



ITEM REPORT PLANNING AND ZONING COMMISSION

Agenda Date: 8/10/2022
Agenda Section: New Business

TO: Baxter Planning and Zoning Commission

FROM: Joshua Doty, Community Development Director

REQUEST: **PUBLIC HEARING. Preliminary and Final Plat** to allow "Menard Third Addition" to consolidate two lots and to subdivide a lot, **Conditional Use Permits** for a sales yard expansion, an accessory building, and off-site parking lot, and **Variances** to off-site parking standards, architectural requirements, front setback, fence height, curb cut, loading screening, trash screening, and loading maneuvering in a public street for Menards located at 15236 Dellwood Drive and property located at the northeast corner of Whispering Woods Lane and Pearl Drive (city file 2022-13)

APPLICANT: Menard, Inc.
C-2, Regional Commercial and
C-1, Neighborhood Commercial

ZONING:

1. Application Request

The applicant is requesting the following for approval of an expansion at Menards at 15236 Dellwood Drive:

- 1) Preliminary and Final Plat to consolidate two lots for the Menards store property and to subdivide a vacant outlot north of the store into a lot and an outlot.
- 2) Conditional Use Permits to allow:
 - a. An expansion of the equipment sales yard/garden center,
 - b. Accessory structure square footage to exceed city standards,
 - b. Off-site parking
- 3) Variances
 - a. A variance to the off-site parking CUP standards. Specifically, 10-5-2, G, 2 states that for Off Site Parking, "Reasonable access from the off-site parking facility to the use served exists, and the off-site parking facility is adjacent, either directly abutting or across the street from the use served except that off-street parking located across the street shall be connected to an existing parking lot that services a principal use." The proposed off-site parking area would be connected to an existing parking lot, which creates the need for a variance to the above standard.
 - b. Four-foot accessory structure/fence setback, where 35 feet is required to the north property line to allow the fence and racking accessory structure for the yard expansion.
 - c. To allow a 14-foot-high fence where 6 feet is the maximum height.
 - d. To allow metal as an exterior finish for 100 percent the siding and roof material.
 - e. To allow a non-articulated accessory structure.
 - f. To expand the loading dock without screening, where a non-residential loading area is next to residential property.
 - g. To propose exterior trash without a trash enclosure.
 - h. To exceed the City's maximum 30-foot curb cut requirement for pavement access from a public street (Whispering Woods).

- i. To propose loading maneuvering in a public street.

The above applications would allow Menards to construct a building/loading addition, a sales yard expansion, a detached accessory structure, and an off-site parking lot.

2. Context

Adjacent Land Use and Zoning

	Adjacent Land Use	Zoning
North	Commercial and Residential Property	C-2, Regional Commercial C-1, Neighborhood Commercial R-1, Low Density Residential
East	Residential Property	RS, Residential Staging
South	Commercial Property	C-2, Regional Commercial
West	Commercial Property	C-2, Regional Commercial

Natural Characteristics of the Site

The sites topography has minimal topography except for the sharp grade change where the site was built flat with a tall retaining wall to the wetland on the east side of the site. The site has few existing trees. The property is not located in a shoreland overlay district. There is a large wetland on the east side of the site and storm water ponding. The wetland is also a floodplain basin. The applicant would not impact the wetland.

Utility Commission Review

The Utility Commission reviewed the application on August 4, 2022, and recommended the following to the Planning Commission:

- Deny variance for loading dock without screening, where a non-residential loading area is next to residential property.
- Deny variance for exceeding the 30-foot curb cut requirement for pavement access from a public street.
 - o If this variance is accepted, then a condition to reconstruct the radii at Dellwood Drive and Whispering Woods Lane to 30 feet needs to be included to allow for truck traffic.
 - o If this variance is accepted, then a condition should be included to require Menards to improve Whispering Woods Lane from Dellwood Drive to 250 feet east of Mertens Drive to be constructed to a 10-ton design (City standard for all commercial roads) and the urban section (curb and gutter) needs to be extended to 250 feet east of Mertens Drive.
- Deny variance to allow loading maneuvering in a public street.
- Conditions prior to recording the plat:
 - o Dedicate easements over the regional ponds and install any storm sewer improvements needed to convey water from existing regional ponds if relocated.
 - o Dedicate easements on the plat over all existing and proposed watermain.
 - o Require a Development Agreement for the Municipal Improvements prior to the plat being recorded or a building permit issued.
 - o Provide flashing lights and streetlights at the pedestrian crossing on Whispering Woods Lane from the off-street parking lot.
 - o Dedicated a 30-foot x 30-foot site triangle on the plat at the intersection of Pearl Drive and Whispering Woods Lane.
- Conditions prior to issuing a building permit:

- o Public Works Director/City Engineer shall review and approve Civil Drawings.
- o Provide well sealing certificate from the Minnesota Department of Health for sealing the well on the recently acquired residential property.
- o If watermain extension is needed along Whispering Woods Lane, then the sanitary sewer main shall be extended and the road reconstructed to a 10-ton road as far east as the watermain is required.
- o Eliminate grading that is currently shown in the Civil Drawings within the 30-foot Conservation Easement along the east property line of Lot 1, Block 1 of the MENARDS THIRD ADDITION Plat.

Architectural Review

The applicant has submitted an architectural review application. Architectural variances are required for the detached accessory structure, which are discussed in the variance section of the report below. Other than the variances, the application can be approved administratively.

3. Analysis of Request

Preliminary and Final Plat

Staff has reviewed the application for consistency with City Code requirements, as well as City policies.

The City's discretion in approving or denying a preliminary and final plat is limited to whether or not the proposed plat meets the standards outlined in the City Code. If it meets these standards, the city must approve the plat.

The C-1 and C-2 zoning districts require a minimum lot area of 20,000 square feet and a minimum lot width of 100 feet for interior lots and 120 feet for corner lots. The plat includes the consolidation of two lots into one for the Menards Parcel; and a subdivision of the lot to the north into one lot and one outlot. The Menards property and the lot to the north largely exceed the minimum lot and width standards of the C-1 and C-2 zoning districts.

Park Dedication

Staff notes that park dedication is required to re-plat the outlot property into a lot and block property for the off-site Menards parking lot (Lot 1, Block 1, Mendard Third Addition). The park dedication fees are subject to the city's park dedication ordinance and fee schedule in place at the time the plat is recorded. Staff has added a condition requiring park dedication at the time the plat is recorded.

Right-of-Way

A 40-foot dedication of right-of-way is required for a 150-foot segment of Whispering Woods Lane. Staff has added a condition that the right-of-way dedication shall be shown on the final plat prior to recording the plat.

Access

A new access is proposed on Pearl Drive for the off-site parking lot. Staff supports the proposed access to Pearl Drive.

An access with a 460-foot curb cut is proposed on Whispering Woods Lane for a new loading area for Menards. This access requires variances, which are addressed in the variances section of this report below.

Conditional Use Permits

The applicant is requesting conditional use permits (CUPs) to allow an expansion to the sales yard area, to allow a third accessory building on the property, and to allow an off-site parking lot. Specifically, the applicant would expand the sales yard area and build the accessory building east of the store in the northeast corner of the property. The 75-stall, off-site parking lot would be constructed across Whispering Woods Lane on the vacant lot north of the retail store.

The conditional use permits are subject to the following standards:

Exterior Equipment Sales Yard Expansion Standards

- A. When abutting a residential use or district, the property shall be screened and landscaped in accordance with this chapter. All structures shall be set back at least one hundred feet (100') from any residential property line.
- B. On site storage and use of pesticides and fertilizers shall meet the standards of the Minnesota department of agriculture.
- C. Lighting shall comply with all ordinance requirements. If more than twenty five percent (25%) of the greenhouse spaces are to be lit at night, they shall be screened from residential properties by use of a retractable curtain, landscaping, buildings or other methods to prevent light pollution, including sky glow.

Accessory Building standards

Large Lots In R-1, OS, C1, C2 And I Districts: For sites greater than 2.5 acres located in R-1, OS, C1, C2 and I zoning districts, the size standards set forth in subsection C of this section may deviate from the size standards set forth in subsections C of this section by conditional use permit provided the following criteria are met:

- a. The accessory building shall be a minimum of fifty feet (50') from both side and rear lot lines.
- b. The accessory building is located rearward of the front line of the principal structure.
- c. The accessory building meets all of conditional use permit standards in this chapter and chapter 7 of this title.
- d. The location and construction of the accessory structure shall also be subject to the architectural regulations set forth in section 10-4-10 of this title.

Off-Site Parking

The applicant is proposing a 75-stall parking lot expansion the lot north the Menards building property (across Whispering Woods Lane). 10-5-2 G. of the Zoning ordinance requires a conditional use permit for off-site parking, subject to the following:

- 1. The off-site parking meets all design standards set forth in this Code.
- 2. Reasonable access from the off-site parking facility to the use served exists, and the off-site parking facility is adjacent, either directly abutting or across the street from the use served except that off-street parking located across the street shall be connected to an existing parking lot that services a principal use.

3. A legal instrument setting forth ownership, maintenance, etc., duly approved as to form by the City Attorney is executed and recorded by the party(ies) concerned, and an attested copy filed with the City.
4. A landscaped hedge is installed around the perimeter of the parking lot and maintained to screen the vehicles in the parking lot.
5. Must be paved and meet the on-site stormwater retention requirements.

That the applicant is proposing an off-site parking lot, which will reduce the parking shortage occurring with the Menards use by 75 stalls. Below is the parking calculation for the site:

423 stalls required with 2017 expansion project
-358 total stalls provided in 2017
 65 stall shortage
+35 stall easement to allow Applebee's to park on Menards property
 100 stall shortage (Original Variance Approval)
+84.2 stalls required for mezzanine warehouse to change to retail
+2.04 stalls required for mezzanine office/conference room space
187 stall shortage = Parking Variance in 2021
-75 stalls provided with proposed 2022 off-site parking expansion
112 stall parking shortage

Staff Findings for Equipment Sales Yard/Garden Center, Accessory Building and Off-Site Parking CUP's

The development plan includes an expansion of the equipment sales yard. The applicant would also construct a third accessory structure within the sales yard. Staff notes that the yard expansions would be screened with a 14-foot-high fence. Staff has added a condition to the resolution that the fence be painted an earth tone color, as was completed with the last yard expansion CUP. Staff has also added conditions to the resolution to require compliance with the city's lighting and landscaping ordinances, including the planting of a hedge as required by the ordinance and to require a dense row of coniferous trees along the outside of the fence yard area to soften the appearance of the 14-foot-high fence. Lastly, staff has added a condition requiring a joint parking easement to be reviewed by the city attorney for joint parking between the subject properties as required by the ordinance standards above. With the conditions in the resolution and assuming approval of the variances for the accessory building, fence/accessory racking structure, and off-site parking lot, staff finds that the above standards for the conditional use permits have been met.

Staff has reviewed the request based on the general CUP standards. Section 10-7-4 of the Zoning Ordinance defines the criteria for reviewing and processing a conditional use permit (CUP). Specifically:

- A. *Excessive Burden: The use shall not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.*

The expansion would not create an excessive burden on existing parks, schools, streets and other public facilities. The site is in a block of land that is planned for commercial use.

- B. *Compatibility: The use shall be compatible with adjacent land uses so that existing uses will not be depreciated in value and there will be no deterrence to development of vacant land.*

The expansions are a conditional use in the C-2 district. While the expansion is adjacent to residential single-family use, the applicant would screen the yard expansion with a 14-foot-high fence. The applicant would also be required to add landscaping per the landscaping ordinance with a hedge around the off-site

parking lot and plantings along the outer side of the yard fence. The off-site parking lot would have a hedge and there is an existing 30-foot conservation easement between the parking lot and neighboring properties. With the conditions attached in the resolutions, the expansion would not impact existing adjacent uses.

- C. *Appearance: The use shall have an appearance that will not have an adverse affect (sic) upon adjacent properties.*

With the conditions associated with the variances, the appearance would not have an adverse impact upon adjacent properties.

- D. *Overall Needs: The use, in the opinion of the planning and zoning commission shall be reasonably related to the overall needs of the city and to the existing land use.*

Garden Centers and larger accessory buildings are conditional uses in the C-2 district and are therefore consistent with other commercial businesses in the C-2 district.

- E. *Consistent with Purpose: The use shall be consistent with the purposes of this title and purposes of the zoning district in which the applicant intends to locate the proposed use.*

Without the conditions associated with the variances, the use could be consistent with the purposes of the City and the C-2 zoning district.

- F. *Comprehensive Plan: The use shall not be in conflict with the comprehensive plan of the city.*

The use would be consistent with the Comprehensive Plan. The Comprehensive Plan identifies the future land use as Commercial.

- G. *Traffic: The use will not cause traffic hazard or congestion.*

The use would not cause traffic hazard or congestion by locating in this existing commercial area.

- H. *Facilities: The use shall have adequate utilities, access roads, drainage and necessary facilities.*

The site has adequate utilities, access roads, drainage and necessary facilities.

Variances

The applicant is requesting the following variances with the application:

1. A variance to the off-site parking CUP standards. Specifically, 10-5-2, G, 2 states that for Off Site Parking, "Reasonable access from the off-site parking facility to the use served exists, and the off-site parking facility is adjacent, either directly abutting or across the street from the use served except that off-street parking located across the street shall be connected to an existing parking lot that services a principal use." The proposed off-site parking area would be connected to an existing parking lot, which creates the need for a variance to the above standard.
2. Four-foot accessory structure/fence setback, where 35 feet is required to the north property line to allow the fence and racking accessory structure for the yard expansion.
3. To allow a 14-foot-high fence where 6 feet is the maximum height.
4. To allow metal as an exterior finish for 100 percent the siding and roof material.
5. To allow a non-articulated accessory structure.

6. To expand the loading dock without screening, where a non-residential loading area is next to residential property.
7. To propose exterior trash without a trash enclosure.
8. To exceed the City's maximum 30-foot curb cut requirement for pavement access from a public street (Whispering Woods).
9. To propose loading maneuvering in a public street.

Staff recommends approval of variances 1, 2, 3, 4, and 5. Staff recommends denial of variances 6, 7, 8, and 9. Please see review of variances below:

Off Site Parking, Accessory Structure/Fence Setback, Fence Height, and Architectural Variances

The applicant is proposing an off-site parking lot to add needed parking for the use. The city has granted variances to allow the 187-stall parking shortage. The site is completely built out so the only viable option for adding parking is off site. The parking lot would reduce the parking shortage to 112 stalls, which creates support for the variance to have an off-site parking lot that is not connected to a principal structure on the off-site lot.

A 14-foot-high fence is what has been used by Menards to surround their yard since the initial construction of the store. Staff has added conditions to the approving resolution that the applicant plant a dense row of 6-foot-high minimum coniferous trees to be reviewed and approved by the city to break up the north and east sides of the fence. The applicant shall also provide and maintain water bags for the trees to support survivability of the trees. Lastly, the resolution provides a condition that the applicant shall replace any trees that die to ensure that the expanse of the large building is broken up with coniferous tree coverage. Staff has also added a condition that the exterior of the fence shall be painted an earth tone color to be reviewed and approved by the city. The fence shall also require a building permit and shall be engineered to comply with 90 mile per hour wind load requirements. With painting the fence and the addition of landscaping along the outside, staff supports the fence setback and height variances.

The metal application proposed is also the same metal that was used with the other accessory structures. The C-2 district allows for architectural metal up to 50 percent of the building. The architectural review ordinance requires articulation on to avoid long unbroken masses of building without variations of materials and design to break up the aesthetic mass of buildings. The building would be completely surrounded by the 14-foot-high fence, which would break up the building exterior from adjacent properties and the public street.

The variance standards are established by Minnesota Statute §462.357, Subd. 6.2. The burden of proof is on the applicant to show that the variance standards have been met. Specifically:

a) That there are practical difficulties in complying with the Zoning Ordinance.

There is practical difficulty in complying with the Zoning Ordinance. The proposed expansion builds out most of the remaining greenspace on the site but would provide performance standards of screening to mitigate the materials used. Additionally, the parking that is being proposed helps to reduce the parking shortage on the property. The applicant would be required to provide a row of coniferous landscaping around the exterior of the 14-foot-high fence and landscaping around the off-site parking lot. The applicant would minimize the variances with plantings and improved exterior materials.

b) That the conditions upon which a petition for a variation is based are unique to the parcel of land for which the variance is sought and were not created by the landowner.

The conditions are unique to the parcel of the land. Menards has purchased additional land to support expansion and the variances for the fence and accessory structures match the existing build-out pattern

of the property. The off-site parking variance would allow the applicant to reduce the 187-stall parking shortage on the property.

c) That the granting of the variation will not alter the essential character of the locality.

With the conditions in the resolutions, the variances would not alter the essential character of the locality. The applicant would mitigate the variance with the addition of plantings and by painting the fence.

d) The proposed variance would be in harmony with the general purposes and intent of the Ordinance.

With the related conditions associated with the variances, the variances would be in harmony with the general purposes and intent of the ordinance.

e) The variance is consistent with the Comprehensive Plan.

The comprehensive plan and future land use plan identify this site for commercial use, which is consistent with the use.

Variances for Loading and Trash Without Screening, Curb Cut, and Loading Maneuvering

The applicant is requesting to expand the loading dock with a new direct access to Whispering Woods Lane without screening. Directly across from the loading dock is a residential single-family home. The applicant is also proposing an exterior trash compactor adjacent to the loading dock without screening. The applicant is also proposing to exceed the City's maximum 30-foot curb cut requirement for a 460-foot-wide pavement access from a public street (Whispering Woods Lane). The proposed 460-foot-wide pavement is proposed to allow truck maneuvering in a public street, which also requires a variance.

The variance standards are established by Minnesota Statute §462.357, Subd. 6.2. The burden of proof is on the applicant to show that the variance standards have been met. Specifically:

1. Variance Standard: The variance, and its resulting construction or project, would be in harmony with the general purposes and intent of this chapter, and would be consistent with the comprehensive plan.

Findings: The variance, and its resulting construction would not be in harmony with the general purposes and intent of this chapter. The zoning ordinance has a 30-foot curb cut maximum and an off-street truck maneuvering requirement to create a safe and orderly traffic design for commercial developments. The proposed 460-foot curb cut at the public street is specifically needed to maneuver trucks in the public street right of way. The resulting 460-foot curb cut blends the on-street pavement and public traffic environment with the off-street loading environment without traffic organization. The applicant is proposing an unsafe traffic condition in public right of way.

2. Variance Standard: The variance applicant has satisfactorily established that there are practical difficulties in complying with this chapter. The applicant must demonstrate that the following criteria have been met:
 - (A) The applicant proposes to use the property in a reasonable manner not permitted by this chapter;
 - (B) The plight of the landowner is due to circumstances unique to the property that were not created by the landowner; and
 - (C) The variance, if granted, would not alter the essential character of the locality.

Findings: There is no practical difficulty to add an un-screened semi loading dock and exterior trash that is directly across the street from an existing single-family home. The applicant has reasonable use of the

property without the need for subject variances. There are no unique circumstances to the property to create the need for the variances. The proposed construction would alter the essential character of the public street and the adjacent residential property.

3. Variance Standard: The variance request is not based exclusively upon economic considerations.

Findings: The variances are exclusively based on economic considerations. The applicant has built out the 21-acre commercial property to the point where additional properties have been acquired for additional expansions to the commercial business.

4. Variance Standard: The variance, and its resulting construction or project, would not be detrimental to the public welfare, nor would it be injurious to other land or improvements in the neighborhood.

Findings: The variances would be detrimental to the public welfare by creating traffic safety hazard. Driveways from public streets with maximum curb cut widths are customary to create organized, predictable, and safe traffic movements. A 460-foot curb cut for loading access connected to the public street would be detrimental to the public welfare. Additionally, the closest single-family home would be less than 100 feet from the proposed loading pavement improvements; directly across from the loading dock and trash enclosure. The subject business/property owner has other options for loading and trash that would not be injurious to the neighborhood.

5. Variance Standard: The variance, and its resulting construction or project, would not impair an adequate supply of light and air to adjacent properties, nor would it substantially increase traffic congestion in public streets, increase the danger of fire, endanger the public safety, or substantially diminish property values within the neighborhood.

Findings: The loading dock would increase truck traffic to the city street with an un-safe design, which could endanger the public safety, and the lack of screening could substantially diminish property values of the adjacent property.

6. Variance Standard: The variance requested is the minimum action required to address or alleviate the practical difficulties.

Findings: The variances are not the minimum action to alleviate the practical difficulties. The applicant is proposing a plan that is in the best interest of the retail store.

4. Recommendation

Staff recommends approval of the Preliminary and Final Plat, the Conditional Use Permits and the Variances for Off-Site Parking, Accessory Structure/Fence Setback, Fence Height, and Architectural Variances for Menards Located at 15236 Dellwood Drive, subject to the conditions in the attached resolutions.

Staff recommends denial of the variances for Loading and Trash Without Screening, Curb Cut, and Loading Maneuvering for Menards Located at 15236 Dellwood Drive, subject to the findings in the attached resolution.

Attachments

1. Resolution approving preliminary and final plat
2. Resolution approving conditional use permits and variances
3. Resolution denying variances
4. Applicant's Narrative
5. Location Map

6. Applicants Narrative
7. Site Graphics