



Roll Call Number

21-1851

Agenda Item Number

57

Date December 6, 2021

**RESOLUTION HOLDING HEARING ON APPEAL BY MENARD, INC.
OF DENIAL OF TYPE 2 DESIGN ALTERNATIVE FOR SITE PLAN FOR PROPERTY
LOCATED AT 6000 SOUTHEAST 14TH STREET**

WHEREAS, on October 7, 2021, the City Plan and Zoning Commission voted 10-0 to **DENY** a request from Menard, Inc. (owner), represented by Nicholas Brenner (officer), for a Type 2 design alternative waiving minimum interior parking lot landscape standards required by Municipal Code Section 135-7.9.2 as part of a Site Plan for property located at 6000 Southeast 14th Street (“Property”), related to expansion of an outbuilding within the “CX-V” Mixed Use District and retention of off-street parking lot for the existing Menard’s home improvement/retail store; and

WHEREAS, pursuant to Municipal Code Section 135-7.9.2, a landscape island is required for every ninth parking space with a result of no more than eight continuous parking stalls in a row without a landscape island, which equates to 77 required landscape islands on the Property, and a minimum 30 percent canopy coverage on the Property is also required; and

WHEREAS, in its Site Plan, Menard, Inc. proposed a total of 24 landscape islands on the Property, rather than the 77 landscape islands required by Municipal Code Section 135-7.9.2, and a total of 18 percent canopy coverage for the Property, rather than the 30 percent coverage required by Municipal Code Section 135-7.9.2; and

WHEREAS, in lieu of approving the Type 2 design alternative requested by Menard, Inc., the Plan and Zoning Commission voted 10-0 to approve the Site Plan submitted by Menard, Inc. subject to:

- Provision of the required interior lot landscape and overstory tree generally at every eleventh parking stall to the satisfaction of the Planning and Urban Design Administrator;
- Provision of one tree every 30 lineal feet on each side of the access drive to the satisfaction of the Planning and Urban Design Administrator;
- Amendment of each existing planter to have a minimum planter area of 5-foot by 17-foot or 85 square feet of soil area; and
- Compliance with all administrative comments; and

WHEREAS, Menard, Inc. has timely appealed to the City Council pursuant to Municipal Code Section 135-9.3.9.B seeking further review of the Plan and Zoning Commission decision and approval of the above-described Type 2 design alternative to the Site Plan waiving minimum interior parking lot landscape standards required by Municipal Code Section 135-7.9.2; and

WHEREAS, on November 15, 2021, by Roll Call No. 21-1726, it was duly resolved by the City Council that the appeal be set down for hearing on December 6, 2021 at 5:00 P.M. in the Council Chambers; and

WHEREAS, due notice of said hearing was published in the Des Moines Register, as provided by law, setting forth the time and place of hearing on said appeal; and



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WHEREAS, in accordance with said notice, those interested in said appeal and the proposed site plan, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa as follows:

1. Upon due consideration of the facts and any statements of interested persons and arguments of counsel, any and all arguments and objections to the Plan and Zoning Commission denial of the Type 2 design alternative for property located at 6000 Southeast 14th Street as described above, are hereby received and filed.
2. The communications from the Plan and Zoning Commission and from Menard, Inc., respectively, are hereby received and filed.

Alternative A

MOVED BY _____ to **DENY** the proposed Type 2 Design Alternative described above, and to make the following findings of fact and objections regarding the proposed Type 2 Design Alternative:

- a. Municipal Code Section 135-7.9.2.A requires minimum interior parking lot landscape standards, including a minimum landscape island with every ninth (9th) parking space and thirty percent (30%) shading requirement.
- b. Application of Section 135-7.9.2.A to the Property would require Menard, Inc. to install 77 landscape islands and thirty percent (30%) shading through overstory trees in the portion of the Property containing the parking lot and access drives.
- c. Menard, Inc.'s proposal for the Type 2 design alternative is as follows:
 - i. to install one landscape island, bringing their total of existing islands plus one new island to 24 landscape islands, equaling a deficiency of 53 landscape islands; and
 - ii. to install 7 overstory trees for a total of eighteen percent (18%) canopy coverage consisting of overstory and understory trees, equaling a deficiency of twelve percent (12%) canopy coverage in the portion of the Property containing the parking lot and access drives.
- d. A majority of the existing landscape islands on the Property do not meet the minimum dimensions of 5-foot by 17-foot landscape and thus do not provide optimal growth for potential trees.
- e. Municipal Code Section 135-6.4-1 requires the Property to have 415 parking stalls to meet minimum parking requirements. The Property currently contains 525 parking stalls, equaling 95 stalls over said required minimum. Menard, Inc.'s site modifications will reduce the number of parking stalls from 525 to 469 stalls. Full compliance with Section 135-7.9.2.A would further reduce the total number of parking stalls from 525 to 416 stalls, or one excess stall over the required minimum, and thus would not impact the minimum parking requirement.
- f. In the approved Site Plan for the Property, the Plan and Zoning Commission approved a compromise option between full compliance with Des Moines Municipal Code Section 135-7.9.2.A and Menard, Inc.'s proposal, which would achieve and require the following:
 - i. Provision of the required interior lot landscape and overstory tree generally at every eleventh (11th) parking stall in maneuvering and parking areas to the satisfaction of the



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- Planning and Urban Design Administrator, equaling installation or conversion by Menard, Inc. of a total of 40 new landscape islands in addition to those shown in the approved Site Plan;
- ii. Provision of one tree every 30 lineal feet on each side of the access drive to the satisfaction of the Planning and Urban Design Administrator, equaling planting by Menard, Inc. of a total of 12 trees within the access drive area; and
- iii. Amendment of each existing planter to have a minimum planter area of 5-foot by 17-foot or 85 square feet of soil area.
- g. The above-described compromise option approved by the Plan and Zoning Commission, in lieu of the Type 2 design alternative, would result in approximately 32.9% canopy coverage in the portion of the Property containing the parking lot and access drives.
- h. The proposed site development and installation of interior landscape islands can be completed in phases by Menard, Inc. to minimize impacts on retail customers at the Property.
- i. Menard, Inc. has not met the burden required to demonstrate that the requested design alternative meets the criteria for approval or that the result of the design alternative would equal or exceed the result of compliance with the above-stated Site Plan conditions approved by the Plan and Zoning Commission, constituting a compromise position between full compliance with the Planning and Design Ordinance and Menard, Inc.'s proposal.
- j. Menard, Inc. has not shown that the requested design alternative is consistent with all relevant purpose and intent statements of the Planning and Design Ordinance and with the general purpose and intent of the comprehensive plan.
- k. Menard, Inc. has not shown that the requested design alternative will not have a substantial or undue adverse effect on the public health, safety, and general welfare.
- l. The Type 2 Design Alternative should not be approved for the reasons stated above.

Alternative B

MOVED BY Datto to **APPROVE** the proposed Type 2 Design Alternative described above, and to make the following findings of fact in support of approval of the proposed Type 2 Design Alternative:

- a. Municipal Code Section 135-9.2.2.B.1 provides that design alternatives are intended to allow for relief from the Planning and Design Ordinance when "specific site features or characteristics of the subject property, including the presence of existing buildings, creates conditions that make strict compliance with applicable regulations impractical or undesirable."
- b. The existing building on the Property is set at a significant distance from the Southeast 14th Street primary street frontage, and the existing parking lot is approximately 260-350 feet from said street frontage.
- c. Existing buildings and lots that front Southeast 14th Street, and a proposed new building, provide buffers between the primary street frontage and the Property and its parking lot.
- d. The topography of the Property and its parking lot causes the lot to be less visible from the Southeast 14th Street frontage.



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- e. The proposed Type 2 design alternative allows a continuation of existing landscaping elements, which will not increase or create new adverse impact on the adjacent properties.
- f. The above-stated facts specific to the Property reduce the aesthetic concerns and need to screen the existing parking lot from the Southeast 14th Street frontage which are typically addressed through landscaping requirements.
- g. Menard, Inc. has met the burden required to demonstrate that the requested design alternative meets the criteria for approval and that the result of the design alternative would equal or exceed the result of strict compliance with Section 135-7.9.2 of the Planning and Design Ordinance.
- h. Menard, Inc. has shown that the requested design alternative is consistent with all relevant purpose and intent statements of the Planning and Design Ordinance and with the general purpose and intent of the comprehensive plan.
- i. Menard, Inc. has shown that the requested design alternative will not have a substantial or undue adverse effect on the public health, safety, and general welfare.
- j. Said Type 2 Design Alternative should be approved for the above-stated reasons and incorporated into the approved Site Plan for the Property.

MOVED by Gatto to adopt.

FORM APPROVED:

/s/ Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

(10-2021-7.18)

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | | ✓ | | |
| BOESEN | ✓ | | | |
| GATTO | ✓ | | | |
| GRAY | ✓ | | | |
| MANDELBAUM | | ✓ | | |
| VOSS | ✓ | | | |
| WESTERGAARD | ✓ | | | |
| TOTAL | 5 | 2 | | |

CERTIFICATE

I, P. KAY CMELIK, 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.

P. Kay Cmelik

City Clerk

MOTION CARRIED APPROVED
T. M. Franklin Cownie
Mayor