

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date</b>	April 20, 2009
	<b>Agenda Item No.</b> <u>62</u> <b>Roll Call No.</b> <u>09-</u> <b>Communication No.</b> <u>09-236</u> <b>Submitted by:</b> <b>Larry Hulse, Community Development Department Director and Jeb Brewer, City Engineer</b>	

**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 S.E. 14<sup>th</sup> 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, 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. The item was continued at the April 6, 2009 meeting to allow more discussion with Menards regarding the setback of the garden center from neighbors to the north.

Menard, Inc. has signed a revised Acceptance to Rezoning that would require all recommended conditions by the Plan & Zoning Commission but revising the minimum setback of the proposed addition from 40 feet to 55 feet. The 55 foot setback represents a distance half-way between the minimum requirement of 10 feet under standard requirements and the 100 feet of setback sought by the neighbors. Staff recommends approval of the comprehensive land use plan amendment and rezoning, subject to the conditions, as amended and accepted by Menards (see Board/Commission Actions section of this Communication). However, a 6/7 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).

At their April 6<sup>th</sup> meeting, the City Council also referred a study of traffic conditions around the Menards' store to the Traffic Safety Committee for their review and recommendation. The City took traffic counts on Diehl Avenue, west of S.E. 14th Street, beginning Thursday, April 9<sup>th</sup> and continuing through the weekend to measure the volume and speed of traffic and the number of trucks. A detailed turning movement count was also conducted at the Menards' driveways during the high traffic period on Saturday, April 11<sup>th</sup> from 1 – 2 p.m. The traffic counts, as well as observations of the traffic conditions on Diehl Avenue, do not indicate that there is a large amount of truck traffic or cut-through commuter traffic. The traffic volume, speed profile and percentage of trucks identified by this recent count are not excessive and are all typical of traffic conditions that would exist on other residential collector streets in the City. The results of the traffic study were presented to the Traffic Safety Committee at their April 14<sup>th</sup> meeting (see Board/Commission Actions section of this Communication).

It is recommended to only allow one-way exiting right-turn only access from the Menards' site to E. Diehl Avenue. Staff will take the recommendations of the Traffic Safety Committee under advisement as part of the site plan development review of the proposed expansion. However, City Legal has indicated that because the recommended access limitation involves a separate property owner, it cannot be imposed as a condition of the requested rezoning.

#### **FISCAL IMPACT: NONE**

Amount: N/A

Funding Source: N/A

#### **ADDITIONAL INFORMATION:**

The following is a summary of the March 31, 2009 discussion of issues regarding the Menards' 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. Menards initially proposed a 25 foot setback from the north lot line but has agreed to a 40 foot setback, along with landscaping and fencing, as recommended by the Plan and Zoning Commission. Menards noted that the existing 100 foot setback along the west property line was only possible because the existing Menards' property has a dimension of 1,259 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 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. Further discussion since the April 6, 2009 meeting of the City Council, has brought a compromise of a 55 foot minimum setback. This is the difference between the neighbor's preference for a 100 feet and the minimum 10 feet setback applicable under the Zoning Ordinance. Menard, Inc. has signed an acceptance with a revised condition for a 55 foot minimum setback.

Building and Site Lighting: Menards has agreed to provide down-directional, sharp cut-off lighting for all lighting west of the front (east) facade 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) facade would be upgraded to current standards. Menards has also agreed to meet quarterly with a sub-committee of the South Park Neighborhood Association to discuss any neighborhood concerns that arise from Menards' 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 Menards 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 S.E. 14<sup>th</sup> Street. The Jordan Task Force has requested a written agreement from Menards that a parking lot or access way would never be developed on the location of the existing Wyckoff's building. Menards 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 Menards' access drive from E. Diehl Avenue be closed or gated and that an addition of a traffic light be installed at the Menards' entrance at S.E. 14<sup>th</sup> Street. Community Development staff noted that the City has required the access to E. Diehl Avenue to be installed with construction of the existing Menards store. The driveway provides access to E. Diehl Avenue and the traffic light located at the intersection of E. Diehl Avenue and S.E. 14<sup>th</sup> Street. The City Traffic Engineer has indicated that the Menards' entrance along S.E. 14<sup>th</sup> Street does not meet warrants or spacing requirements for a signal and would impede traffic flow requirements on S.E. 14<sup>th</sup> Street, which is a state highway. The Jordan Task Force Group and the South Park Neighborhood Association both expressed concern about traffic on E. Diehl Avenue and other streets in the area. Community Development staff

noted that many of the concerns are beyond the scope of the Menards' rezoning request and that requested improvements would need to be part of future Capital Improvement Program deliberations.

At their April 6<sup>th</sup> meeting, the City Council referred a study of traffic conditions around the Menards store at S.E. 14th Street and Diehl Avenue to the Traffic Safety Committee for their review and recommendation for the continuation of a public hearing at the April 20<sup>th</sup> Council meeting.

Residents from the South Park Neighborhood Association and the Jordan Task Force Group have raised concerns about the impacts of both the existing store and this proposed expansion, including traffic impacts. The primary traffic concern is that the main driveway for the store is not signalized, and some delivery trucks and customers use a driveway that connects to Diehl Avenue to access the traffic signal at S.E. 14th Street and Diehl Avenue. These residents have requested installation of a traffic signal at the Menards' main drive and closing the drive to Diehl Avenue, except for fire vehicle access.

Existing Menards Site Development: In 1990, as part of the development of the WalMart and Venture (now Home Depot, Best Buy, etc.) sites on S.E. 14th Street, south of McKinley Avenue, the City conducted a study of potential future signal locations along S.E. 14th Street between the existing signals at McKinley Avenue, south to Cummins Road, to determine which locations would provide the best opportunities for major access points while preserving the ability to carry through traffic along this important corridor. This study showed that the best signalized access points were a combined location serving WalMart and Venture and a future signal at Diehl Avenue. The combined driveways and signalized access at WalMart/Venture were constructed as part of those developments.

In 1996, Menards presented a development plan to the City to construct a new store at the site of the former S.E. 14th Street drive-in theatre at 6000 S.E. 14th Street. This site had direct access to a median opening on S.E. 14th Street at Hart Avenue, approximately 700 feet south of Diehl Avenue. Because of the volume of traffic that would be generated by the new Menards store, a signalized access location would be needed on S.E. 14th Street.

Prior to 1996, the City had received complaints from residents in the general area of Diehl Avenue, west of SE 14th Street, that traffic signals were needed at this intersection because of the high traffic volume on S.E. 14th (1997 count of 31,700 vehicles per day). However, the traffic volume on Diehl (1994 count of 1,290 vehicles per day) was somewhat below the volume to warrant signals, and the City did not have funding programmed for signals. The Menards traffic study showed that by connecting a drive to Diehl and having a portion of the exiting traffic from Menards use Diehl Avenue, a signal was warranted at the intersection of Diehl Avenue and S.E. 14th Street. The City required Menards to provide a private access through the adjacent property (Bowlerama) to connect to Diehl Avenue, as a condition of their site plan approval. This requirement was similar to cross-access connections required for many other site plans throughout the City along major arterial roadways, with raised medians to control access.

The IDOT concurred with the Menards traffic study and traffic plan, and approved and paid one-half the cost of the signal installation and some minor widening on Diehl Avenue to provide a left-turn lane at the signalized intersection. The City installed a temporary traffic signal at the intersection in October 1997, prior to the opening of the Menards store in January 1998. The permanent traffic signals and minor widening on Diehl Avenue were completed in the summer of 1998.

Proposed Menards Expansion: S.E. 14th Street is a major highway which carries heavy traffic loads (2004 volume of 32,000 vehicles per day), including through commercial vehicles and commuter traffic, commercial delivery vehicles and other local traffic. It provides the primary access to a major regional shopping center (Southridge) as well as to this entire commercial corridor. The importance of this corridor as a vital traffic corridor is increased because there are no other major north-south arterial roadways in this part of the City, especially crossing the Des Moines River. If traffic delays and congestion become excessive on S.E. 14th Street, local traffic and commuter traffic will seek other less congested routes, such as S.E. 5th Street, which go through residential neighborhoods and are not suitable to carry extra diverted traffic.

The existing driveway configuration for the Menards store serves the traffic well, both commercial vehicles and customers. Three of the four major movements (right turns into Menards, left turns into Menards, and right turns from Menards) occur at the main drive on S.E. 14th Street and do not need traffic signals to operate safely. During non-peak times, many vehicles making left turns from Menards can also use this drive without excessive delay. Trucks, vehicles with trailers and other slower vehicles can easily access the traffic signal at Diehl Avenue using the drive connection, especially during peak traffic times. This drive connects to Diehl Avenue just east of the Bowlerama building, in the commercially zoned area and a significant distance east of any residential properties.

Currently, there are five signalized intersections on S.E. 14th Street in the one-mile section from Army Post Road to McKinley Avenue. The typical (and preferable) spacing for signals from McKinley Avenue north to I-35/80 is generally one-half mile. The City operates a computerized traffic signal system along both S.E. and E. 14th Streets, and is able to provide generally good traffic flow, with minimal stops and delays for traffic. If a signal were added at the main Menards drive, the resulting close spacing for this signal would seriously disrupt the traffic flow and substantially increase stops, delay and congest S.E. 14th Street, along with increased potential for rear-end collisions.

If the signal at Diehl Avenue were removed and relocated to the Menards main drive, there would not be an additional signal, but the signal spacing would still cause substantial disruption to traffic flow. In addition, the loss of the signal at Diehl would negatively impact the ability to enter or cross S.E. 14th Street from both the east and the west. The signal at Diehl provides good accessibility for a significant residential area west of S.E. 14th Street, a smaller residential area east of S.E. 14th Street, and both current and future commercial development on both sides of S.E. 14th Street. With a hillcrest on S.E. 14th Street north of Diehl, removal of this signal would also substantially reduce the safety for all motorists at this intersection.

While the existing drive connection from Menards to Diehl provides needed access to the signal, it also creates some additional potential for trucks to cut back west on Diehl through the residential area. The City has previously installed a NO TRUCKS sign on Diehl just west of this drive connection, and Menards has recently installed a STOP sign for the drive. The City took traffic counts on Diehl Avenue, west of S.E. 14th Street, beginning Thursday, April 9<sup>th</sup> and continuing through the weekend to measure the volume and speed of traffic and the number of trucks. The results of this traffic count were presented to the committee at the meeting.

This traffic count showed a total of approximately 2,900 vehicles per day (vpd) on Diehl Avenue, west of S.E. 14th Street, on Friday and Saturday, reducing to about 1,700 vpd on Sunday. A separate count on Diehl between the Menards' drive and S.E. 8th Street, showed a total of about 2,500 vpd on Friday and Saturday, reducing to about 1,550 on Sunday. Speeds on Diehl were recorded about midway between S.E. 14th and S.E. 8th, with an average speed of approximately 25 mph and an 85th percentile speed of approximately 30 mph, similar for both eastbound and westbound traffic. The vehicle classification count showed that out of a total of approximately 8,200 vehicles over the four day period, only 20 (0.2%) were trucks large enough to be potentially in violation of the City's truck route ordinance. Diehl is not a designated truck route, so any through truck greater than 12,000 pounds gross vehicle weight would be in violation. However, garbage trucks or other trucks with a local delivery or pickup would not be in violation. The traffic volume, speed profile and percentage of trucks identified by this recent count are not excessive and are all typical of traffic conditions that would exist on other residential collector streets in the City.

A detailed turning movement count was also conducted at the Menards' driveways during the high traffic period on Saturday, April 11<sup>th</sup> from 1 – 2 p.m. These counts showed a total of approximately 315 vehicles entering and exiting the Menards property during this one hour period. A total of 71 of the entering vehicles (23%) used the north driveway, with 38 (12%) coming from the west on Diehl and 33 (11%) coming from the east on Diehl (although 30-50% of those vehicles from the east went to the Bowlerama parking lot and not to Menards). A total of 242 of the entering vehicles (77%) used the main east drive from S.E. 14th Street, with 126 (40%) making a right turn from the north and 116 (37%) making a left turn from the south. For the exiting traffic, 179 vehicles (56%) used the north drive, with 46 (15%) turning left and 133 (42%) turning right onto Diehl. A total of 138 vehicles (44%) exited the east drive to S.E. 14th Street, with 118 (37%) turning right and 20 (6%) turning left.

These traffic patterns show that the driveway configuration is generally working as intended. The main drive on S.E. 14th Street provides easy access, and 77% of the arriving vehicles use that drive, with only 23% using the north drive and only 12% coming from the west on Diehl. This drive also provides an easy right turn exit for vehicles going south on S.E. 14th Street, and 37% of the total vehicles exit to the south. It is very difficult to make a left turn from this drive during peak traffic times, and only 6% of the exiting traffic made that left turn. The north drive to Diehl provides direct access to the signal at Diehl to accommodate the left-turning vehicles, and 42% of the exiting traffic made that movement. Only 15% of the exiting traffic turned left onto Diehl. Both the arrival and departure traffic patterns appear to fit expected demographics for the Menards customers, and the 12-15% of total customers from the north and west on Diehl

is generally typical of the customer base in that area and does not indicate a large amount of cut-through traffic. In addition, during this peak hour period, no trucks large enough to be prohibited by the City's truck route ordinance were observed, either on Diehl or using either of the Menards' driveways.

Observations of the traffic conditions on Diehl Avenue also do not indicate that there is a large amount of truck traffic or cut-through commuter traffic. Based on the overall street layout for the residential area west of S.E. 14th Street, Diehl serves as the natural residential collector street, especially for the neighborhood to access the traffic signal, so it does carry more traffic than some of the other residential streets. Staff will use the results of the traffic count to help determine if speed enforcement, additional signing or other traffic control measures may be needed on Diehl Avenue.

Based on the above conditions, staff recommended the following in conjunction with the proposed Menards expansion to the Traffic Safety Committee:

1. The existing traffic signal at S.E. 14th Street and Diehl Avenue should remain in place to provide safe and convenient access for the residential and commercial areas both east and west of S.E. 14th Street.
2. A new signal should not be installed at the main drive to Menards on S.E. 14th Street, as the resulting close signal spacing would cause serious disruption to the traffic flow, along with a resulting increase in stops, delay and congestion and accident potential.
3. The existing drive connection from Menards to Diehl should not be closed or blocked off for fire vehicle only access.
4. Staff should continue to analyze the traffic conditions on Diehl Avenue and work with the affected residents to determine appropriate speed enforcement, additional signing or other traffic control measures that may be needed.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: April 6, 2009

Roll Call Number: 09-584

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". Council Communication No. 09-213) Moved by Meyer to continue to the April 20 Council meeting at 5:00 P.M. Motion Carried 7-0.

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: April 14, 2009

Action: The Traffic Safety Committee approved the following recommendations:

1. The existing traffic signal at S.E. 14<sup>th</sup> Street and Diehl Avenue should remain in place to provide safe and convenient access for the residential and commercial areas both east and west of S.E. 14<sup>th</sup> Street.
2. The existing drive connection from Menards to Diehl should not be closed or blocked off for fire vehicle only access; however, it should be made a one-way exit for only right-turns onto Diehl.
3. Staff should continue to analyze the traffic conditions on Diehl Avenue and work with the affected residents to determine appropriate speed enforcement, additional signing or other traffic control measures that may be needed.

Date: February 19, 2009

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 E. 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 Menards' home improvement retail center, subject to the following conditions:

1. The westernmost 100 feet 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.

**Menard, Inc. has signed an acceptance with a revised condition for a 55 foot minimum setback.**

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 no 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 over story trees per 100 lineal feet along the north property line.); and
- b. Provide landscaped buffer yards and open space in conformance with the City's adopted landscape standards.
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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](mailto:cityclerk@dmgov.org).