

Date March 9, 2009

WHEREAS, the City Plan and Zoning Commission has advised that at a public hearing held on February 19, 2009, its members voted 7-5 in support of a motion to recommend **APPROVAL** of a request from Menard, Inc. (purchaser) represented by Thomas O'Neil (officer) to find the proposed rezoning in conformance with the Des Moines' 2020 Community Character Plan and 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

Date March 9, 2009

- 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.

The subject property is more specifically 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.

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

- 1. That the meeting of the City Council at which the proposed rezoning is to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on March 23, 2009, at which time the City Council will hear both those

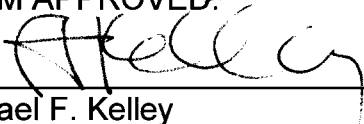
Date March 9, 2009

who oppose and those who favor the proposal.

2. That the City Clerk is hereby authorized and directed to cause notice of said proposal in the accompanying form to be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.

MOVED by _____ to adopt.

FORM APPROVED:



Michael F. Kelley
Assistant City Attorney

(ZON2008-00194)

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

REGISTER ORDER NO. _____ ROLL CALL LEGAL BULLETIN BOARD FOLLOW UP

NOTICE OF HEARING

TO WHOM IT MAY CONCERN

Notice is hereby given that on March 23, 2009, at 5:00 p.m., in the Council Chambers at City Hall at 400 Robert D. Ray Drive, Des Moines, Iowa, a hearing will be held by the City Council concerning a request from Menard, Inc. (purchaser) represented by Thomas O'Neil (officer) to rezone property 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.

The subject property is more specifically 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.

At the above designated time and place, opportunity to be heard will be given to proponents and opponents of the proposed rezoning.

CITY OF DES MOINES, IOWA

By: _____
T. M. Franklin Cownie, Mayor

ATTEST:

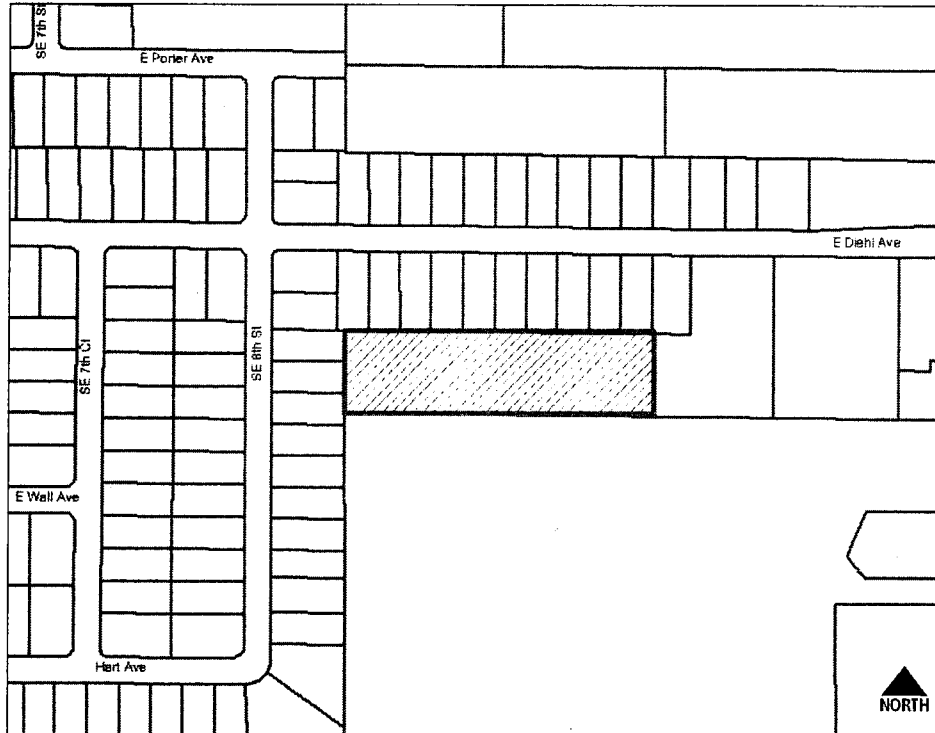
Diane Rauh, City Clerk

Published in the Des Moines Register on _____.

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



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

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



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

- 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.)
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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: