

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	April 6, 2009
	Agenda Item No. 57B Roll Call No. 09- Communication No. 09-213 Submitted by: Larry Hulse, Community Development Department Director	

AGENDA HEADING:

Request from Menard, Inc. (purchaser) represented by Tom O’Neil (officer), to rezone property located at 1201 E. Diehl Avenue, from “R1-60” (One-Family Low Density Residential) and “C-2” (General Retail and Highway Oriented Commercial) to Limited “C-2” to allow expansion of existing outdoor merchandise area and roofed garden center to the north side of the existing Menard’s Store located at 6000 SE 14th Street. The subject property is owned by Don Wyckoff Heating, Inc.

SYNOPSIS:

City staff facilitated a meeting among the Jordan Task Force Group, South Park Neighborhood Association and Menard’s, Inc. on March 31, 2009 as directed by the City Council on March 23, 2009. The four primary issues discussed were the proposed setback from the north (side) property line, building and site lighting, storm water management and traffic. A summary of the discussion regarding each of these issues is provided under the Additional Information heading of this report. On February 19, 2009 the Plan and Zoning Commission voted 7-5 to recommend approval of the land use plan amendment and rezoning subject to conditions (see Board and Commission Actions section). The South Park Neighborhood Association has expressed their support for the project pursuant to the Plan and Zoning Commission’s recommendation. Menard’s subsequently submitted minor revisions to their letter of acceptance of zoning conditions (see attached). Staff recommends approval of the comprehensive land use plan amendment and rezoning subject to the conditions as amended by Menard’s. However, a 6/7th vote of the City Council is required to approve the rezoning due to the percentage of property owners within 200 feet of the project who oppose the request (generally represented by the Jordan Task Force Group).

FISCAL IMPACT: NONE

Amount: N/A.

Funding Source: N/A.

ADDITIONAL INFORMATION:

The following is a summary March 31, 2009 discussion of issues regarding the Menard’s proposal:

Building Setback: The subject property has a dimension of 150 feet from north to south. The Jordan Task Force Group has requested a 100-foot setback for all store operations from the north lot line of the subject property. The Jordan Task Force Group has noted that there is an existing 100-foot setback from the west (rear) lot line and believes that the same setback is necessary on the north (side) lot line to

minimize impacts on the residential properties. Menard's initially proposed a 25-foot setback from the north lot line but has agreed to a 40-foot setback, landscaping and fencing as recommended by the Plan and Zoning Commission. Menard's noted that the existing 100-foot setback along the west property line was only possible because the existing Menard's property has a dimension of 1259 feet from east to west (i.e. 100 feet is 8% of the lot depth). A 40-foot setback from the north lot line represents 27% of the overall depth of the subject property. A 100-foot setback from the north lot line represents 67% of the subject property. Community Development staff explained that the maximum side or rear yard setback required in a typical R1-60 district is 35 feet (i.e. setback required for a church or school use in a residential district). Community Development staff also explained that the minimum side or rear yard setback in a C-2 District is 10 feet when the use abuts residentially zoned properties. As of March 31, 2009 Menard's is not willing to increase the proposed setback beyond 40 feet and the Jordan Task Force is not willing to reduce their request below 100 feet. The South Park Neighborhood Association supported the 40-foot setback, landscaping and fencing as recommended by the Plan and Zoning Commission.

Building and Site Lighting:

Menard's has agreed to provide down-directional, sharp cut-off lighting for all lighting west of the front (east) façade of the existing building. All newly developed portions of the building and site would comply with current standards. In addition, all existing lighting west of the front (east) façade would be upgraded to current standards. Menard's also has agreed to meet quarterly with a sub-committee of the South Park Neighborhood Association to discuss any neighborhood concerns that arise from Menard's operations. The South Park Neighborhood Association agreed to appoint representation of the Jordan Task Force Group to the sub-committee.

Storm Water Management:

Community Development staff explained that the Plan and Zoning Commission's recommendation requires the entire Menard's property to be brought into conformance with current storm water standards. This would require a second detention basin to be constructed in the location of the existing Wyckoff's building and alteration of the existing detention basin north of the NAPA store. Such improvements would reduce the impact on downstream properties east of Southeast 14th Street. The Jordan Task Force had requested a written agreement from Menard's that a parking lot or access way would never be developed on the location of the existing Wyckoff's building. Menard's stated that they could do so as they are proposing a storm water detention basin at that location. Staff also noted that the City Council could reference the submitted site plan as a condition of any zoning approval. The Jordan Task Force Group subsequently submitted concerns regarding the existing storm sewer outflow from the existing detention basin and asked that a grate be placed over the opening that would prevent children from climbing into the culvert / pipe. Staff notes that the outlet structure will have to be modified to bring the entire site into conformance with current storm water design standards. Staff does not oppose installation of a grate over the opening as long as it does not detrimentally impede storm water flows through the culvert / pipe.

Traffic:

The Jordan Task Force Group requested that the Menard's access drive from East Diehl Avenue be closed or gated and the addition of a traffic light at the Menard's entrance from SE 14th Street. Community Development staff noted that the City had required the access to East Diehl Avenue to be installed with construction of the existing Menard's store. The driveway provides access to East Diehl

Avenue and the traffic light located at the intersection of East Diehl Avenue and SE 14th Street. The City Traffic Engineer has indicated that the Menard's entrance along SE 14th Street does not meet warrants or spacing requirements for a signal and would impede traffic flow requirements on SE 14th Street which is a state highway. The Jordan Task Force Group and the South Park Neighborhood Association both expressed concern about traffic on East Diehl Avenue and other streets in the area. Community Development Staff noted that many of the concerns are beyond the scope of the Menard's rezoning request and that requested improvements would need to be part of future Capital Improvement Program deliberations.

PREVIOUS COUNCIL ACTION(S):

Date: March 23, 2009

Roll Call Number: 09-495

Action: Hearing on rezoning of the property from "R1-60" (One-Family Low Density Residential) and "C-2" (General Retail and Highway Oriented Commercial) to Ltd. "C-2". Moved by Hensley to continue to the April 6, 2009 meeting at 5:00 P.M.; Community Development to meet with Jordan Task Force, South Park Neighbors and Menards prior to the hearing. Motion Carried 5-2.

Date: March 9, 2009

Roll Call Number: 09-380

Action: On request from Menard, Inc. to rezone property at 1201 E. Diehl Avenue from "R1-60" (One-Family Low-Density Residential) and "C-2" (General Retail and Highway Oriented Commercial) to Ltd. "C-2" (General Retail and Highway Oriented Commercial) to allow expansion of existing outdoor merchandise area and roofed garden center to north side of existing Menard's store, subject to conditions, (3-23-09). Moved by Vlassis to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Date: February 19, 2009

Roll Call Number: N/A

Action: The Plan and Zoning Commission voted 7-5 in support of a motion to recommend the following:

- A) Approval of a request to amend the Des Moines' 2020 Community Character Plan future land use designation for the subject property from Low Density Residential to Community Commercial.
- B) Approval of a request 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 "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, 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.
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.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Second and third reading of the proposed ordinance if necessary, unless waived by the City Council.

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.