

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date</b>	May 4, 2009
	<b>Agenda Item No.</b> 49 <b>Roll Call No.</b> <u>09-</u> <b>Communication No.</b> <u>09-291</u> <b>Submitted by:</b> Larry Hulse, Community <b>Development Department Director</b>	

**AGENDA HEADING:**

Items regarding request from Menard, Inc., 1201 E. Diehl Avenue, Des Moines, IA 50315, to allow expansion of existing outdoor merchandise area and roofed garden center to the north side of the existing Menard’s Store, subject to conditions:

- A) Amending the 2020 Community Character Land Use Plan future land use designation, from Low Density Residential to Community Commercial.
- B) 2<sup>nd</sup> Reading on request to rezone the property from “R1-60” (One-Family Low Density Residential) and “C-2” (General Retail and Highway Oriented Commercial) to Ltd C-2.

**SYNOPSIS:**

On April 20, 2009, the City Council voted 7-0 to defer action on a proposed amendment to the 2020 Community Character Plan land use designation; to close the public hearing; to approve first consideration of the proposed rezoning; to refer to the City Manager to work with Council Member Meyer to consider the Traffic Safety Committee’s recommendation to request a stop light at the Menards entrance, route traffic onto Cummins Parkway, or other ways to reduce traffic on Diehl; and to place the second consideration of the ordinance on the May 4<sup>th</sup> agenda. A 6/7 vote of the Council is required to approve the zoning, due to the percentage of adjoining property owners in opposition to the rezoning.

**FISCAL IMPACT:**

Amount: Indeterminate

Funding Source: General Fund Property Tax Revenue, GE001, FIN820700, page 147.

## **ADDITIONAL INFORMATION:**

### Limits of the Rezoning

Pursuant to a request from Jordan Task Force, Menard, Inc. has agreed to amend the rezoning application to leave the northern 55 feet of the subject property zoned R1-60. The proposed building expansion would be allowed with a zero-foot setback from the south boundary of the R1-60 portion of the Menard's property. The net effect is still a 55 foot setback from the adjoining residential properties to the north.

### Additional Voluntary Commitments by Menard, Inc.

Pursuant to the attached e-mail from Thomas O'Neil, Menard Inc. has voluntarily committed that all evergreen plantings in the 55 foot buffer area will be at least 8 feet tall when planted. Menard, Inc. has also voluntarily committed to line the interior side of the proposed fence with a fabric that will ensure that no portion of the garden center is visible through any minor gaps between fence boards.

### Traffic – Ingress / Egress

The existing driveway configuration for the Menard's 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 SE 14<sup>th</sup> 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 the 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. Diehl Avenue has been widened to 40 foot width in this section to provide one lane in each direction, plus a separate left turn lane at SE 14<sup>th</sup> Street, along with a 4 foot raised median island for a portion of this section.

While the existing drive connection from Menard's 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 Menard's has just recently installed a STOP sign for the drive. Staff has developed a conceptual design for a traffic island to be installed just west of this driveway to restrict trucks and/or large trailers from turning left from the driveway and proceeding west through the residential area on Diehl Avenue (see attached). It is proposed that Menard's construct this island, along with an increased driveway radius to better accommodate trucks turning right from the driveway (if they can obtain the necessary easement from the adjacent property owner), as part of their site plan, if the rezoning is approved.

Staff has also studied the potential for a driveway connection from Menard's south to Cummins Road to use the traffic signal at Cummins Road and SE 14<sup>th</sup> Street. While it is potentially possible to construct a drive connection to Cummins, neither Menard's nor the City can require

the existing property owner to allow such a connection. In addition, this connection would not serve the traffic needs as well, since the primary movement needing access to a traffic signal is the traffic leaving Menards and desiring to go north on SE 14<sup>th</sup> Street. Cummins Road is 30 feet wide and does not have a separate left turn lane at the signal with SE 14<sup>th</sup> Street. In addition, to avoid the indirect route of going south to Cummins before going north on SE 14<sup>th</sup> Street, more vehicles may try to exit the Menards driveway directly to SE 14<sup>th</sup> Street to go north, which does not provide the safety of a signal to make that left turn. Also, truck traffic that did exit at Cummins Road to go north on SE 14<sup>th</sup> Street could easily turn left onto Diehl and proceed west through the residential area.

The existing traffic volume, speed profile and percentage of trucks on Diehl Avenue identified by recent traffic counts are not excessive and are all typical of traffic conditions that would exist on other residential collector streets in the City. The traffic patterns show that the driveway configuration is generally working as intended. Continuing to use the north driveway connection to Diehl Avenue, but modifying it to restrict truck traffic from turning left and improving the right turn onto Diehl to use the existing signal at SE 14<sup>th</sup> Street and Diehl, will provide the best level of safety and convenient access for Menard's traffic and protect the residents on Diehl Avenue from illegal truck traffic.

Please refer to the letter from Tom O'Neil attached to the roll call regarding Menard Inc.'s voluntary commitment to work with City staff on various potential short-term and long-term traffic improvements, should the traffic conditions warrant such improvements.

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

Date: April 20, 2009

Roll Call Number: 09-689, 09-690 and 09-691

Action: Items regarding request from Menard, Inc. 1201 E. Diehl Avenue, to allow expansion of existing outdoor merchandise area and roofed garden center to north side of existing Menard's Store, subject to conditions (Continued from 4-6-09): (Council Communication No. 09-236)

- (A) Amending the 2020 Community Character Land Use Plan future land use designation, from Low Density Residential to Community Commercial. Moved by Coleman to defer to the May 4<sup>th</sup> Council Meeting. Motion Carried 7-0.
- (B) 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 Coleman to close the hearing and refer to the City Manager to work with Council Member Meyer to consider the Traffic Safety Committee's recommendation to request a stop light at the Menards entrance, route traffic onto Cummins Parkway, or other ways to reduce traffic on Diehl. Motion Carried 7-0.
- (C) First consideration of rezoning ordinance. Moved by Coleman that this ordinance be considered and given first vote for passage; refer to the City Manager to work with Council Member Meyer to consider the Traffic Safety Committee's recommendation to request a stop light at the Menards entrance, route traffic onto Cummins Parkway, or

other ways to reduce traffic on Diehl. The second consideration of the ordinance will be on the May 4<sup>th</sup> agenda. Motion Carried 7-0.

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 SE 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 SE 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, and investigate a driveway connection from Menard's south to Cummins Road.

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 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 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 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:**

Third reading of the proposed ordinance, if necessary, unless waived by the City Council.

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