

**CHARTER TOWNSHIP OF VAN BUREN BOARD OF TRUSTEES
MARCH 6, 2017 WORK STUDY MEETING 4:00 P.M.
TENTATIVE AGENDA**

ROLL CALL:

Supervisor McNamara	_____	Trustee Miller	_____
Clerk Wright	_____	Trustee White	_____
Treasurer Budd	_____	Engineer Nummer	_____
Trustee Frazier	_____	Attorney McCauley	_____
Trustee Martin	_____	Secretary Montgomery	_____

UNFINISHED BUSINESS:

NEW BUSINESS:

- 1. Discussion on the first reading Ordinance 3-7-17 to amend and replace Ordinance 12-1-15 Article V-Coal Tar Products, Sec. 42-151 through 42-158, with new Article V-Coal Tar Products, Sec. 42-151 through 42-159.
- 2. Discussion on the special land use request by Menard, Inc. to construct a home improvement store with outdoor sales and storage of landscaping and home improvement supplies at parcel V-125-83-061-99-0005-721.

PUBLIC COMMENT:

ADJOURNMENT:

Charter Township of Van Buren

REQUEST FOR BOARD ACTION

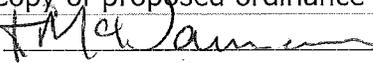
Agenda Item: _____

Work Study Date: 03/06/17
First Reading: 03/07/17
Second Reading: 03/21/17

Consent Agenda _____ **New Business** X _____ Unfinished Business: _____ Public Hearing _____

ITEM (SUBJECT)	Request from the Environmental Commission to consider the adoption of a new ordinance to amend and replace Ordinance No. 12-1-15 Article V – Coal Tar Products, Sec. 42-151 through 42-158, with new Article V – Coal Tar Products, Sec. 42-151 through 42-159
DEPARTMENT	Planning
PRESENTER	Matthew R. Best, Deputy Director of Planning and Economic Development
PHONE NUMBER	(734) 699-8913
INDIVIDUALS IN ATTENDANCE (OTHER THAN PRESENTER)	David Brownlee

Agenda topic

ACTION REQUESTED	
Consider the adoption of a revised Coal Tar Sealant Ban Ordinance, establishing a lower PAH limit, a sealcoat applicator registration and enforcement procedures.	
BACKGROUND – (SUPPORTING AND REFERENCE DATA, INCLUDE ATTACHMENTS)	
The Environmental Commissions is recommending that the board adopt revisions to this ordinance to protect the health Safety and welfare of its residents. Coal Tar based sealants are a source of PAHs, a known carcinogen. These PAHs impact our residents as well as our lakes and streams, with storm water carrying these carcinogens into our waterways. Asphalt based sealers are a safe and effective alternative to coal tar base sealants. The revisions establish a lower PAH limit (0.1%), an enforcement process and a sealant applicator registration.	
BUDGET IMPLICATION	None
IMPLEMENTATION NEXT STEP	After the work study, the intention is to move this ordinance for approval at the next board meeting.
DEPARTMENT RECOMMENDATION	Approval
COMMITTEE/COMMISSION RECOMMENDATION	Approval – Environmental Commission
ATTORNEY RECOMMENDATION	Document has met Attorney approval (May be subject to Attorney/Client Privilege and not available under FOIA)
ADDITIONAL REMARKS	Copy of proposed ordinance attached.
APPROVAL OF SUPERVISOR	

**CHARTER TOWNSHIP OF VAN BUREN
COUNTY OF WAYNE
STATE OF MICHIGAN
ORDINANCE # 3-7-17**

**AN ORDINANCE TO AMEND AND REPLACE ORDINANCE NO. 12-1-15
ARTICLE V – COAL TAR PRODUCTS, SEC. 42-151 THROUGH 42-158, WITH
NEW ARTICLE V – COAL TAR PRODUCTS, SEC. 42-151 THROUGH 42-159**

At a regular meeting of the Township Board of the Charter Township of Van Buren, Wayne County, Michigan, held in the Van Buren Township Hall within the Township, on the _____ day of _____, 2017 at 7:00 p.m.

PRESENT: Members: _____

ABSENT: Member: _____

It was moved by Board Member _____ and supported by Board Member _____ that the following Ordinance be adopted to amend Article V to Chapter 42 Environment to read as follows:

THE CHARTER TOWNSHIP OF VAN BUREN (“Township”), COUNTY OF WAYNE, MICHIGAN ORDAINS:

- ARTICLE V. - COAL TAR PRODUCTS**
- Sec. 42-151. - Purpose.**

The Charter Township of Van Buren understands that lakes, rivers, streams and other bodies of water are natural assets which enhance the environmental, recreational, cultural and economic resources and contribute to the general health and welfare of the community. The use of sealers on asphalt driveways is a common practice. However, scientific studies on the use of driveway sealers have suggested a relationship between stormwater runoff and certain health and environmental concerns. The purpose of the ordinance from which this chapter derives is to prohibit the use and sale of pavement sealant products containing >0.1% Polycyclic Aromatic Hydrocarbons (PAHs) by weight, including coal tar based sealer in the Township of Van Buren in order to protect, restore, and preserve the quality of its waters and protect the health of its residents. It is the further

purpose and intent of this chapter to regulate the use and application of sealant products, to require the registration of commercial and institutional applicators of sealant products within the Township, and to require the distribution of informational literature to consumers about the use and effect of sealant products.

(Ord. No. _____, eff. _____)

• **Sec. 42-152. - Definitions.**

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Applicator. Any person who applies pavement sealant product in the township including, but not limited to, homeowners, occupants of rental property, and property managers.

Asphalt based sealer. A petroleum based sealer material that is commonly used on driveways, parking lots, and other surfaces and may contain PAHs but at a much lower concentration than found in coal tar based sealers.

Coal tar. A byproduct of the process used to refine coal.

Coal tar sealant product. A surface applied sealing product for application on asphalt, concrete or other pavement including a driveway or parking area containing coal tar, coal tar pitch, coal tar pitch volatiles, or any variation assigned the Chemical Abstracts Service (CAS) numbers 65996-93-2, 65996-89-6, or 8007-45-2.

High PAH content sealant product. Any pavement sealant product that contains greater than 0.1% PAHs by weight.

PAHs. Polycyclic Aromatic Hydrocarbons. A group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. Present in coal tar and believed harmful to humans, fish, and other aquatic life.

Pavement Sealant. Any surface-applied pavement sealing product used to maintain asphalt surfaces. This may include but is not limited to asphalt-based sealant products and coal tar sealant products

Person. An individual, corporation, partnership, sole proprietorship, LLC or other entity.

Pavement Sealant Program Administrator. The Director of Planning and Economic Development, or other person designated to administer this chapter by the Township Administrator.

Township. The Charter Township of Van Buren.

(Ord. No. _____, eff. _____)

• **Sec. 42-153. - Prohibitions on use of coal tar products**

- (a) No person shall use or apply a coal tar, coal tar sealant product or other high PAH content sealant product on asphalt paved surfaces within the township.
- (b) No person shall sell or offer to sell a coal tar, coal tar sealant product or other high PAH content sealant product that is formulated or marketed for application on asphalt-paved surfaces within the township.
- (c) No person shall allow a coal tar, coal tar sealant product or other high PAH content sealant product to be used or applied upon property that is under that person's ownership or control.
- (d) No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any coal tar, coal tar sealant product or other high PAH content sealant product to any driveway, parking lot, or other surface within the township.
- (e) No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar, coal tar sealant product or other high PAH content sealant product to any driveway, parking lot, or other surface within the township.

(Ord. No. 1_____, eff._____)

• **Sec. 42-154. - Registration and reporting requirements and procedures for commercial applicators.**

- (1) All commercial applicators shall register with the township prior to applying pavement sealant in the township in any calendar year.
- (2) Registration under this chapter shall be valid until expiration. Registration shall begin on January 1 and shall expire on December 31 of each calendar year.
- (3) Commercial applicators shall submit a complete registration application to the Pavement Sealant Program Administrator on forms furnished by the Township Clerk, along with the registration fee according to the schedule established by resolution of Board of Trustees. The fee shall be calculated to include the cost of registration application review and periodic field inspection.
- (4) The following information shall be included in a complete application for registration:
 - (a) The legal name of the commercial applicator, any other names used, the address, telephone number and contact person for the applicant.
 - (b) The product name, type of use, and PAH content including CAS numbers.

- (c) A notarized, sworn statement signed by an owner or duly authorized representative of a commercial applicator indicating that the applicator will comply with the requirements of this Pavement Sealant Ordinance of the Township throughout the registration period.
- (d) All other information requested on the application.
- (5) The Pavement Sealant Program Administrator shall approve a registration if the application is complete, the applicator has complied with the previous year's reporting requirement, and the use of pavement sealant complies with this chapter.
- (6) The application for registration shall be approved or denied within 21 days by the Pavement Sealant Program Administrator.
- (7) The Pavement Sealant Program Administrator shall maintain a current list of all registered commercial applicators.
- (8) A registered applicator shall notify the Pavement Sealant Program Administrator in writing of any change in the information in the application for registration within 7 days of any such change.

(Ord. No. _____, § 1, _____)

- **Sec. 42-155. - Asphalt based sealcoat products.**

The provisions of this article shall only apply to coal tar, coal tar sealant products or other high PAH content sealant products in the township and shall not affect the use of asphalt based sealer products within the township as long as those products contain less than 0.1% PAHs, by weight.

(Ord. No. _____, eff. _____)

- **Sec. 42-156. - Penalties and enforcement.**

(a) Violation of any provision of this chapter shall be punishable by a fine of not more than \$10,000.00 in the discretion of the court, and in addition to all of the costs, damages and expenses provided by law..

(b) *Injunction.* Any violation of this article is hereby declared to be a nuisance per se. In addition to, or in lieu of, seeking to enforce this article by proceeding under section 42-256(a) above, the township may institute an action in a court of general jurisdiction seeking injunctive or equitable relief and shall be entitled to recover all attorney fees, court costs, litigation expenses, costs and expenses to abate the nuisance, and all other costs allowed by law.

(c) Nothing in this Section shall limit the township's right to take other enforcement action as authorized by law.

(Ord. No. _____, eff. _____)

Sec. 42-157. - Severability. In the event that any one or more sections, provisions, phrases or words of this article shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this article.

(Ord. No. _____, eff. _____)

- **Sec. 42-158. - Conflicts.**

If any provision of this article conflicts with any provision of any other township general ordinance or zoning ordinance, the most restrictive provision shall apply.

(Ord. No. _____, eff. _____)

- **Sec. 42-159. - Effective date.**

The provisions of this article shall take effect upon publication in a newspaper of general circulation within the township.

(Ord. No. _____, eff. _____)

AYES: Members:

NAYS: Members:

ABSTAIN/ABSENT: Members:

ORDINANCE DECLARED ADOPTED:

Kevin McNamara,
Supervisor, Charter Township of Van Buren

Leon Wright,
Clerk, Charter Township of Van Buren

ADOPTED: _____

PUBLISHED: _____

EFFECTIVE: _____

CERTIFICATION

I hereby certify the foregoing to be a true copy of an Ordinance adopted by the Township Board of the Charter Township of Van Buren at a regular meeting held on _____, 2017, pursuant to the required statutory procedures.

Township Clerk

CHARTER TOWNSHIP OF VAN BUREN

COUNTY OF WAYNE

STATE OF MICHIGAN

ORDINANCE # _____

AN ORDINANCE TO AMEND AND REPLACE ORDINANCE NO. 12-1-15

ARTICLE V – COAL TAR PRODUCTS, SEC. 42-151 THROUGH 42-158, WITH

NEW ARTICLE V – COAL TAR PRODUCTS, SEC. 42-151 THROUGH 42-159

At a regular meeting of the Township Board of the Charter Township of Van Buren, Wayne County, Michigan, held in the Van Buren Township Hall within the Township, on the _____ day of

_____, 2017 at 7:00 p.m.

PRESENT: Members: _____

ABSENT: Member: _____

It was moved by Board Member _____ and supported by Board Member _____ that the following Ordinance be adopted to amend Article V to Chapter 42 Environment to read as follows:

THE CHARTER TOWNSHIP OF VAN BUREN (“Township”), COUNTY OF WAYNE, MICHIGAN ORDAINS:

- **ARTICLE V. - COAL TAR PRODUCTS**
- **Sec. 42-2151. - Purpose.**

The Charter Township of Van Buren understands that lakes, rivers, streams and other bodies of water are natural assets which enhance the environmental, recreational, cultural and economic resources and contribute to the general health and welfare of the community. The use of sealers on asphalt driveways is a common practice. However, scientific studies on the use of driveway sealers have suggested a relationship between stormwater runoff and certain health and environmental concerns. The purpose of the ordinance from which this chapter derives is to prohibit the use and sale of pavement sealant products containing >0.1%

Polycyclic Aromatic Hydrocarbons (PAHs) by weight, including ~~coal tar~~-based sealer in the Township of Van Buren in order to protect, restore, and preserve the quality of its waters and protect the health of its residents. It is the further purpose and intent of this chapter to regulate the use and application of sealant products, to require the registration of commercial and institutional applicators of sealant products within the Township, and to require the distribution of informational literature to consumers about the use and effect of sealant products.

(Ord. No. 42-1-15_____, eff. 42-24-15_____)

• **Sec. 42-2152. - Definitions.**

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Applicator. Any person who applies pavement sealant product in the ~~city~~-township including, but not limited to, homeowners, occupants of rental property, and property managers.

Asphalt based sealer. A petroleum based sealer material that is commonly used on driveways, parking lots, and other surfaces and may contain PAHs but at a much lower concentration than found in coal tar based sealers.

Coal tar. A byproduct of the process used to refine coal.

Coal tar sealant product. A surface applied sealing product for application on asphalt, concrete or other pavement including a driveway or parking area containing coal tar, coal tar pitch, coal tar pitch volatiles, or any variation assigned the Chemical Abstracts Service (CAS) numbers 65996-93-2, 65996-89-6, or 8007-45-2.

High PAH content sealant product. Any pavement sealant product that contains greater than 0.1% PAHs by weight.

PAHs. Polycyclic Aromatic Hydrocarbons. A group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. Present in coal tar and believed harmful to humans, fish, and other aquatic life.

Pavement Sealant. Any surface-applied pavement sealing product used to maintain asphalt surfaces. This may include but is not limited to asphalt-based sealant products and ~~coal tar~~ sealant products

Person. An individual, corporation, partnership, sole proprietorship, LLC or other entity.

Pavement Sealant Program Administrator. The Director of Planning and Economic Development, or other person designated to administer this chapter by the ~~City~~-Township Administrator.

Township. The Charter Township of Van Buren.

(Ord. No. 42-1-15_____, eff. 42-24-15_____)

• **Sec. 42-2153. - Prohibitions on use of coal tar products**

- (a) No person shall use or apply a coal tar, coal tar sealant product or other high PAH content sealant product on asphalt paved surfaces with the township.
- (b) No person shall sell or offer to sell a coal tar, coal tar sealant product or other high PAH content sealant product that is formulated or marketed for application on asphalt-paved surfaces within the township.
- (c) No person shall allow a coal tar, coal tar sealant product or other high PAH content sealant product to be used or applied upon property that is under that person's ownership or control.
- (d) No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any coal tar, coal tar sealant product or other high PAH content sealant product to any driveway, parking lot, or other surface within the township.
- (e) No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar, coal tar sealant product or other high PAH content sealant product to any driveway, parking lot, or other surface with the township.

(Ord. No. 12-1-15_____, eff. 12-24-15_____)

- **Sec. 42-1546:504. - Registration and reporting requirements and procedures for commercial applicators.**

- (1) All commercial applicators shall register with the ~~city~~ township prior to applying pavement sealant in the ~~T~~ township in any calendar year.
- (2) Registration under this chapter shall be valid until expiration. Registration shall begin on January 1 and shall expire on December 31 of each calendar year.
- (3) Commercial applicators shall submit a complete registration application to the Pavement Sealant Program Administrator on forms furnished by the Township Clerk, along with the registration fee according to the schedule established by resolution of Board of Trustees. The fee shall be calculated to include the cost of registration application review and periodic field inspection.
- (4) The following information shall be included in a complete application for registration:
 - (a) The legal name of the commercial applicator, any other names used, the address, telephone number and contact person for the applicant.
 - (b) The product name, type of use, and PAH content including CAS numbers.
 - (c) A notarized, sworn statement signed by an owner or duly authorized representative of a commercial applicator indicating that the applicator will comply with the requirements of ~~the~~ this Pavement Sealant Ordinance of the Township throughout the registration period.

- (d) All other information requested on the application.
- (5) The Pavement Sealant Program Administrator shall approve a registration if the application is complete, the applicator has complied with the previous year's reporting requirement, and the use of pavement sealant complies with this chapter.
- (6) The application for registration shall be approved or denied within 21 days by the Pavement Sealant Program Administrator.
- (7) The Pavement Sealant Program Administrator shall maintain a current list of all registered commercial applicators.
- (8) A registered applicator shall notify the Pavement Sealant Program Administrator in writing of any change in the information in the application for registration within 7 days of any such change.

(Ord. No. ~~46-12~~ _____, § 1, ~~6-20-16~~ _____)

• **Sec. 42-~~21545~~.** - Asphalt based sealcoat products.

The provisions of this article shall only apply to coal tar, coal tar sealant products or other high PAH content sealant products in the township and shall not affect the use of asphalt based sealer products within the township as long as those products contain less than 0.1% PAHs, by weight.

(Ord. No. ~~42-1-15~~ _____, eff. ~~42-24-15~~ _____)

• **Sec. 42-~~21556~~.** - Penalties and enforcement.

(a) Violation of any provision of this chapter shall be a civil infraction punishable by a civil fine of not more than \$10,000.00 in the discretion of the court, and in addition to all of the costs, damages and expenses provided by law.

(b) Injunction. Any violation of this article is hereby declared to be a nuisance per se. In addition to, or in lieu of, seeking to enforce this article by proceeding under section 42-256(a) above, the township may institute an action in a court of general jurisdiction seeking injunctive or equitable relief and shall be entitled to recover all attorney fees, court costs, litigation expenses, costs and expenses to abate the nuisance, and all other costs allowed by law.

(a) (c) Nothing in this Section shall limit the township's right to take other enforcement action as authorized by law.

(Ord. No. ~~42-1-15~~ _____, eff. ~~42-24-15~~ _____)

Sec. 42-~~21567~~. - Severability. In the event that any one or more sections, provisions, phrases or words of this article shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this article.

(Ord. No. 42-1-15, eff. 12-24-15)

• **Sec. 42-21578. - Conflicts.**

If any provision of this article conflicts with any provision of any other township general ordinance or zoning ordinance, the most restrictive provision shall apply.

(Ord. No. 42-1-15, eff. 12-24-15)

• **Sec. 42-21589. - Effective date.**

The provisions of this article shall take effect upon publication in a newspaper of general circulation within the township.

(Ord. No. 42-1-15, eff. 12-24-15)

AYES: Members: _____

NAYS: Members: _____

ABSTAIN/ABSENT: Members:

ORDINANCE DECLARED ADOPTED:

Kevin McNamara,
Supervisor, Charter Township of Van Buren

Leon Wright,
Clerk, Charter Township of Van Buren

ADOPTED: _____

PUBLISHED: _____

EFFECTIVE: _____

CERTIFICATION

I hereby certify the foregoing to be a true copy of an Ordinance adopted by the Township Board of the Charter Township of Van Buren at a regular meeting held on _____, 2017, pursuant to the required statutory procedures.

Township Clerk

Charter Township of Van Buren

Agenda Item: _____

REQUEST FOR BOARD ACTION

WORK STUDY MEETING: 03/06/17

BOARD MEETING DATE: 03/07/17

Consent Agenda _____ **New Business X** _____ Unfinished Business _____ Public Hearing _____

ITEM (SUBJECT)	To consider approval of the special land use request by Menard, Inc to construct a home improvement store with outdoor sales and storage of landscaping and home improvement supplies at parcel V-125-83-061-99-0005-721, which is located on the west side of Belleville Road south of Tyler Road.
DEPARTMENT	Planning & Economic Development
PRESENTER	Ronald A. Akers
PHONE NUMBER	734-699-8913
INDIVIDUALS IN ATTENDANCE (OTHER THAN PRESENTER)	Menards Representatives

Agenda topic

ACTION REQUESTED	
To consider approval of the special land use request by Menard, Inc to construct a home improvement store with outdoor sales and storage of landscaping and home improvement supplies at parcel V-125-83-061-99-0005-721, which is located on the west side of Belleville Road south of Tyler Road.	
BACKGROUND – (SUPPORTING AND REFERENCE DATA, INCLUDE ATTACHMENTS)	
Please see attached letter.	

BUDGET IMPLICATION	None
IMPLEMENTATION NEXT STEP	Issuance of a letter acknowledging the special land use approval.

DEPARTMENT RECOMMENDATION	Approval
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COMMITTEE/COMMISSION RECOMMENDATION	Approval
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ATTORNEY RECOMMENDATION	N/A
(May be subject to Attorney/Client Privilege and not available under FOIA)	

ADDITIONAL REMARKS	<p>See attached:</p> <ul style="list-style-type: none"> • Staff Letter dated February 27, 2017 • Planning Commission motion extract for the February 22, 2017 regular meeting • Township Board Meeting minutes of February 17, 2015 • McKenna & Associates letter dated December 4, 2014
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APPROVAL OF SUPERVISOR	
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Charter Township of Van Buren

BOARD OF TRUSTEES

SUPERVISOR
Kevin McNamara

CLERK
Leon Wright

TREASURER
Shary A. Budd

TRUSTEE
Sherry A. Frazier

TRUSTEE
Kevin Martin

TRUSTEE
Reggie Miller

TRUSTEE
Paul D. White

February 27, 2017

Township Supervisor
46425 Tyler Road
Van Buren Township, MI 48111

RE: Menards Renewal of Special Land Use Approval

Supervisor McNamara,

The following is the review of Menard, Inc's request to renew their prior Township approvals in order for the store to begin construction in the spring. The format of this review will include a background of the project, a summary of the Planning Commission and Board of Zoning Appeals approvals, and a recommendation from staff. Please consider the following:

Background

Menards has been in discussion with the Township to construct a store on the Belleville Road corridor since prior to 2012. The most recent iteration obtained special use approval from the Township Board in February of 2015 and final site plan approval from the Township Planning Commission in June of 2015. After obtaining their approvals, Menards decided early in 2016 that they would postpone store construction nationally in order to reevaluate the economic conditions after the presidential election. Representatives from Menards contacted the Township in late 2016 and indicated that they planned to resume the construction of the Van Buren Township store. Based on this Township staff reviewed the project and determined that the prior approvals had expired and they needed to be renewed in order to move forward.

Summary of Planning Commission & Board of Zoning Appeals Approvals

Menards was before the Board of Zoning Appeals on February 14, 2017 where they renewed several variances that they had been previously granted. These are as follows:

1. Variance in order to allow Menards to store materials up to 14 feet in height, which is 8 feet greater than the maximum allowed in the Zoning Ordinance.
2. Allow the total area of signage to be 407.7 square feet, which is greater than the maximum allowable signage.
3. Granted a variance to allow a 317.7 square foot wall sign on the main building, which is 117.7 square feet greater than the maximum allowed by the Zoning Ordinance.
4. Approved variances from the maximum height and area of directional signs.

The Planning Commission renewed the final site plan approval, the tree permit approval, and made a recommendation that the Township Board approve their special use request at their February 22, 2017 regular meeting.

Special Land Use Recommendation

The Township Board originally approved this special land use application at their February 17, 2015 meeting with the following action:



Charter Township of Van Buren

BOARD OF TRUSTEES

SUPERVISOR
Kevin McNamara

CLERK
Leon Wright

TREASURER
Sharry A. Budd

TRUSTEE
Sherry A. Frazier

TRUSTEE
Kevin Martin

TRUSTEE
Reggie Miller

TRUSTEE
Paul D. White

Wright moved, McClanahan seconded to approve the request for special use for the establishment of outdoor sales and storage of building and landscaping materials associated with the Menards home improvement store. Motion Carried.

The conditions of the property have not changed, nor have any circumstances surrounding the property. This is the final board approval required in order for the Menard's store to move forward with construction. Based on the prior approval, the limited changes to the site plan, and the Planning Commission recommendation, staff makes the following recommendation:

Recommend approval of the special use request to construct a home improvement store with outdoor sales and outdoor storage of landscaping and home improvement supplies at parcel number V125-83-061-99-0005-721, based on the findings of the December 4, 2014 McKenna & Associates letter.

If you have any questions or would like to discuss this matter further, please contact me.

Sincerely,

Ron Akers, AICP
Director of Planning and Economic Development

MOTION EXTRACT

Motion Kelley, Boynton second to recommend approval to the Township Board of Trustees of the special use request to construct a home improvement store with outdoor sales and outdoor storage of landscaping and home improvement supplies at parcel number V125-83-061-99-0005-721, based on the findings of the December 4, 2014 McKenna & Associates letter, subject to the following:

1. The Planning Commission determines that the fence/wall combination at the front of the garden center is not subject to the height limit of Section 4.27d.
2. Conditioned upon the approval of the tree removal permit and final site plan.

Roll Call:

Yeas: Kelley, Atchinson, Budd, Boynton, Jackson and Thompson.

Nays: None.

Absent: Franzoi.

Motion Carried.

I hereby certify the foregoing is a true and correct copy of a motion adopted by the Planning Commission of the Charter Township of Van Buren at the regularly scheduled meeting of February 22, 2017.



Christina Harman
Recording Secretary

**CHARTER TOWNSHIP OF VAN BUREN
BOARD MEETING MINUTES
FEBRUARY 17, 2015**

Supervisor Combs called the meeting to order at 7:00 p.m. in the Board Room. Present: Supervisor Combs, Clerk Wright, Treasurer Budd, Trustee Hart, Trustee Jahr, Trustee McClanahan and Trustee Miller. Others in attendance: Secretary Montgomery, DDA Director Ireland, Developmental Services Director Knowles, DPW Director Taylor and an audience of two. (2).

APPROVAL OF AGENDA: Jahr moved, Hart seconded to approve the agenda as amended removing Consent Agenda item #8 [Approval of the Administrative Assistant/Human Resource Generalist Job Description and authorize the Supervisor and Clerk to execute the Personal Services Agreement between the Township and Nicole Sumpter to fill the position] and New Business item #2 [To consider approval of Resolution 2015-05 to affirm that parcel V125-83-039-0009-014, located on the north side of Tyler Road, was never officially conditionally rezoned from R-1 to C-1, and that the parcel continues to be zoned R-1B]. Motion Carried.

APPROVAL OF CONSENT AGENDA: Budd moved, McClanahan seconded to approve the Consent Agenda. [Regular Board Meeting Minutes of February 3, 2015; Prepaid List of February 6, 2015; Prepaid List of February 12, 2015; Voucher List of February 17, 2015; Acknowledgement of the resignations of Tom DiPietro and Terissa Wardwell from the Board of Zoning Appeals and approval of the appointment of Joseph A. Barnabei from an alternate member to a full member with a term to expire December 1, 2015 and approval of the appointment of Medina Atchinson from an alternate member to a full member with a term to expire December 1, 2016; Approval of the Personal Services Agreement between Joel Sabin and the Township to fill the GIS Technician position and authorize the Supervisor and Clerk to execute the agreement and Approval of the purchase of a New Server and Disk Storage to replace the current Server that will have reached its End-of-life cycle in April 2015 and will no longer be supported by Dell]. Board Members thanked Tom DiPietro and Terissa Wardwell for their service on the Board of Zoning Appeals. Motion Carried.

PUBLIC HEARING: None

CORRESPONDENCE: Supervisor Combs thanked those who serve on the Township committees and commission and announced applications are being accepted to fill two alternate vacancies on the Board of Zoning Appeals. Applications are available on line at www.vanburen-mi.org and at the Supervisor's office at the Township Hall. Clerk Wright, in honor of Black History Month, read a quote from Frederick Douglass encouraging everyone to celebrate black history throughout the year.

PUBLIC COMMENT: Resident requested information on New Business item #2 that was removed from the agenda. Supervisor Combs requested that the resident contact Developmental Services Director Knowles for more information.

UNFINISHED BUSINESS: None.

NEW BUSINESS: Wright moved, McClanahan seconded to approve the request for special use for the establishment of outdoor sales and storage of building and landscaping materials associated with the Menards home improvement store. Motion Carried.

Representative Tyler Edwards from Menards gave a brief presentation of what the outdoor storage area will look like.

REPORTS: None

ANNOUNCEMENTS: Treasurer Budd announced that tax collection has been extended, without penalty, until Friday, February 27, 2015. Credit card payments are now accepted at the Treasurer's counter however a 2.75% service fee will be applied for all credit card payments.

AUDIENCE (Non-Agenda Items): None

ADJOURNMENT: Hart moved, Miller seconded to adjourn at 7:20 p.m. Motion Carried.

Respectfully submitted,

Leon Wright, Township Clerk

Date: _____.

Linda H. Combs, Township Supervisor

Approved:

December 4, 2014

Planning Commission
Charter Township of Van Buren
46425 Tyler Road
Belleville, MI 48111

Subject: VBT-14-007 SLU Menards, Belleville Road; Special Land Use Review #4; Plans Dated 11/18/14

Dear Commissioners:

The applicant, Menards, proposes to construct a home improvement store on Belleville Road, north of Walmart. The overall site is approximately 27 acres, and includes the Menards parcel and two future out lots. The site is zoned C-2 Extensive Highway Business District. The proposed home improvement store includes outdoor sales (garden center) and outdoor storage of landscaping and home improvement supplies, which are permitted by special approval in the zoning district. The special approval public hearing was held on August 27, 2014, and many comments were made by the public. Subsequently the applicant hosted a meeting with members of the public to answer specific questions about the development. Our site plan review comments are provided under separate cover.

COMMENTS

The applicant has requested several variances from the BZA, some of which are from the specific standards for special use approval. Therefore, if the Planning Commission recommends special approval, the next step would be for the applicant to be heard by the BZA – before consideration of special approval is placed on the Township Board's agenda.

The requested special approval uses must meet both the specific standards of Sections 14.05 and 4.27 and the discretionary special approval standards listed in Section 18.08.f. of the Zoning Ordinance. Our comments that follow are based on the requirements of the Zoning Ordinance, observation of the site and surroundings, and accepted principles of good planning and design.

1. **Requirements for Special Approval.** Both the discretionary and non-discretionary standards of the Ordinance are considered below.
 - a. **Promotes the use of land in a socially and economically desirable manner for those persons who will use the proposed land or activity; for those landowners and residents who are adjacent; and for the Township as a whole.** The site is located in the Township's primary commercial center along the Belleville Road corridor, and is the last major vacant parcel available west of Belleville Rd. between the Farmer Jack shopping center and Tyler Rd. The proposed development is economically desirable for the community, and the Township's Belleville Road District Master Plan amendment reported a market need/demand for a home improvement store. Over the past decade, the Township has spent considerable funds on streetscape and other public improvements along Belleville Rd., and has enforced a consistent pattern of amenities and design features on new site developments, consistent with the goal of

becoming a premier community. The proposed building and site layout fronting on the cross access drive circulation system enhances the overall master plan and design for the Belleville Road corridor. These changes are socially and economically desirable.

Further, the site design incorporates desirable significant screening for abutting residential areas to the north and west, including a 14 foot tall building that surrounds the entire yard area at the rear, 14 foot tall evergreen trees planted along the north lot line to buffer the view of the building wall, and preservation of the wooded area along the west and north west perimeter which will be enhanced with plantings of replacement trees. Outdoor storage and sales are an essential part of the home improvement store's business. The screening and design measures proposed will mitigate potential off site impacts and allow this desirable use to function to the benefit of residents and the public at large.

- b. **Is necessary for the public convenience at that location.** The Menards store is well situated at the north end of the established cross access drive that parallels Belleville Rd., the Township's primary commercial district. Customers and delivery traffic will be able to easily access the site using the new traffic light at the north drive and the north-south cross access drive. The use, including outdoor storage and sales, will serve the public convenience by being closer to the Township's center of population, and by offering a wide variety of home improvement supplies, a market that is underserved in the Township.
- c. **Is compatible with adjacent uses of land.** The site is master planned and zoned C-2, Extensive Highway Business, and has been so for many years. C-2 is one of the most intensive commercial districts in the Township. The building and rear open storage yard surrounded by minimum 14 foot high walls, will be visually compatible with other sites in the C-2 district. The proposed landscaping, tree replacement and woods preservation, orientation of traffic flow away from residential uses, and site amenities will be compatible with the surrounding uses. Noise will be limited to daytime hours; lights are shielded and have been kept below the height of the pallet racking building around the storage yard to limit glare; dust will be minimal since the ground surfaces will be paved; a greenbelt of 14 foot tall evergreen trees will be planted along the north lot line where the buildings are closest to the condos. All these factors will make the use compatible with adjacent uses of land.
- d. **Is designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.** The outdoor storage and sales yard is enclosed with buildings/fence, and screened and buffered from the neighbors. The retail store and yard will operate only during normal daytime and evening hours, not a 24 hour business. As described above, noise, lights and dust will be controlled, thus protecting the public health, safety and welfare. The convenient access to Belleville Rd. at the new traffic light will minimize traffic conflicts, particularly if the existing cross access driveway just north of Walgreens at Belleville Rd. is closed. Then the site would comply with the 500 foot driveway separation requirement, as is being recommended in our site plan review.
- e. **Can be adequately served by public services and facilities without diminishing or adversely affecting public services and facilities to existing land uses in the area.** The site's demand for public services and facilities will increase slightly but will not adversely affect public services or facilities.

- f. **Will not cause injury to other property in the neighborhood in which it is to be located.** The site improvements are an investment in the community and the landscaping, buffering, and circulation design of the site will protect neighboring properties from harm.
- g. **Considers the natural environment and helps conserve natural resources and energy.** The site design preserves existing mature trees along the west boundary of the site in consideration of the natural environment and this helps conserve resources. By locating on an infill site in the Township's downtown, both energy and the environment are protected and sustained.
- h. **Is within the provisions of uses requiring special approval in the zoning district, is in harmony with the purposes and conforms to the applicable regulations of the zoning district, and meets applicable site design standards for special approval uses.** Sections 14.05 and 4.27 contain specific standards that apply to outdoor storage and sales uses in the C-2 District. The proposal's compliance with these standards is evaluated below.

1. **Outdoor Storage.** Uncovered storage of materials is proposed in specific areas within the "yard area" created by the pallet racking building and the warehouse building enclosure. The materials stored in the pallet racking building are not outdoor storage, they are covered. Outdoor storage in the C-2 district is subject to the following specific requirements, in addition to other general requirements of the Zoning Ordinance:

- i. **Must be located at least 100 feet from a public right of way.** This standard is met.
- ii. **Must be located at least 200 feet from a residential district.** The majority of the open storage is in the vicinity of the garden center. The southwest part of the pallet racking building enclosure is 100 feet from the single-family residential district to west, but the materials stored outside of a building are 180 feet away from the nearest residential district boundary, which is a public street. However, because of a jog in Menards' west parcel boundary, the nearest residential lot line is over 200 feet from the uncovered materials within the courtyard.

On the north part of the site, small quantities of some items are proposed to be stored next to the main building and located less than 200 feet from the lot line. The applicant has indicated that they will attempt to relocate those items to a conforming location and will show that when the site plan is resubmitted for final site plan approval. The applicant has applied for a variance from the 200 foot setback requirement; that variance request should be greatly reduced or eliminated by relocating materials out of the 200 setback.

- iii. **No required yard spaces (i.e. spaces reserved for setbacks) may be used for outdoor storage.** The proposed storage area meets the setback requirements of the C-2 district (i.e., 35 feet front yard, 25 feet side yard, and 20 feet rear yard).
- iv. **Roadway access must be provided for emergency vehicles.** There is gated access (fire lane) to the outdoor storage area both north and south of the principal building allowing circulation around the entire building. The gate has a Knox Box for Fire Department

access, with the location and mounting height to be coordinated with the Fire Department.

- v. **Must be screened from view from all streets and on all sides which border residential or commercial zoned property by a 6 ft. wall or landscaping with a fence.** The outdoor storage will be screened by the main store, the warehouse building, and the pallet racking building, a minimum of 14 feet tall.
 - vi. **Stored materials may not be stored in stacks more than 6 feet high.** This standard applies to any storage that is not within the principal or accessory buildings. The plans state that the uncovered stored materials located south of the store will be up to 14 feet in height. The applicant has also stated that the uncovered materials stored east of the warehouse would also be up to 14 feet in height. The items stored will be contained in specially designed racks which support the materials up to the 14 foot height, and some products stored will not use that entire height. The applicant has applied for a variance from the maximum storage height.
 - vii. **The outdoor storage area must be surfaced in a manner acceptable to the Planning Commission and appropriate for its intended use.** The outdoor storage area is proposed to be paved with heavy-duty asphalt.
 - viii. **Mud and debris must not be transported from the site onto adjacent roadways.** The storage area will be paved and enclosed, so this standard is met.
2. **Garden Center.** The proposed garden center is part of the outdoor storage area and is also subject to Section 4.27. Section 4.27.d requires a 6 foot high fence capable of intercepting wind-blown trash and other debris. The front fence/wall combination at the garden center is proposed to be approximately 14 feet above the grade of the parking lot. In this case, the fence is set upon a decorative wall and the total structure acts as a wall connecting the pallet racking building to the main building, and we believe it is not a fence as intended to be regulated by Section 4.27.d. The applicant has applied for a variance from the maximum fence height to permit the 14 foot high structure, but based on the above, we recommend the Planning Commission determine that the requested variance is not necessary.
- i. **Is related to the valid exercise of the Township's police power and purposes which are affected by the proposed use or activity.** The proposed use will be consistent with the Township's police power, provided that appropriate findings are made to support such a decision.

RECOMMENDATION

We recommend the following:

1. That the Planning Commission make a determination that the fence/wall combination at the front of the garden center is not subject to the height limit of Section 4.27.d.;
2. That the Planning Commission recommend that the Township Board approve the special use for outdoor storage and sales for Menards, subject to final site plan approval; and

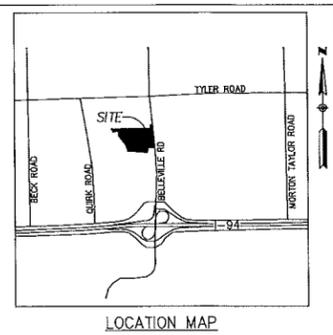
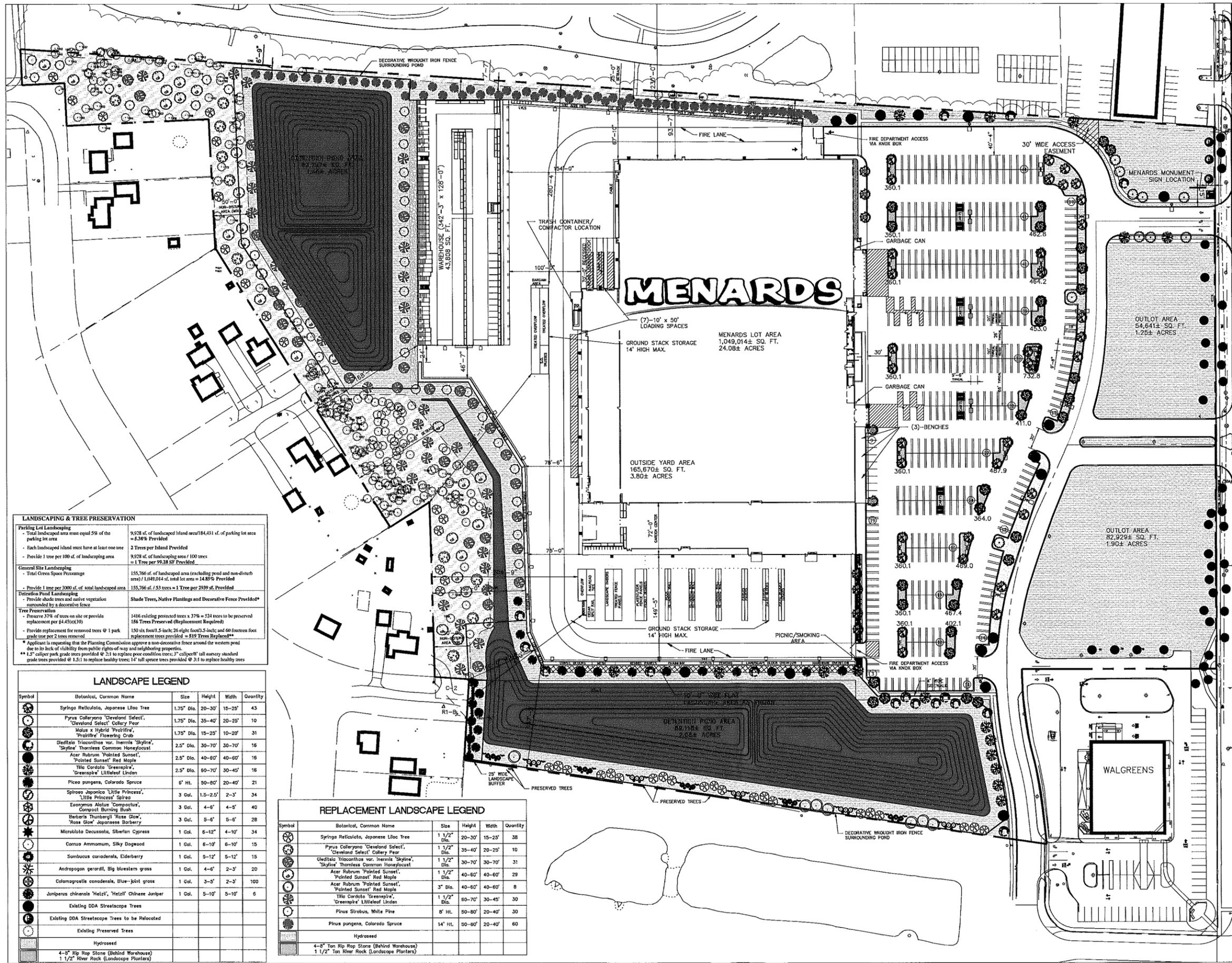
3. That because the applicant has several variance requests under consideration by the BZA, the Planning Commission's special approval recommendation shall be not forwarded to the Township Board until after the BZA has approved or denied those variance requests.

Respectfully submitted,

McKENNA ASSOCIATES

A handwritten signature in cursive script that reads "Sara J. Hodges".

Sara J. Hodges, AICP
Senior Vice President



Maintenance Agreement:
 "Paved surfaces, walkways, signs, lighting and other structures and surfaces shall be maintained in a safe, attractive condition as originally designed and constructed. Parking lot striping and markings shall be maintained in clear, visible condition."

Landscape Maintenance Agreement:
 "Owner agrees to seasonal maintenance program and will replace all diseased, dead or damaged plants, replenish mulch, control weeds, fertilize and prune beginning upon completion of construction of landscaping."

Wood Fence Maintenance Agreement:
 "Owner shall inspect the 14' tall wood fence around the perimeter of the outdoor storage area on an annual basis and shall treat, power wash, replace boards and complete any other appropriate maintenance to keep the fence in a safe, attractive condition as originally designed and constructed."

Notes:
 Debris shall be picked up within the property limits weekly or as needed.

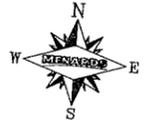
The project is intended to be completed in one phase.

The outlot areas shown on the plan shall be graded and seeded as part of the construction of the project.

Owner agrees to use commercially reasonable efforts to obtain an agreement from Walgreens and the owner of the Walgreens property to allow removal of the existing access point on Belleville Road located north of Walgreens, and Owner shall complete such removal upon receipt of the required agreement.

NOTE:
 ALL PARKING SPACES ARE TO BE DOUBLE STRIPED

ALL LANDSCAPING TO BE IRRIGATED WITH EITHER AN IRRIGATION SOAKER OR DRIP TYPE SYSTEM



Petitioner:
 Menard, Inc.
 Attn: Scott Nuttman
 510 Menard Drive
 Eau Claire, WI 54701
 Phone: 715-876-2383

Civil Engineer:
 Metro Consulting Associates, LLC
 Attn: Matt Bush
 719 Griswold, Suite 820
 Detroit, MI 48226
 Phone: 734-217-4658

MENARDS

Van Buren Township, MI
 Menards Site Landscape Plan
 January 19, 2017
 Scale: 1" = 60'-0" CT2

LANDSCAPING & TREE PRESERVATION

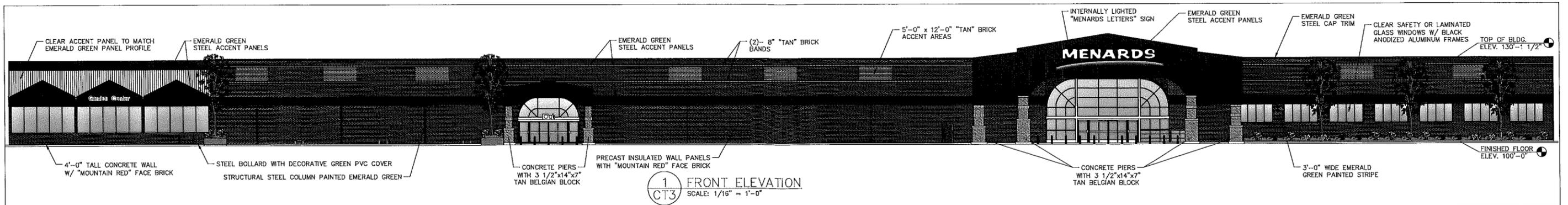
Parking Lot Landscaping	9,928 sq. ft. of landscaped island area/184,431 sq. ft. of parking lot area = 5.38% Provided
- Total landscaped area must equal 5% of the parking lot area	
- Each landscaped island must have at least one tree	2 Trees per Island Provided
- Provide 1 tree per 100 sq. ft. of landscaping area	9,928 sq. ft. of landscaping area / 100 trees = 1 Tree per 99.28 SQ. FT. Provided.
General Site Landscaping	155,766 sq. ft. of landscaped area (excluding pond and non-disturb area) / 1,610,814 sq. ft. total lot area = 9.67% Provided
- Total Green Space Percentage	
- Provide 1 tree per 2000 sq. ft. of total landscaped area	155,766 sq. ft. / 53 trees = 1 Tree per 2939 sq. ft. Provided
Detention Pond Landscaping	Shade Trees, Native Plantings and Decorative Fence Provided*
- Provide shade trees and native vegetation surrounded by a decorative fence	
Tree Preservation	1416 existing protected trees = 37% = 534 trees to be preserved
- Preserve 37% of trees on site or provide replacement per \$445(10)	150 sq. ft. of 5 inch dbh trees/26 sq. ft. of 3.5 inch dbh trees/40 sq. ft. of 2 inch dbh trees = 519 Trees Replaced**
- Provide replacement for removed trees @ 1 park grade tree per 2 trees removed	
* Applicant is requesting that the Planning Commission approve a non-decorative fence around the western pond due to its lack of visibility from public rights-of-way and neighboring properties.	
** 1.5" caliper park grade trees provided @ 2:1 to replace poor condition trees; 3" caliper/8' tall nursery standard grade trees provided @ 1.5:1 to replace healthy trees; 14" tall spruce trees provided @ 3:1 to replace healthy trees	

LANDSCAPE LEGEND

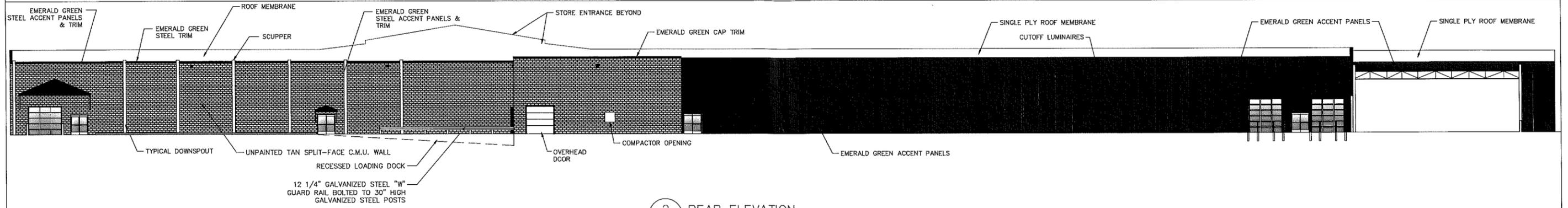
Symbol	Botanical, Common Name	Size	Height	Width	Quantity
[Symbol]	Syringa Reticulata, Japanese Lilac Tree	1.75" Dia.	20-30'	10-25'	43
[Symbol]	Pyrus Calleryana 'Cleveland Select', 'Cleveland Select' Callery Pear	1.75" Dia.	35-40'	20-25'	10
[Symbol]	Malus x Hybrid 'Proflora', 'Proflora' Flowering Crab	1.75" Dia.	15-25'	10-20'	31
[Symbol]	Gleditsia Triacanthos var. Inermis 'Skyline', 'Skyline' Thornless Common Honeylocust	2.5" Dia.	30-70'	30-70'	16
[Symbol]	Acer Rubrum 'Pointed Sunset', 'Pointed Sunset' Red Maple	2.5" Dia.	40-60'	40-60'	16
[Symbol]	Tilia Cordata 'Greenspire', 'Greenspire' Littleleaf Linden	2.5" Dia.	60-70'	30-45'	16
[Symbol]	Pinus pungens, Colorado Spruce	6" Ht.	90-80'	20-40'	21
[Symbol]	Spiraea japonica 'Little Princess', 'Little Princess' Spirea	3 Gal.	1.5-2.5'	2-3'	34
[Symbol]	Elaeagnus Alatus 'Compacta', 'Compact Burning Bush	3 Gal.	4-5'	4-5'	40
[Symbol]	Berberis 'Thunbergii' 'Rose Glow', 'Rose Glow' Japanese Barberry	3 Gal.	5-6'	5-6'	28
[Symbol]	Microbiota Decussata, Siberian Cypress	1 Gal.	6-12"	4-10"	34
[Symbol]	Cornus Amomum, Silky Dogwood	1 Gal.	6-10'	6-10'	15
[Symbol]	Sambucus canadensis, Elderberry	1 Gal.	5-12"	5-12"	15
[Symbol]	Andropogon gerardii, Big bluestem grass	1 Gal.	4-6'	2-3'	20
[Symbol]	Colaspis condensata, Blue-joint grass	1 Gal.	3-5'	2-3'	100
[Symbol]	Juniperus chinensis 'Heizl', 'Heizl' Chinese Juniper	1 Gal.	5-10'	5-10'	6
[Symbol]	Existing DDA Streetscape Trees				
[Symbol]	Existing DDA Streetscape Trees to be Relocated				
[Symbol]	Existing Preserved Trees				
[Symbol]	Hydroseed				
[Symbol]	4-8" Rip Rap Stone (Behind Warehouse)				
[Symbol]	1 1/2" River Rock (Landscape Planters)				

REPLACEMENT LANDSCAPE LEGEND

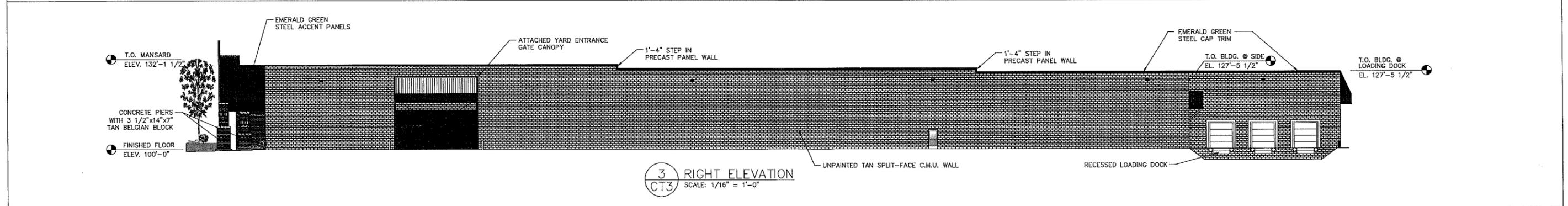
Symbol	Botanical, Common Name	Size	Height	Width	Quantity
[Symbol]	Syringa Reticulata, Japanese Lilac Tree	1 1/2" Dia.	20-30'	15-25'	38
[Symbol]	Pyrus Calleryana 'Cleveland Select', 'Cleveland Select' Callery Pear	1 1/2" Dia.	35-40'	20-25'	10
[Symbol]	Gleditsia Triacanthos var. Inermis 'Skyline', 'Skyline' Thornless Common Honeylocust	1 1/2" Dia.	30-70'	30-70'	31
[Symbol]	Acer Rubrum 'Pointed Sunset', 'Pointed Sunset' Red Maple	1 1/2" Dia.	40-60'	40-60'	29
[Symbol]	Acer Rubrum 'Pointed Sunset', 'Pointed Sunset' Red Maple	3" Dia.	40-60'	40-60'	8
[Symbol]	Tilia Cordata 'Greenspire', 'Greenspire' Littleleaf Linden	1 1/2" Dia.	60-70'	30-45'	30
[Symbol]	Pinus Strobus, White Pine	8" Ht.	90-80'	20-40'	30
[Symbol]	Pinus pungens, Colorado Spruce	14" Ht.	90-80'	20-40'	60
[Symbol]	Hydroseed				
[Symbol]	4-8" Ton Rip Rap Stone (Behind Warehouse)				
[Symbol]	1 1/2" Ton River Rock (Landscape Planters)				



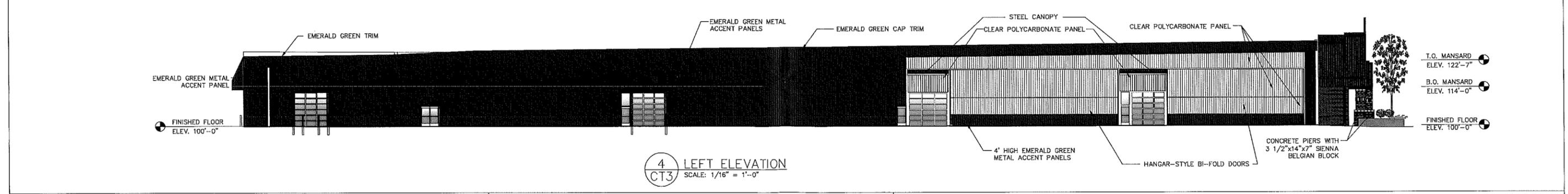
1 FRONT ELEVATION
CT3
SCALE: 1/16" = 1'-0"



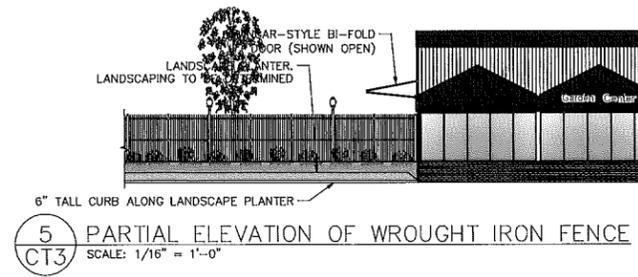
2 REAR ELEVATION
CT2
SCALE: 1/16" = 1'-0"



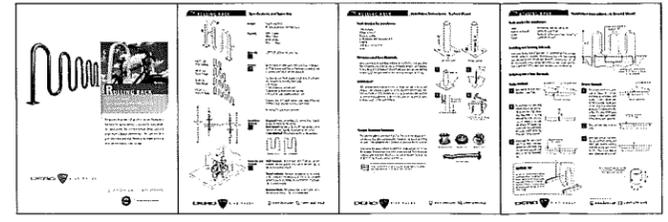
3 RIGHT ELEVATION
CT3
SCALE: 1/16" = 1'-0"



4 LEFT ELEVATION
CT3
SCALE: 1/16" = 1'-0"

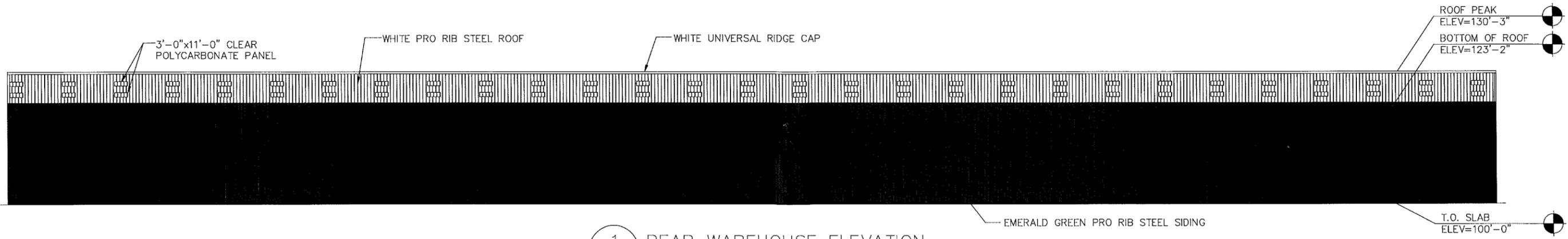


5 PARTIAL ELEVATION OF WROUGHT IRON FENCE
CT3
SCALE: 1/16" = 1'-0"

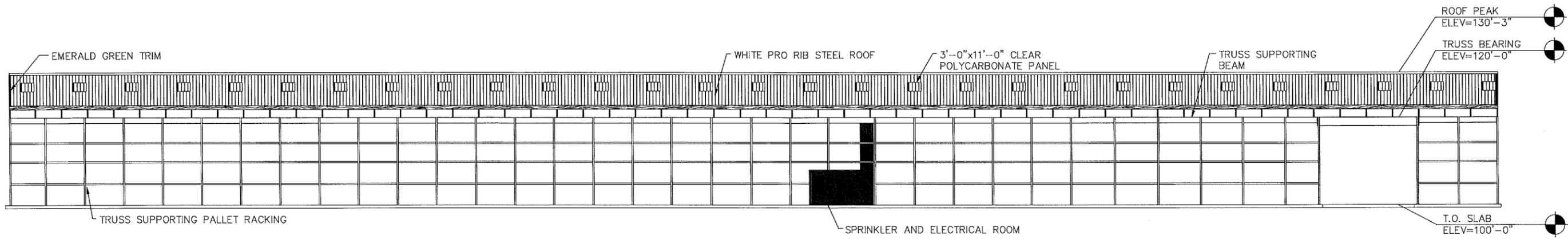


6 BICYCLE RACK DETAIL
CT3
NOT TO SCALE

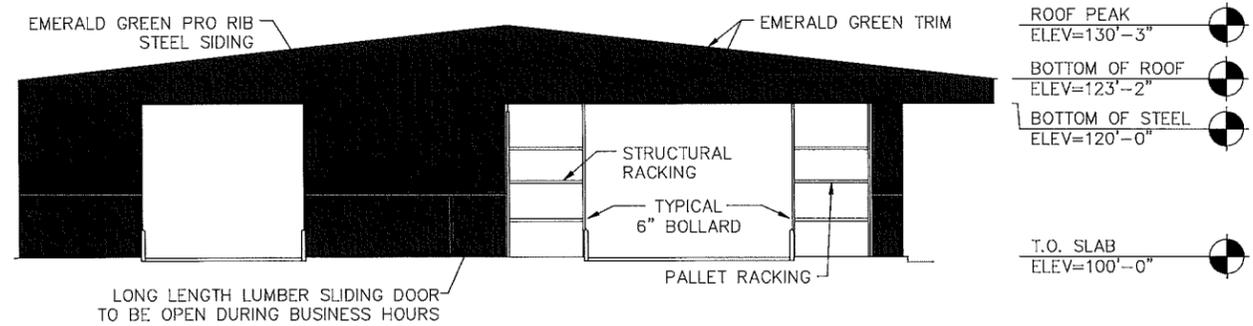
MENARDS
Van Buren Township, MI
Menards Building Elevations
January 19, 2017
Scale: 1/16" = 1'-0" CT3



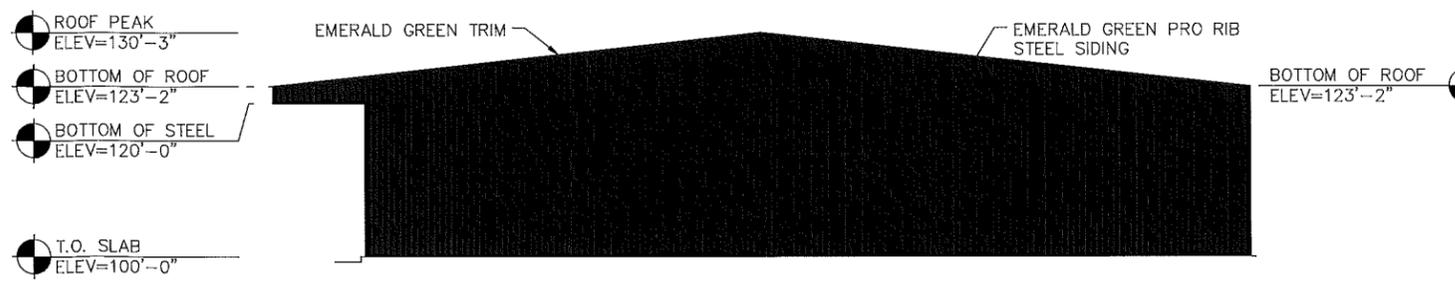
1 REAR WAREHOUSE ELEVATION
 CT9 SCALE: 1/16" = 1'-0"



2 FRONT WAREHOUSE ELEVATION
 CT9 SCALE: 1/16" = 1'-0"



3 LEFTSIDE WAREHOUSE ELEVATION
 CT9 SCALE: 3/32" = 1'-0"



4 RIGHTSIDE WAREHOUSE ELEVATION
 CT9 SCALE: 3/32" = 1'-0"

MENARDS

Van Buren Township, MI
 Menards Warehouse Elevations
 January 19, 2017
 Scale: as noted per detail