fixtures installed in the new garden center • Fencing • and more
<p>Construction Expansion Revised Operation</p>	<p>We anticipate that construction, expansion and the revised operation will provide opportunities for us to discuss issues additional challenges and quality of life issues for neighbors.</p> <p>We expect that Menards will be open minded and considerate of these unknown and undetermined issues.</p>
<p>Communication Reporting meetings</p>	<p>SPNA – MAP will accept calls, emails and comments from concerned neighbors. MAP will use available resources to determine the extent of the issue and available solutions.</p> <p>Issues and options will be discussed with Menards Management as soon as possible allowing adequate time for Menards to respond and react-as agreed upon by the MAP.</p> <p>MAP will communicate with SPNA regularly – composing a quarterly report showing outstanding unresolved issues, issues in process and resolved issues.</p> <p>A copy of the quarterly report will be sent to Menards management in Eau Clair.</p>

Kimberly: In the summer, contractors will start early Due to heat
 In the union contract?
 Fence around the detention ponds for safety & protection of children
 P&Z also has regulations.
 Downstream trash and debris issue comes from other areas as well
 thru the drainage pipes- need grate

Feb 19 the plan goes to P&Z
 Requires 6/7 vote of approval by City Council

Show of hands Vote:
 8 completely opposed
 13 in favor of granting re-zoning and promoting relationship

(Including notes and comments of 2-11-09 neighborhood meeting)

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Email from Tom to Jan

Jan-

2-18-09

Set forth below are my comments to the outline of concerns raised by the neighborhood. I see the outline as a set of minutes taken from several neighborhood meetings, which meetings came about due to the Menards / Wyckoff expansion proposal. However, some of the issues which arose at the neighborhood meetings are area-wide concerns and cannot reasonably be thought of as resolveable by Menards. I am going to try and separate the two below. As for the proposed letter agreement dated February 19, 2009, you are proposing be signed by Menard, Inc. and the South Park Neighborhood Association, I think that is fine so long there are realistic expectations as to what we can and cannot do.

Sound / Noise Issues: To clarify the minutes, our forklifts do not have back-up beepers. Also, Menard, Inc. agrees to produce and post a number of "be respectful to the neighborhood" signs at exits to the lumberyard and within the lumberyard. The store General Manager will address specific situations as they arise and are brought to his attention. I must say I felt slightly vindicated for Jim Julian that Chris Hasko with the City of Des Moines monitored our sound levels unbeknownst to us and found them within ordinance parameters, and that the noises violative of the ordinance were wrongly perceived as coming from Menards.

Traffic Issues: Menard, Inc. agrees to produce and post two (2) "No thru deliver traffic on westbound Diehl" signs to be posted at the building materials desk and the yard exit. The bowling alley stop sign is on order and will be erected behind the sidewalk per Gary Fox's comment at the latest February 11, 2009 Neighborhood Meeting. We are looking through our files to discover the bowling alley cross-access agreement and maintenance responsibilities. That being said, and as confirmed by Gary Fox with the City of Des Moines, we must continue to have access through the

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bowling alley drive to the signal at Diehl Street. This was a requirement of the original city approvals. Diehl Street is perceived by the City of Des Moines as a Neighborhood Collector Street, and this designation is unlikely to change. Menards traffic is only a portion of the traffic on Diehl that is bothersome to the immediate Diehl Street residents. Also, due to numerous property ownership issues, grade problems, and land use issues, we do not believe a Cummins Drive exit realistic.

Neighborhood Issues: Jim Julian will be placing the landscape buffer areas on a more regular mowing / maintenance program. I do not believe there is an issue allowing a SPNA resident to bid this work, so long as everyone realizes that the economics will ultimately determine who wins this work. We can install a wood fence to replace the existing chain link fence west of the yard.

Water Runoff Issues: We have submitted a drainage report to the city of Des Moines which designs the entirety of the existing Menards store and proposed expansion to the now current stormwater ordinance standards of the City of Des Moines. The design actually goes beyond the ordinance storage requirements by a safety factor of some 20%. The engineer has been instructed to incorporate safety features / grates into the redesign of the ponds. The engineer has confirmed that while the ponds will have a significantly greater design capacity than is currently present during rainfall events, the ponds will outlet following those rainfall events and are designed as "dry" ponds. This eliminates the need for security fencing. Also, because of the soil types in the area and because the ponds will be outleting following rainfall events, the ponds will not contribute to nearby basement flooding.

Lighting: New pallet racking lighting will consist of cutoff luminaire fixtures recessed under the pallet racking roof. Existing cobra lighting will be eliminated. Metal flashing will be utilized as a shield for lighting under the north side of the warehouse and under the existing and proposed

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overhangs. (SPECIFICALLY – SW Corner of open storage with VERY bright lights.)

Trust & Cooperation: I believe your conversations with Jim Julian and his approachability have already convinced the SPNA that we take the relationship seriously.

Site Plan Expansion and Development: We believe the SPNA's comments have been incorporated into the plans... we are awaiting any further comments the City of Des Moines may also have.

Largely, a lot what needs to occur involves better communication between Menards and the SPNA. We believe the conversations over the last six weeks or so have really helped to improve our relationships with the SPNA. Now that better lines of communication have been established, I foresee these improvements continuing into the future.

Feel free to call with questions.

Tom O'Neil
Menard, Inc.
(715) 579-9668