



June 30, 2014

City of Lawrence
% Scott McCullough
6 East Sixth Street
Lawrence, KS 66044

RE: Appeal of Menards Site Plan Approval, SP-13-000423

Dear Members of the City Commission,

Please accept this letter from Menard, Inc. ("Menards") in response to the above-referenced appeal filed by Plaza Lawrence, LLC ("Plaza Lawrence"). Plaza Lawrence is appealing a decision by your Planning Director approving Menards' site plan, which approval is one of the final steps to allow our project to move forward to construction. The criteria which the Planning Director (and the City Commission) shall use to determine if a site plan should be approved are set forth in §20-1305(j) of the City Code. These criteria include determining whether or not the plan complies with code, provides for safe vehicular and pedestrian movement within the development, etc.

The appeal letter provided by Plaza Lawrence does not (nor could it) claim that the Planning Director failed to appropriately apply the enumerated criteria to the site plan, that the site plan violates any code provision of the City, that the plan violates a specific condition placed on the development by the City, or that the site plan is otherwise injurious to the public. Instead, Plaza Lawrence's "appeal" is in actuality a request by a private property owner asking the City to force another private property owner (Menards) to provide extra stormwater detention volume on Menards' property, which will in turn allow Plaza Lawrence to fill in its existing pond and create a new developable lot. Short of the City forcing Menards to provide this benefit to its neighbor, Plaza Lawrence is hoping that the delay caused by this appeal will, at the very least, provide it with extra leverage in negotiations and/or punish Menards monetarily. This is not speculation on Menards' part. Plaza Lawrence's attorney blatantly told Menards that this appeal would be filed to delay our project and cost us money if we did not succumb to Plaza Lawrence's demands.

During the course of this project, Menards has attempted to negotiate in good faith with Plaza Lawrence to provide the detention benefit that they are now seeking via this appeal. Menards' position on this matter is influenced by civil engineering considerations, the need to manage utility conflicts and the contractual details of such an arrangement (including sharing of additional construction and maintenance costs, legal terms and conditions, etc.). The parties were not able to come to an agreement on these details in a timely fashion, so Menards made the determination to move forward with our project with a design that does not detain Plaza Lawrence's water on the property that we purchased. Menards construction timeline simply does not allow us to suffer any further delay to address this request to use our pond. However, the pond could be expanded in the future after construction is complete, if the remaining details for such an arrangement are agreed upon by the parties at a later date.

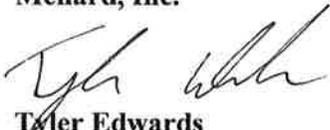
It is important to clarify that Menards' stormwater handling and detention system as shown on the site plan approved by your Planning Director (and City Stormwater Engineer) complies with all local, state and federal requirements. The facilities accommodate handling of all water from the Menards site as well as all water coming from neighboring properties and draining through to Naismith Creek. The detention area is even oversized to provide additional volume storage for some neighboring properties that do not currently have any detention facilities of their own, which will provide significant benefits to

the community in terms of flood control. What it does not provide is extra volume to allow Plaza Lawrence to fill in their *existing* pond, which would provide no stormwater benefit to the public but a significant financial benefit to Plaza Lawrence.

Menards' site plan is in compliance with all the standards set forth in §20-1305(j). It meets all standards and conditions established throughout the course of the City's review of the project. The plan also not only meets all requirements and regulations with respect to stormwater control, it goes above and beyond them. Plaza Lawrence does not deny these facts, but instead makes vague references to a "shift in city planning and development policy" that will negatively impact future development potential of its property. The appellant also claims some nebulous right to use a "de facto regional storm water area". These arguments clearly are not appropriate grounds for a site plan appeal, and they should be rejected.

For the reasons set forth herein, Menards requests your approval of the proposed site plan so that the project can move forward to construction. We sincerely look forward to becoming a new corporate citizen of Lawrence and appreciate your support of the project. Please do not hesitate to contact me with any questions regarding this matter. Thank you.

Sincerely,
Menard, Inc.



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