

Wednesday, October 14,

20

The Bainbridge Township Board of Trustees met in special session virtually on October 14, 2020. Those present were Trustees Mrs. Kristina O'Brien, Mr. Jeffrey Markley, and Mrs. Lorrie Benza. Mrs. O'Brien presided and called the meeting to order at 12:01 P.M.

The meeting was a virtual Zoom meeting.

EXECUTIVE SESSION

Mr. Markley made a motion to go into executive session for the purpose of discussing Pending Court Action per Ohio Revised Code Section 121.22(G)(3) and Economic Development Assistance per Ohio Revised Code Section 121.22(G)(8).

Mrs. Benza seconded the motion. Vote followed: Mrs. Benza, aye; Mr. Markley, aye; Mrs. O'Brien, aye. Motion carried.

The trustees recessed their meeting at 12:01 P.M. in order to go into executive session.

Attorney Tom FitzSimmons, Zoning Inspector Karen Endres and Asst. Zoning Inspector Dave Dietrich, Chris Semarjian, Attorney Bridey Matheney and Jeff Martin were invited into the executive session at 12:01 P.M.

Chris Salata was invited into executive session at 12:41 P.M.

The trustees returned from executive session, after considering pending court action and economic development assistance, and reconvened their special meeting at 12:53 P.M.

Consent Judgment Entry

Mr. Markley made a motion to approve Resolution 10142020-A to approve a consent judgment entry between and among Bainbridge Township, Industrial Commercial Properties, LLC, Bainbridge State Route 43, LLC and ICP Geauga Lake, LLC pursuant to Ohio Revised Code section 505.07.

Mrs. Benza seconded the motion that was passed unanimously.

Bridey Matheney, Karen Endres, Dave Dietrich, Chris Semarjian, Chris Salata and Jeff Martin left at 1:21 P.M.

Mr. Markley made a motion to go into executive session for the purpose of discussing Economic Development Assistance per Ohio Revised Code Section 121.22(G)(8).

Mrs. Benza seconded the motion. Vote followed: Mrs. Benza, aye; Mr. Markley, aye; Mrs. O'Brien, aye. Motion carried.

The trustees recessed their meeting at 1:23 P.M. in order to go into executive session.

Tom FitzSimmons was invited into executive session at 1:23 P.M.

The trustees returned from executive session, after considering economic development assistance, and reconvened their special meeting at 1:59 P.M.

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20

Since there was no further business to come before this special meeting of the Bainbridge Township Board of Trustees, the meeting was adjourned at 1:59 P.M.

Respectfully Submitted,

Janice S. Sugarman,
Fiscal Officer, Bainbridge Township

Date

Date

Date

Minutes Read: _____

Minutes Approved: _____

Bainbridge Township

TRUSTEES:

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Kristina O'Brien
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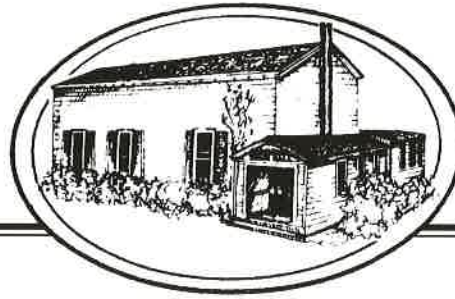
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BAINBRIDGE TOWN HALL

17826 Chillicothe Road

GEAUGA COUNTY

Chagrin Falls, Ohio 44023



THE BOARD OF TRUSTEES OF BAINBRIDGE TOWNSHIP, GEAUGA COUNTY, OHIO

RESOLUTION 10142020-A

TO APPROVE A CONSENT JUDGMENT ENTRY BETWEEN AND AMONG BAINBRIDGE TOWNSHIP, INDUSTRIAL COMMERCIAL PROPERTIES, LLC, BAINBRIDGE STATE ROUTE 43, LLC, AND ICP GEAUGA LAKE, LLC PURSUANT TO OHIO REVISED CODE SECTION 505.07

BAINBRIDGE TOWNSHIP BOARD OF TRUSTEES, GEAUGA COUNTY, OHIO

SUBJECT: Consent Judgment Entry (the "CJE") between and among Bainbridge Township (the "Township"), Industrial Commercial Properties, LLC ("ICP"), Bainbridge State Route 43, LLC ("43"), and ICP Geauga Lake, LLC ("ICPGL"), in the Administrative Appeal (the "Action") captioned Case No. 20A000153 in the Court of Common Pleas, Geauga County, Ohio, Judge Carolyn J. Paschke (the "Court").

The Board of Trustees of Bainbridge Township, Geauga County, Ohio, met in a special session on the 14th day of October, 2020 with the following members present:

Kristina O'Brien
Jeffrey Markley
Lorrie Benza

Trustee Jeffrey Markley moved for the adoption of the following resolution:

WHEREAS, the Action was filed by ICP, as Appellant, against the Township, as Appellee, in which 43 and ICPGL (collectively, the "Intervenors") intervened.

WHEREAS, ICP, the Township and Intervenors have reached agreement, set forth in the attached CJE, to settle the Action with respect to a portion of the property that is subject thereto, which portion is to be developed as a Menard's store, the legal description of which portion is attached.

WHEREAS, ICP, the Township and Intervenors intend to subsequently negotiate amendments to the CJE, which shall settle the Action with respect to and establish the guidelines for development of the remainder of the property that is subject to the Action.

WHEREAS, Ohio Revised Code Section 505.07 requires publication of the CJE at least ten (10) days prior to submission of the CJE to the Court for approval.

BE IT RESOLVED THAT, pursuant to Ohio Revised Code Section 505.07, we hereby adopt and approve, and authorize the placement of our signatures upon, the attached Consent Judgment Entry; provided, however, that such execution and the effectiveness of the CJE shall be conditioned upon (a) approval by us of the final exhibits to be attached thereto, and (b) publication of the required public notice prior to submission to the Court.

Lorrie Benza seconded the Resolution, and the roll being called upon its adoption, the vote resulted as follows:

Kristina O'Brien [Signature] YES/AYE

Jeff Markley [Signature] AYE

Lorrie A. Benza [Signature] aye

Attest as to signatures:

[Signature]
Janice S. Sugarman, Fiscal Officer

Date:

10-14-2020

IN THE COURT OF COMMON PLEAS
GEAUGA COUNTY, OHIO

INDUSTRIAL COMMERCIAL
PROPERTIES LLC,

Appellant,

v.

BAINBRIDGE TOWNSHIP BOARD OF
TRUSTEES,

Appellee.

CASE NO. 20A000153

JUDGE CAROLYN J. PASCHKE

CONSENT JUDGMENT ENTRY

Pursuant to the agreement of the Appellant, Industrial Commercial Properties, LLC, ("ICP"), Intervenor Bainbridge State Route 43, LLC ("43"), ICP Geauga Lake, LLC ("ICPGL") and Appellee, Bainbridge Township Board of Trustees, ("Bainbridge") (collectively with future owners of the Property or a portion thereof, the "Parties"), the Parties to this administrative appeal hereby agree and stipulate that the following Consent Judgment Entry ("CJE") may be entered, resolving some but not all issues arising out of the administrative appeal filed by ICP and other issues that may have been raised by the Parties in the within proceedings, relating to the development of the Property (hereinafter described), and having met all of the requirements of Ohio Revised Code Section 505.07, as the agreement of the Parties and so ordered by this Court as the judgment of this matter on the terms hereinafter set forth. It is the intent of the Parties to comprehensively resolve development of the Menards Property (hereinafter defined) in this CJE, other than the final landscaping design for the Menards Property (hereinafter defined) and it is with a good faith belief and intent of the Parties that a more comprehensive CJE with more detailed exhibits regarding developing the balance of the Property will be submitted to the Court for approval within approximately one hundred twenty (120) days from the date of the filing of this CJE.



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I. DEFINITIONS:

A. **Amendment:** Any amendment, supplement or other modification to the CJE, Master Site Plan (as hereinafter defined), or any other drawing, plan, specification or other requirement of the foregoing, but only to the extent that the same is consistent with the general intent of this CJE and is approved in writing between Bainbridge and the party or all parties holding title to the Property and/or Menards Property, as the case may be, subject to Section II(E) and Section IV(B) below. Any such Amendment shall not require the approval of this Court; provided, however, that, as set forth below, this Court shall retain jurisdiction to enforce the terms and conditions of this CJE, as it now exists or as Amended. Any form of the word "amendment" (including, but not limited to, "amend," "amended," "amending", "supplemented" and the like) shall be considered to be included in this definition as the context of such word shall require.

B. **Bainbridge:** Bainbridge Township, Geauga County, Ohio, and where appropriate the Bainbridge Township Zoning Inspector ("Zoning Inspector") and/or Bainbridge Township Board of Trustees ("Trustees").

C. **Design Guidelines:** The Design Guidelines, will be incorporated into **EXHIBIT "C"** to be attached hereto and made a part hereof when the CJE is Amended, as knowledge of development of the Property is obtained.

D. **Lot-Split:** The lot-split of the Property in order to create the Menards Property as described and depicted in **EXHIBIT "K"** attached hereto and made a part hereof.

E. **Menards Landscape Plan:** The landscaping for the Menards Property as depicted on **EXHIBIT "I"** (also known as Site Landscape Plan – Sheet CT1A dated October 14, 2020) and **EXHIBIT "E-2"** (also referred to as Menards Site Details Plan – Sheet CT5 dated October 14, 2020) attached hereto and made a part hereof shall be reviewed and approved no later than 30



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days from the recording of this CJE. The landscape design within the landscape buffer zone to be created along State Route 43 in the front of the Menards Property and the abutting commercial property to the east, along State Route 43 will be designed by Menards, subject to approval by Bainbridge.

F. **Menards Lighting Plan:** The approved Photometric Plan for the Menards Property is described in **EXHIBIT "G"** (also referred to as Site Photometric Plan – Sheet CT6 dated October 14, 2020) attached hereto and made a part hereof.

G. **Menards Primary Elevations:** The Menards building elevations and height of the primary Menards retail building to be located on the Menards Property as depicted on **EXHIBIT "D"** (also referred to as Proposed Building Elevations - Sheet CT2 and dated October 14, 2020) attached hereto and made a part hereof. The building materials to be used for the Menards primary building is set forth on **EXHIBIT "D"** and hereby approved for installation on the Menards Property.

H. **Menards Property:** The portion of the Property to be initially acquired by 43 and ultimately to be owned and developed by Menard, Inc. for a Menards retail store and warehouse ("Menards"), which Property is described in **EXHIBIT "J"** attached hereto and made a part hereof.

I. **Menards Signage:** The approved signage for the Menards Property and the monument sign by State Route 43 are depicted on **EXHIBIT "H"** (also referred to as Proposed Building Signage – Sheet CT4 dated October 14, 2020) attached hereto and made a part hereof. All other signs must be approved by the Zoning Inspector and not in conflict with the Zoning Resolution.

J. **Menards Site Plan:** The Site Plan for the Menards Property and the general details thereof, specifying setbacks, lot coverage, parking, access, size and location of all buildings on the Menards Property as depicted in **EXHIBIT "E-1"** (also referred to as Site Plan - Sheet CT1



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dated October 14, 2020) and **EXHIBIT "E-2"** (also referred to as Menards Site Details Plan - Sheet CT5 dated October 14, 2020) attached hereto and made a part hereof.

K. **Menards Warehouse Elevations:** The building to the rear of the Menards retail building where certain products will be stored, displayed and made available for purchase, including drive-through for picking up merchandise, as depicted on **EXHIBIT "F"** (also referred to as Proposed Warehouse Elevations - Sheet CT3 dated October 14, 2020) attached hereto and made a part hereof.

L. **Mixed Use District:** Chapter 190 of the Zoning Resolution entitled Mixed Use Planned Unit Development District.

M. **Plan:** The Master Site Plan as depicted on **EXHIBIT "B"** (also referred to as Master Plan - Sheet C-SP01 dated October 2, 2020) attached hereto and made a part hereof and prepared for ICP showing the location, as currently known, of various different plans and uses of the Property, and the location and design of, and plan for, the development and use of the Menards Property but not necessarily including the location of all uses or activities to be located on the Property which will be revised, in the future, by Amendments to this CJE.

N. **Property:** Property located in Bainbridge Township, Geauga County, Ohio, currently owned by Geauga Lake, LLC, that will be acquired by ICPGL and 43, wholly owned by ICP, or its other nominees, and consisting of 22 parcels of land, and described in **EXHIBIT "A"** attached hereto and made a part hereof.

O. **Stormwater Management:** All stormwater management on the Property shall be in compliance with all rules and regulations of the Geauga County Soil & Water Conservation District and in compliance with those provisions laid out in the Memorandum from Chagrin River Watershed Partners and Geauga County Soil & Water Conservation District dated September 21, 2020. ("Applicable Memorandum"). The Applicable Memorandum is attached hereto and made



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a part hereof as **EXHIBIT "L"**. On a case by case basis, if the owner of a portion of the Property suffers a hardship based on the requirements of the Applicable Memorandum, the Trustees, may consent, in the exercise of their discretion, to a variance or other relief from the requirements of the Applicable Memorandum, unless such requirements are at the time regulations or laws of other jurisdictions, such as Geauga County, and any relief must then be obtained as well from the other jurisdiction.

P. **Variances:** The Variances requested by ICP from the Bainbridge Township Board of Zoning Appeals, which Variances were denied and are the subject of this administrative appeal; the Zoning Resolution Sections from which the Variances were requested are Sections 2.2.406(A)12, Section 3.1.303, Section 3.1.303(A), Section 3.1.304(A), Section 2.2.402(C)(10), Section 2.2.402(E)(3), (due to a scrivener's error the variance should have been to Section 2.2.402(E)(1)(a) and (b) and (2) as subsection (3) does not exist), Section 2.2.402(F), Section 2.2.402(G), Section 2.2.402(H) and Section 5.1.203 of the Zoning Resolution.

Q. **Zoning Resolution:** The Bainbridge Township Zoning Resolution in effect as of January 1, 2020.

II. **VARIANCE REQUIREMENTS SUPERSEDED BY CJE:**

A. ICP's appeal of the denial of the Variances is hereby resolved by the terms contained in this CJE, as the same may be Amended.

B. The Menards Property may be developed and used in accordance with this CJE and the Exhibits hereto. Subject to the terms and conditions contained herein and in any Amendment, ICP, 43, ICPGL and their nominees, successors and assigns shall be permitted to use the Menards Property and the Property in accordance with the Plan and future site plans to be attached hereto and the other Exhibits attached hereto, and to be added hereto in the future as the CJE is Amended to provide for more detailed development of the balance of the Property.



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C. To the extent permitted in any Amendment, the balance of the Property may be developed and used (i.) for heavy retail (as defined in the Zoning Resolution); (ii.) to allow dwellings, and other buildings to be setback less than 500 feet from the highwater mark of any lake on the Property; (iii.) to allow multi-family and other residential dwelling types to be permitted on the first floor of the building and to permit multi-family dwellings to be designed and constructed in accordance with Exhibits to be attached to this CJE in the future; (iv.) to permit development and use of the Property in conformity with the Exhibits attached to this CJE, now and in the future, with area regulations as set forth in the detailed Site Plans attached hereto or to be attached hereto in the future, in lieu of utilizing the provisions currently contained in the Zoning Resolution and in particular, the Mixed Use District; (v.) to allow a mixture of housing types as permitted by the Exhibits attached hereto, now or in the future, including residential dwellings to have first floor residential use; (vi.) to permit a mixture of housing types based on exhibits to be attached hereto in the future as Amendments, in lieu of utilizing Table 3.1.304 of the Zoning Resolution; and (vii.) to utilize Design Standards as set forth in this CJE by attachment hereto as an exhibit, now and in the future, to the extent such standards conflict or comprehensively regulate design standards, in lieu of Bainbridge applying those set forth in the Zoning Resolution and in particular the Mixed Use District.

D. To the extent set forth in this CJE and the Exhibits attached hereto, ICP and 43 and its nominees, successors and assigns, shall be permitted to develop the Menards Property in accordance with the terms and conditions of this CJE and the details and specifications set forth in Exhibits "D" through "I" attached hereto and made a part hereof, and such additional exhibits to be attached to this CJE by agreement of the Parties. In the event that 43 or its nominees, successors and assigns determine that some variation may be needed from this CJE, as the same may be Amended, as it relates to the Menards Property, then such proponent of such variation



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shall submit a request to the Trustees for modification or supplementation of this CJE. The Trustees shall consent to such amendment or supplement, so long as they determine, in their reasonable discretion, that the requested modification or supplementation meets the spirit and intent of this CJE, is consistent with the Parties' desire to see that the Property is fully developed in a thoughtful and planned manner, and such variation will not be harmful to the health, safety, morals or general welfare of the residents of Bainbridge. Upon request of ICP, Bainbridge, or the owner of any portion of the Property that will be affected, this CJE, and any Amendment shall be recorded with the Geauga County Recorder and the Court hereby orders such recording to be accepted by the Geauga County Recorder for recording.

E. Menards shall be entitled to develop the Menards Property in accordance with EXHIBITS "D", "E", "F", "G", "H" and "I" and the Zoning Inspector shall issue a Zoning Certificate to ICP and/or Menards upon proof of compliance with such Exhibits, and submission of a complete Application for a Zoning Certificate. Menards shall be permitted to store materials outside of any building in the areas depicted as outside yard areas or "OYA" on the Menards Site Plan.

F. In the near term, the CJE will be Amended whereby the Parties shall establish the process for approval of the development of the balance of the Property, including submissions to the Zoning Inspector, timing for review and the approval process by the Trustees, whose approval shall be required for all site plan, building elevations, landscaping, signage, parking, and other development requirements for a Mixed Use District that are not already deemed approved in this CJE, or any Amendments. All necessary documentation for development of the balance of the Property shall be submitted to Bainbridge no later than ten (10) days before the date of any coordinated meeting to consider new developments for the Property along with ten (10) sets of each drawing to be delivered to the Zoning Inspector along with a digital version of such plans.



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Future development of the balance of the Property shall conform to the Plan as depicted in **EXHIBIT "B"**, as may be Amended.

G. Accessory and incidental uses of the Menards Property may be allowed as contemplated by this CJE and, to the extent not in conflict herewith, the provisions contained in the Zoning Resolution.

H. It is the intent of the Parties that the development of the balance of the Property shall include, but not be limited to, certain design requirements related to the history of Geauga Lake (the "Nostalgia Components"), which requirements shall be included in a future Amendment of this CJE. 43 agrees that, with respect to the Menards Property, if Bainbridge requests the addition thereto of future Nostalgia Components, it shall comply with such request to the extent the same is commercially reasonable and is located in the 100 foot buffer zone from State Route 43 in front of the parking lot on the Menards Property. If the cost thereof shall make the addition of such Nostalgia Components to the Menards Property financially unreasonable, Bainbridge's election in writing to bear the cost of the same shall be deemed to make the same commercially reasonable hereunder. Any request by Bainbridge to add Nostalgia Components beyond the 100 foot buffer zone and into the parking lot or buildings located on the Menards Property shall be subject to review and approval of Menards.

III. DEVELOPMENT COVENANTS:

A. No owner of the Property shall seek annexation of any portion or all of the Property to any municipality without the express written consent of Bainbridge.

B. All utilities to be installed on the Property shall be located underground, except when regulations or laws mandate that such utilities be above ground.

C. The owner(s) of the Property shall consent to the inclusion of the Property in a Drainage Maintenance District to be managed by the Geauga County Engineer, which District shall be



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created by the Geauga County Board of County Commissioners. Each owner of a portion of the Property, if not already done by ICPGL and Menards, as they plan to develop their property, including any planned extension of roads, utilities, stormwater systems, other infrastructure, and buildings and related development shall make a request to the Geauga County Board of Commissioners for establishment of a Drainage Maintenance District pursuant to Ohio Revised Code Section 6131.63. Easements for the drainage facilities, including retention basins, detention basins, ditches, vegetative buffers, swales, pipes, and any appurtenances related thereto including the right ingress and egress for the maintenance, repair, and replacement of said facilities shall be granted in perpetuity to the Geauga County Board of Commissioners. Assessments for the maintenance related to these improvements shall be established as set forth in the Ohio Revised Code, the Geauga County Engineer's Regulations, and the Geauga County Subdivision Regulations and include all contributing areas on the Property.

D. Development of the Property shall be in conformance with and comply with all lawful and applicable laws, rules and regulations of Geauga County and the State of Ohio.

E. All sewer and water service to be utilized for the Property shall be obtained from the City of Aurora as contemplated by the Joint Economic Development District Agreement entered into between Bainbridge and the City of Aurora, effective October 30, 2020. Whenever the developer of any portion of the Property applies to the City of Aurora for connection of sewer and/or water improvements, or receives approval of such application, a copy of the application or the City of Aurora approved utility extension plans, as the case may be, shall be provided to the Zoning Inspector within ten (10) business days thereafter.

F. As portions of the Property are split for future development, the owner of such portion of the Property shall submit for a lot-split review by Geauga County, and the Zoning Inspector, and such other agencies as may be required by law, and upon receipt of all approvals therefor, a copy



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of the recorded lot-split shall be provided to the Zoning Inspector within fifteen (15) business days thereafter.

G. The Zoning Inspector is hereby granted consent to enter any portion of the Property either under development or where plans have been submitted for development, for inspection and determination of compliance with this CJE and compliance and enforcement of the Zoning Resolution.

H. The development of the Property shall incorporate the revisions to the Plan included in the Ohio Department of Transportation ("ODOT") comments to the Traffic Impact Study prepared for ICP, transmitted to ODOT on August 24, 2020, which comments are set forth on EXHIBIT "M" dated October 7, 2020 attached hereto and made a part hereof.

IV. MISCELLANEOUS PROVISIONS:

A. 43 and ICPGL agree to enter into and record in the Geauga County Real Estate Records a Reciprocal Easement Agreement or other similar agreement (the "REA") governing the maintenance of the Menards Parcel and the balance of the Property. Such REA shall require that 43 and ICPGL, or their successors or assigns, maintain the Property in good order, appearance and repair at all times. Notwithstanding the terms and conditions of the REA, in the event that 43 or ICPGL partially or wholly assign its/their rights pursuant to the REA, in conjunction with the sale of a portion of the Property, 43 and ICPGL shall remain primarily liable to maintain the Property in the aforementioned condition pursuant to this CJE; provided, however, that 43 or ICPGL shall be released therefrom regarding the portion of the Property that is being conveyed to the assignee, upon the assignee's execution of and delivery to Bainbridge of an assumption of or agreement to maintain the Property pursuant to this CJE, in form and substance reasonably acceptable to Bainbridge.



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B. The Parties hereto agree that development of the Menards Property in accordance with this CJE and the Exhibits attached hereto, and any Amendments, shall be deemed to be permissible notwithstanding any conflicting provisions of the Zoning Resolution. In the event of any conflict between the Zoning Resolution, and as hereafter amended, and this CJE, as the same may be Amended, this CJE shall prevail and supersede the current Zoning Resolution and any future Zoning Resolution of Bainbridge. This CJE shall prevail over the Exhibits attached hereto in the event of any conflict, and the Parties stipulate that any such conflict is unintentional. No change in the Zoning Resolution of Bainbridge shall necessitate any modification of this CJE, nor shall the development of the Menards Property, now or in the future, be non-conforming and require a variance from the Bainbridge Township Board of Zoning Appeals, so long as the development and use of the Menards Property conforms to this CJE.

C. Future development of the balance of the Property shall conform, to the extent applicable, to the CJE, as the same may be Amended. In connection with any such Amendment, ICP and/or ICPGL, or their successors or assigns, as the case may be, shall submit site plans, and other documents and exhibits including, but not limited to building, signage, landscaping, lighting, and building materials as are required in order to amend or supplement this CJE and Bainbridge shall then review the submissions and determine if it will consent to amendment of this CJE, consistent with Section II (F) of this CJE. The 'Trustees' shall have the right to approve, withhold or condition such consent in their sole and absolute discretion. In the event the Parties agree to Amend this CJE, ICP, ICPGL, Bainbridge, or the then owner of the portion of the Property affected by the amendment shall also execute such documents necessary to amend or supplement the CJE and in the event that ICP, ICPGL, Bainbridge or the party that owns the portion of the Property so affected, makes a written election to the other Parties, such amended or supplemented CJE shall be recorded with the Geauga County Recorder and this Court hereby orders the Geauga



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County Recorder accept such amended or supplemented CJE for recording. Any recording of the CJE, and as amended or supplemented, shall be at the cost of the party so electing to record. In the event that a Party seeks to record such Amended CJE, such party may either (1) submit an amended or supplemented CJE to this Court for approval, or (2), if they so elect, record an affidavit affecting an interest in property with the Geauga County Recorder and record such Amended CJE with the Geauga County Recorder, both of which this Court orders the Geauga County Recorder to accept for recording. The Parties hereby stipulate and agree that whenever a portion of the Property will be developed, and site specific development plans have been approved by the Parties and are added to the CJE, such Amended CJE shall be recorded with the Geauga County Recorder and this Court orders the Geauga County Recorder to accept such Amended CJE for recording.

D. So long as a variance is not in conflict with this CJE, as may be Amended, nothing contained herein shall preclude ICP, 43, ICPGL or their nominees, successors and assigns, representatives, agents and employees, from obtaining any variance in the future for any proposed future use of the Property or any portion of the Property. Any such variance shall not affect, impair or be deemed to amend or terminate this CJE without the express written consent of ICP, 43 or ICPGL (or the then owner of such portion of the Property that obtained a variance for such portion of the Property they own) and Bainbridge.

E. The Court hereby retains jurisdiction to enforce the terms and conditions of this CJE as it now exists or as hereafter Amended and to approve such Amendments when requested by the Parties (and as the case may be the then owner of any portion of the Property affected by any such Amendment) in order for the CJE as Amended to be recorded with the Geauga County Recorder. This CJE shall not be deemed to be for the benefit of any third parties other than the



THRASHER, DINSMORE
& DOLAN

100 7TH AVENUE
SUITE 130
CHARDON, OHIO 44024
PHONE: (440) 283-2242
FAX: (440) 283-9423

1111 SUPERIOR AVENUE
SUITE 412
CLEVELAND, OHIO 44114
PHONE: (216) 253-5431
FAX: (216) 253-5430

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nominees, successors and assigns of the Parties hereto, and such third parties shall have no say to enforce, or seek modification, supplementation, or termination of this CJE.

F. The Court shall have the power to hold in contempt any Party, including any nominees, successors or assigns of the Parties hereto, that fail to comply with the terms of this CJE, after proper notice and hearing. This CJE shall be binding upon and inure to the benefit of the Parties hereto and their nominees, successors and assigns, and upon recording as set forth herein, shall be deemed to be covenants running with the land.

G. This CJE shall substitute for the relief ICP seeks in its administrative appeal and this Court hereby declares, based upon the consent of the Parties hereto expressed by executing this CJE, that the Property may be developed now, and in the future, in accordance with this CJE, unless this CJE is amended pursuant to the consent of the Parties hereto, or in the event Bainbridge approves a variation to the CJE or any of its Exhibits attached hereto.

H. Upon the filing of this CJE, none of the Parties will have the right to appeal the filing of this CJE, and the Parties hereto waive any such right of appeal, since they have consented to and have requested that this Court approve this CJE.

I. ICP, 43 and ICPGL shall not be required to develop the Property, now or any time in the future, and the failure to use the Property in accordance with this CJE shall not be deemed to be a waiver or a relinquishment of the rights and benefits conferred upon the Parties by the filing of this CJE. It is anticipated that certain portions of the Property may not be developed for a number of years and therefore any delay in development of the entire Property shall not be deemed to be an abandonment of the rights and benefits accruing to ICP, 43 and ICPGL in this CJE.

J. ICP, 43 and ICPGL may assign all or any portion of their rights contained in this CJE, to any third party who either takes ownership of, leases, licenses, or otherwise lawfully uses any portion or all of the Property, so long as such Party shall assume such assigning party's



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& DOLAN

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1111 SUPERIOR AVENUE
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PHONE: (216) 253-3431
FAX: (216) 253-3450

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obligations hereunder in writing and, on or before the effective date of such assignment and assumption, provide a copy of the same to the Zoning Inspector, providing the contact information for the assignee. ICP shall provide such assignee with a copy of this CJE in its then current form.

K. ICP, 43 and ICPGL shall record a certified copy of this CJE and all Exhibits attached thereto in the Geauga County Recorder's Office after being adopted as an Order of the Court and this Court orders that the Geauga County Recorder's Office accept such CJE for recording. A copy of the recorded CJE shall be provided to the Zoning Inspector within fifteen (15) business days of being returned from the Geauga County Recorder's Office to the party submitting the same for recording.

L. The Court finds that notice of this CJE was properly made in accordance with Revised Code Section 505.07, as demonstrated by a copy of the Affidavit of Publication attached hereto as **EXHIBIT "N"**. This Court further finds that the terms of this CJE are fair and reasonable.

M. All exhibits to be attached to the CJE now and in the future shall be dated, and upon election of any of the Parties, recorded and this Court orders the Geauga County Recorder to accept such exhibits for recording.

N. In the event that any of the Parties or their nominees, successors and assigns, request the appropriate remaining Parties to agree to Amend the CJE with respect to the Menards Property, and such approval is not obtainable or is rejected, the aggrieved party shall be entitled to seek relief from this Court to Amend the CJE, if this Court finds the request to reasonable, lawful, and in compliance with the spirit and intent within which this CJE was originally agreed to by the Parties, or as then Amended, which request shall be submitted by filing a motion with this Court and providing notice to all other Parties, and to the then owner of such portion of the Property



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CHARDON, OHIO 44024
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FAX: (440) 285-0423

1111 SUPERIOR AVENUE
SUITE 412
CLEVELAND, OHIO 44114
PHONE: (216) 263-3431
FAX: (216) 263-3450

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that may be affected by such motion if they are not then a Party to this CJE or a party to this administrative appeal.

O. ICP shall pay the costs of this action.

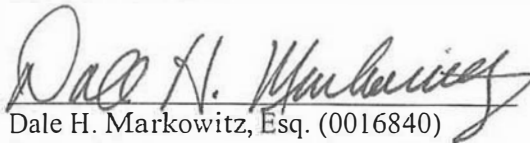
IT IS SO ORDERED.

Date: _____



JUDGE CAROLYN J. PASCHKE

APPROVED BY:



Dale H. Markowitz, Esq. (0016840)
Bridey Matheney, Esq. (0070998)
Thrasher, Dinsmore & Dolan
Attorneys for ICP, 43 & ICPGL

10/19/20
Date



Thomas A. Fitzsimmons, Esq. (0072550)
Christopher O'Connell, Esq. (0075395)
Attorneys for Bainbridge Township
Board of Trustees

10/19/20
Date



THRASHER, DINSMORE
& DOLAN

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PHONE: (440) 285-2242
FAX: (440) 285-9423

1111 SUPERIOR AVENUE
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CLEVELAND, OHIO 44114
PHONE: (216) 255-5431
FAX: (216) 255-5450

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EXHIBIT A

PROPERTY INCLUDED IN THE JEDD

Permanent Parcel Numbers

02-125100
02-126100
02-323900
02-125400
02-126300
02-126500
02-125600
02-125900
02-324100
02-126200
02-126600
02-126700
02-125800
02-126000
02-323800
02-324000
02-324300
02-125300
02-420210
02-126400
02-125700
02-323700



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& DOLAN

100 7TH AVENUE
SUITE 150
CHARDON, OHIO 44024
PHONE: (440) 285-2282
FAX: (440) 285-9423

1111 SORRENTO AVENUE
SUITE 412
CLEVELAND, OHIO 44114
PHONE: (216) 255-5431
FAX: (216) 255-5450

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EXHIBIT B
MASTER SITE PLAN



THRASHER, DINSMORE
& DOLAN

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SUITE 150
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PHONE: (440) 285-2242
FAX: (440) 285-9423

1111 SUPERIOR AVENUE
SUITE 412
CLEVELAND, OHIO 44114
PHONE: (216) 353-3431
FAX: (216) 253-5450

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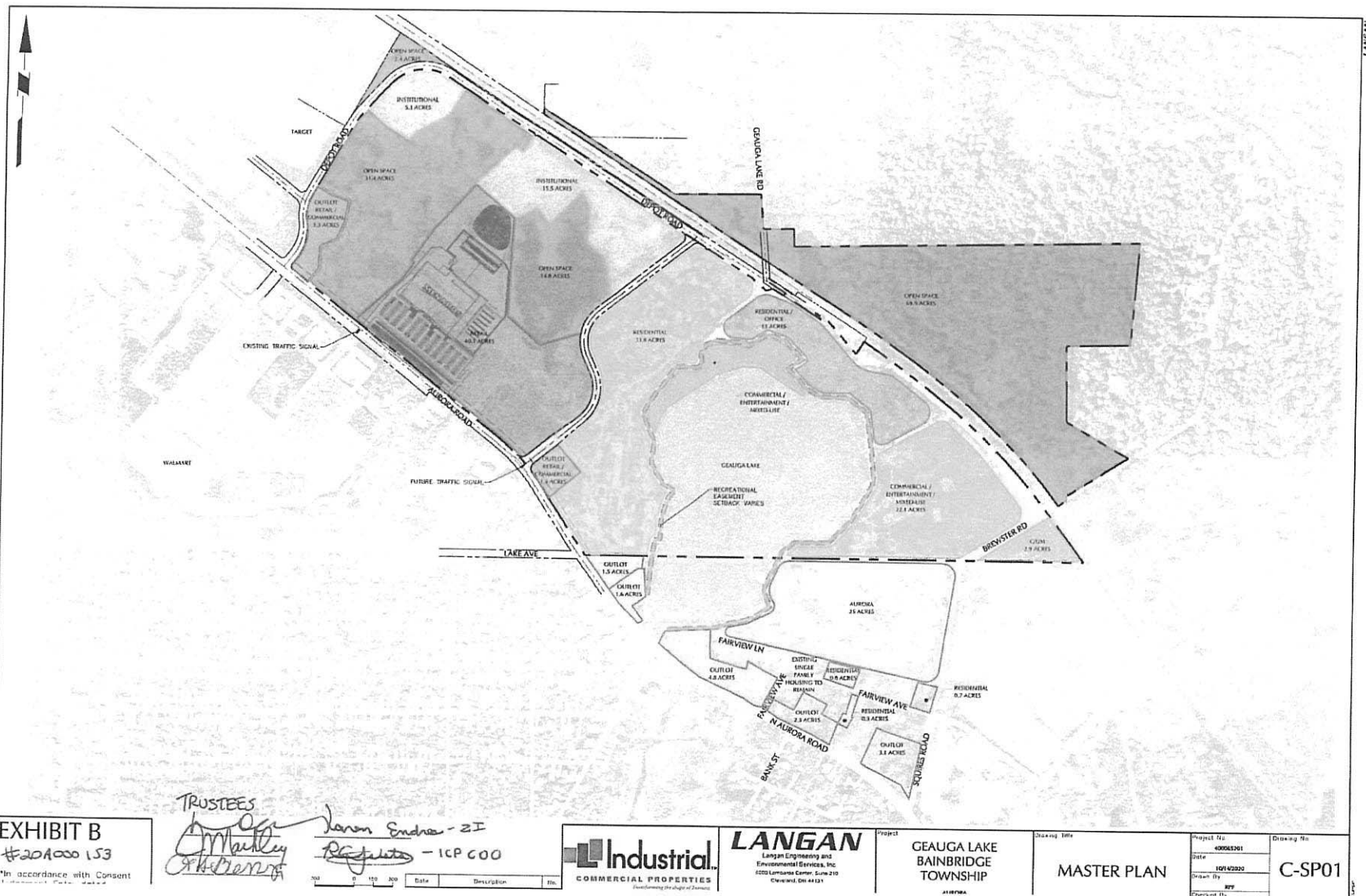


EXHIBIT C
DESIGN GUIDELINES
(To be incorporated in the future)



THRASHER, DINSMORE
& DOLAN

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SUITE 150
CHARDON, OHIO 44024
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FAX (440) 283-9423

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SUITE 412
CLEVELAND, OHIO 44114
PHONE (216) 253-5431
FAX (216) 253-5430

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EXHIBIT D

MENARDS PRIMARY ELEVATIONS - SHEET CT2

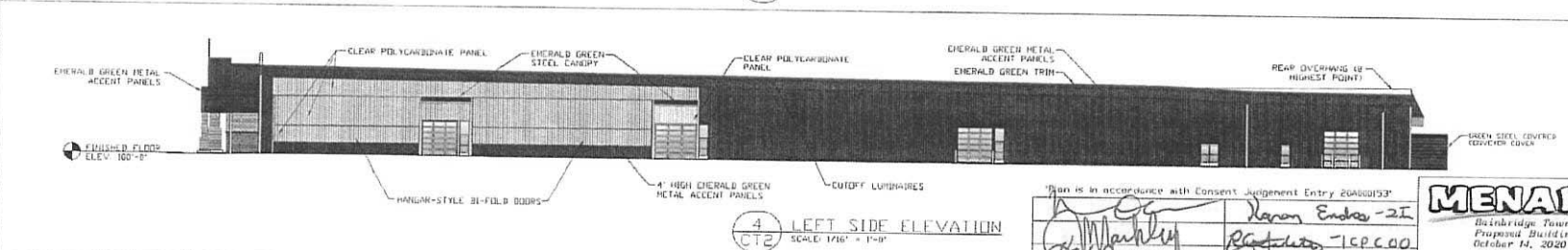
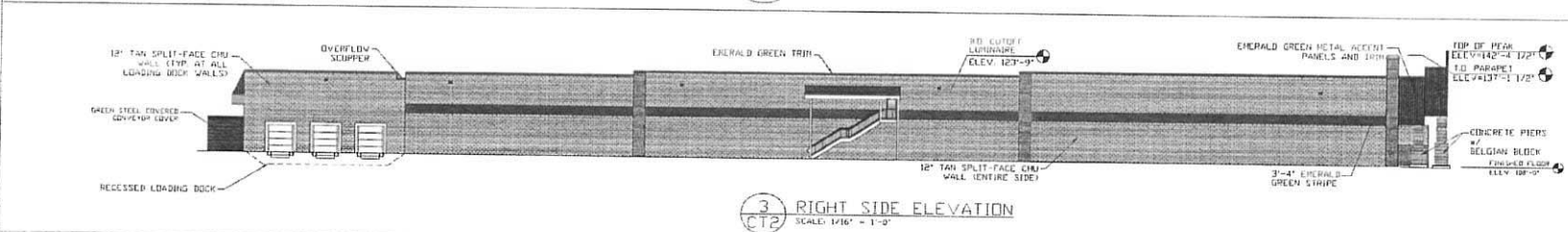
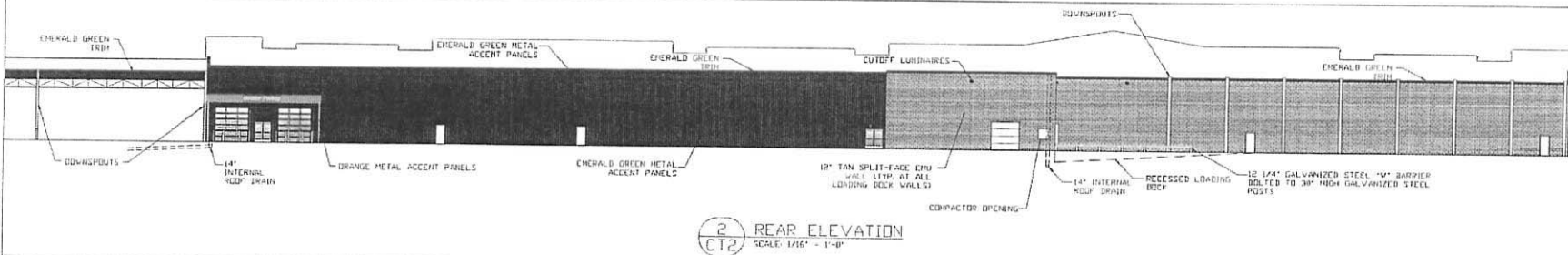
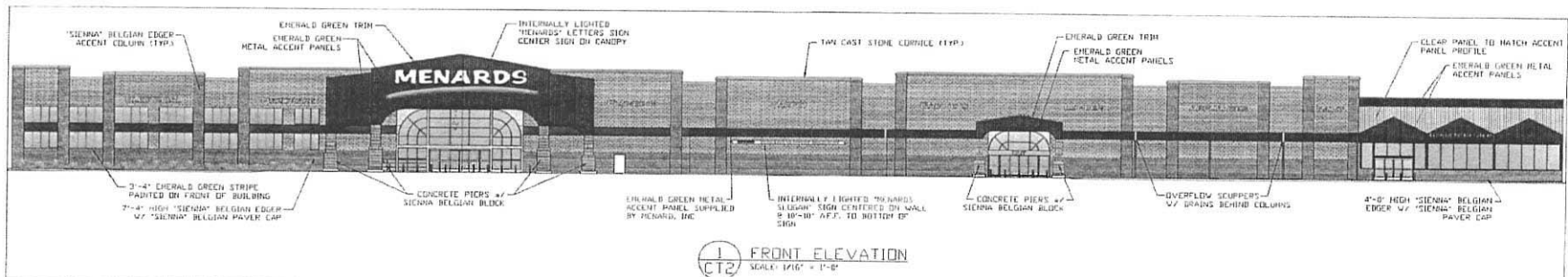


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& DOLAN

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SUITE 150
CHARDON, OHIO 44024
PHONE (440) 283-2242
FAX (440) 283-9423

1111 SUPERIOR AVENUE
SUITE 412
CLEVELAND, OHIO 44114
PHONE (216) 353-3431
FAX (216) 255-3430

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This is in accordance with Consent Judgement Entry 20080193
 Menards - 21
 100000

MENARDS
 Bainbridge Township, Ohio
 Proposed Building Elevations
 October 14, 2020
 Scale: 1/16" = 1'-0"
 Exhibit D

CT2

EXHIBIT E-1
MENARDS SITE PLAN - SHEET CT1



THRASHER, DINSMORE
& DOLAN

100 7TH AVENUE
SUITE 150
CHARDON, OHIO 44024
PHONE: (440) 285-2242
FAX: (440) 285-9423

1111 SUPERIOR AVENUE
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CLEVELAND, OHIO 44114
PHONE: (216) 335-5431
FAX: (216) 355-5450

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EXHIBIT E-2
MENARDS SITE DETAILS PLAN - SHEET CT5

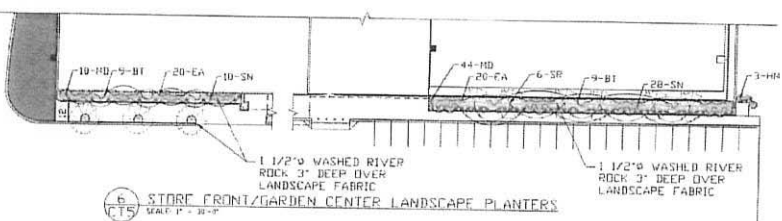
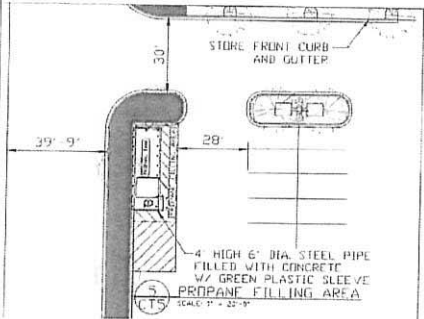
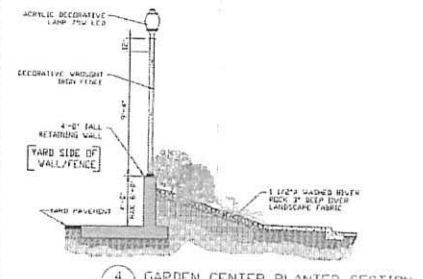
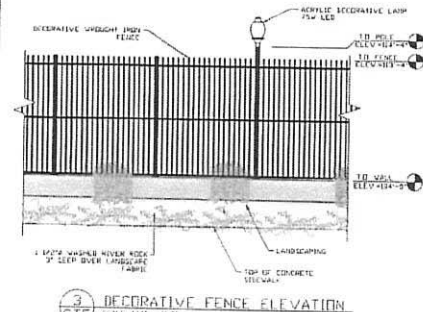
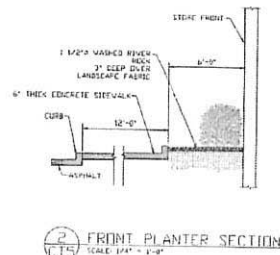
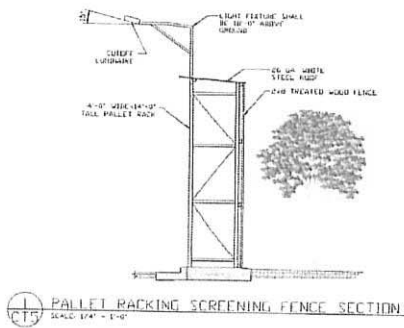


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100 7TH AVENUE
SUITE 150
CHardon, Ohio 44024
PHONE: (440) 285-2342
FAX: (440) 285-9423

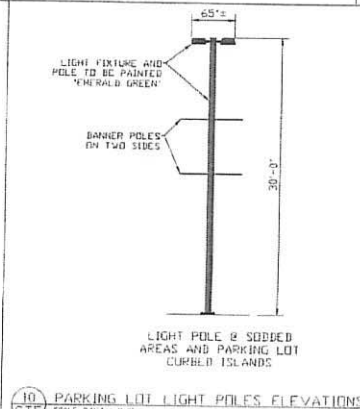
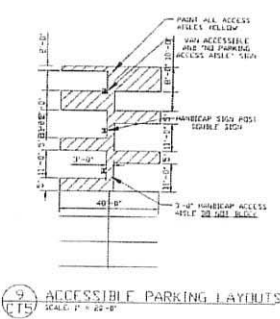
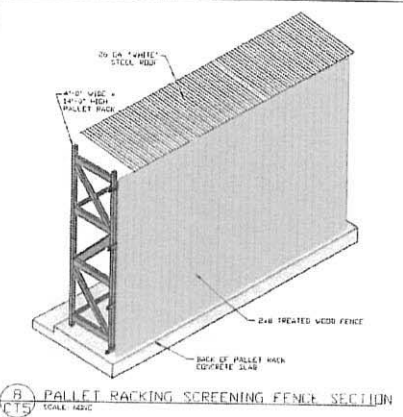
1111 SUPERIOR AVENUE
SUITE 412
CLEVELAND, OHIO 44114
PHONE: (216) 255-3451
FAX: (216) 255-3450

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OVERALL LANDSCAPE LEGEND

Symbol	Material Name	Quantity	Unit	Notes
1	Decorative wrought iron fence	100	Linear Feet	
2	Decorative wrought iron fence	100	Linear Feet	
3	Decorative wrought iron fence	100	Linear Feet	
4	Decorative wrought iron fence	100	Linear Feet	
5	Decorative wrought iron fence	100	Linear Feet	
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97	Decorative wrought iron fence	100	Linear Feet	
98	Decorative wrought iron fence	100	Linear Feet	
99	Decorative wrought iron fence	100	Linear Feet	
100	Decorative wrought iron fence	100	Linear Feet	



11 WAREHOUSE SECTION AT BACK WALL
Scale: 1/4"

Plan is in accordance with Consent Judgement Entry 20090153

Signature: [Handwritten Signature]
Date: 10/14/2020

MENARDS
Bainbridge Township, Ohio
Menards Site Details Plan
October 14, 2020
Scale: as noted per detail CTS
Exhibit E2

EXHIBIT F

MENARDS WAREHOUSE ELEVATIONS - SHEET CT3

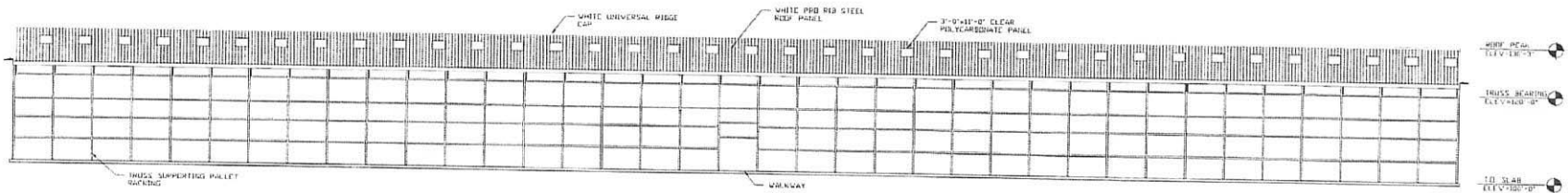


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& DOLAN

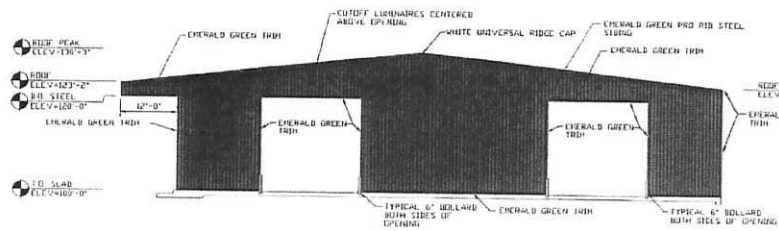
100 7TH AVENUE
SUITE 150
CHARDON, OHIO 44024
PHONE: (440) 285-2242
FAX: (440) 285-9423

1111 SUPERIOR AVENUE
SUITE 412
CLEVELAND, OHIO 44114
PHONE: (216) 255-5431
FAX: (216) 255-5450

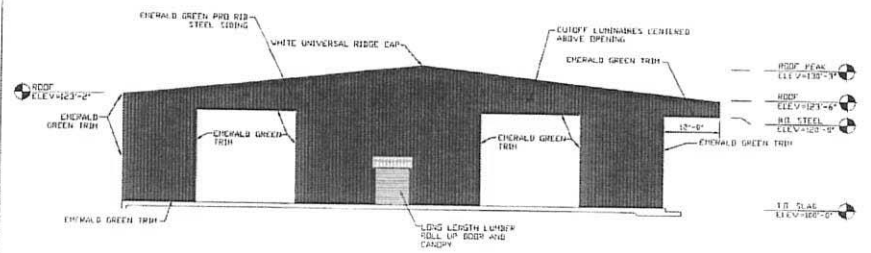
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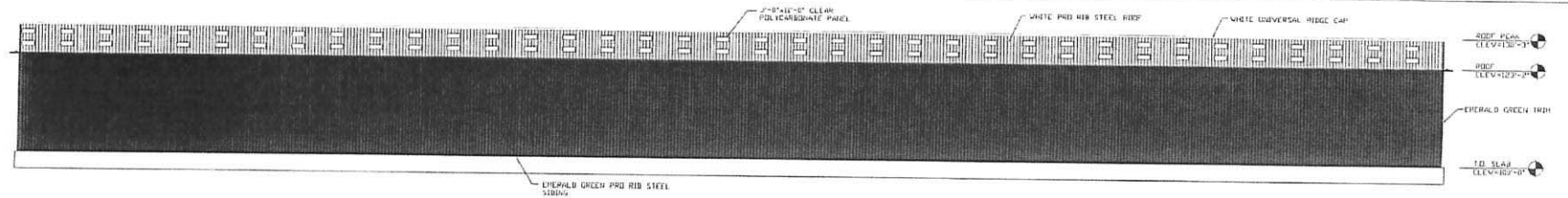
1 FRONT ELEVATION
SCALE: 3/32" = 1'-0"



2 RIGHT ELEVATION
SCALE: 3/32" = 1'-0"



3 LEFT ELEVATION
SCALE: 3/32" = 1'-0"



4 REAR ELEVATION
SCALE: 3/32" = 1'-0"

"Plan is in accordance with Consent Judgement Entry 20A00193"

Handwritten signatures:
 C. Mahley
 Ron Endra - 2I
 R. G. G. - 100 C. G. G.

MENARDS
 Bainbridge Township, Ohio
 Proposed Warehouse Elevations
 October 14, 2020
 Scale: 3/32" = 1'-0"
 Exhibit F

CT3

EXHIBIT G
MENARDS LIGHTING PLAN - SHEET CT6

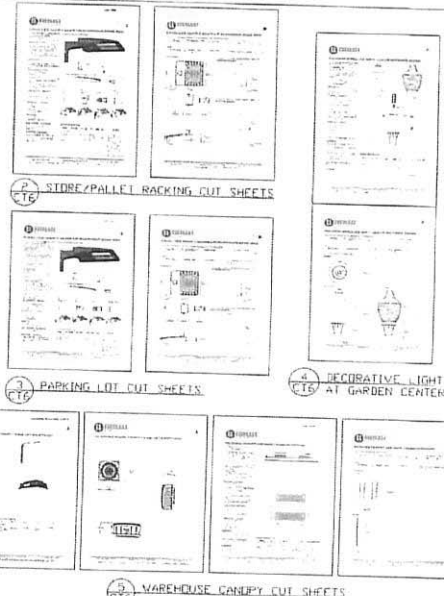
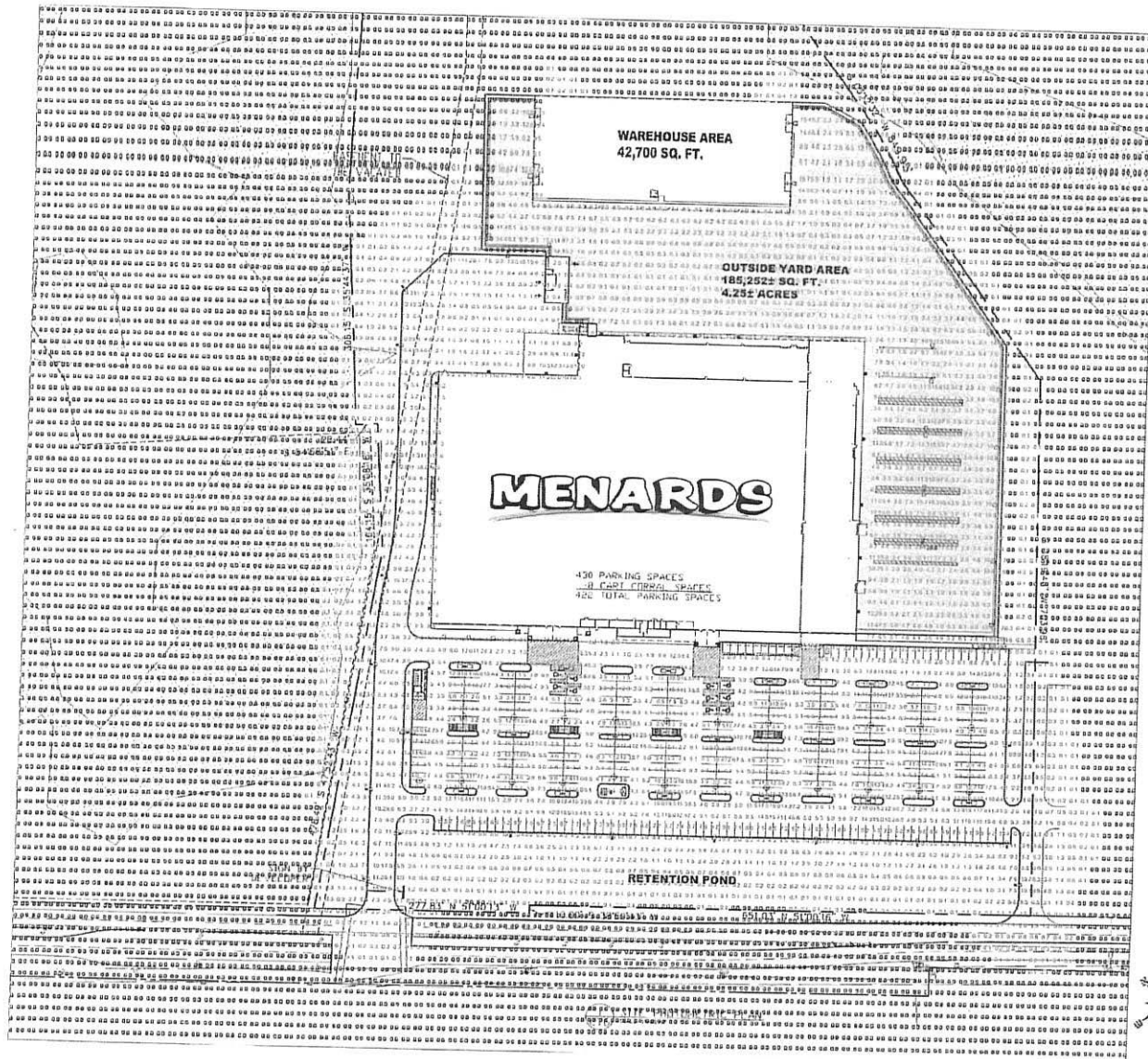


THRASHER, DINSMORE
& DOLAN

600 7TH AVENUE
SUITE 150
CLEVELAND, OHIO 44024
PHONE: (440) 285-2242
FAX: (440) 285-9423

1111 SUPERIOR AVENUE
SUITE 412
CLEVELAND, OHIO 44114
PHONE: (216) 233-3431
FAX: (216) 233-3450

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Symbol	Letter	Quantity	Material	Notes	Remarks	Notes	Notes	Notes	Notes
□	A	1	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"
○	B	1	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"
□	C	1	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"
□	D	1	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"
□	E	1	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"
□	F	1	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"
□	G	1	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"	1/2\"

Statistics									
Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min	Notes	Notes	Notes
Calc Zone #1		1.2	2.6	0.0	N/A	N/A			

This is in accordance with Consent Judgement Entry 200400153.

Matthew G. Gable
Lara Enns
 October 14, 2020
 Scale: 1" = 60' - 0"
 Exhibit G

MENARDS
 Bainbridge Township, Ohio
 Site Photometric Plan
 October 14, 2020
 Scale: 1" = 60' - 0"
 Exhibit G

EXHIBIT H
MENARDS SIGNAGE PLAN - SHEET CT4



THRASHER, DINSMORE
& DOLAN

100 7TH AVENUE
SUITE 150

CHARDON, OHIO 44024
PHONE: (440) 285-2242
FAX: (440) 285-9423

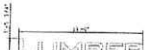
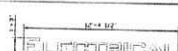
1111 SUPERIOR AVENUE
SUITE 412

CLEVELAND, OHIO 44114
PHONE: (216) 253-3431
FAX: (216) 253-5450

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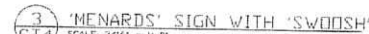
DATE	PLANT	WITH	EDGE
------	-------	------	------



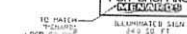
WHITE ALBINO FACE WITH EMERALD GREEN CANINIS
THE PATENT SIGN LETTERING SHOWN IS NOT TRUE TO
SCALE. BUT SIMILAR THE SIGN SIZES ARE CORRECT AS
INDICATED.

2
CT4

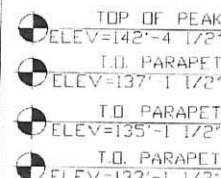
PRODUCT
SCALE: 1/4" = 1'-0"



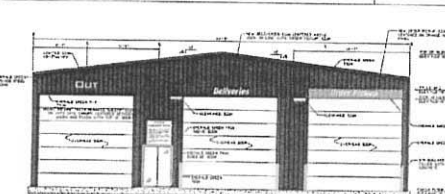
4 'MENARDS'
CT 4 SCALE: 3/16" = 1'-0"



5 YARD ENT
CT4 EXIT SIGN



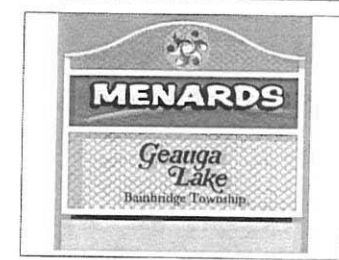
6 WINDOWS
CT4 SCALE: 1/8" = 1'-0"



7 YARD ENTRANCE ELEVATIONS
CTA SCALE: 1/8" = 1'-0"



8 YARD ENTR
CT4 ENTRANCE



9 MONUMENT SIGN
CT4 SIGN BY DEVELOPER

"Plan is in accordance with Consent Judgement Entry 284036153"
 [Signature]

MENARDS
Bainbridge Township, Ohio
Proposed Building Signage
October 14, 2020
Scale: as noted
Exhibit H

EXHIBIT I

MENARDS LANDSCAPE PLAN - SHEET CT1A

(To be finalized and approved within 30 days of the filing of the CJE)



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EXHIBIT J

MENARDS PARCEL LEGAL DESCRIPTION

Situated in what is now the Township of Bainbridge, County of Geauga, State of Ohio and known as being part of Original Bainbridge Township Lot Nos.29 and 30, Tract 3, and also known as being a portion of land conveyed to Geauga Lake LLC, as recorded in Instrument No. 2018-00933644 (Book 2049, Page 993) and known as Geauga County parcel PPN 02-126700, and being part of the land conveyed to Geauga lake, LLC, as recorded in Document 2018-00933644 of the Geauga county records and known as Geauga County parcel PPN 02-126500, being more fully bounded and described as follows;

Beginning at the centerline intersection of Aurora Road, also known as State Route 43 and formerly known as Kent Road, width varies, and the westerly line of said Bainbridge township also being the westerly line of said Geauga County, being referenced by a $\frac{3}{4}$ " rebar found in a monument box assembly, thence South $51^{\circ}00'13''$ East along the centerline of said Aurora Road a distance of 2416.36 feet to a point, thence North $38^{\circ}59'44''$ East, a distance of 30.00 feet to a set $5/8"$ x 30" rebar with cap "Langan" at the northerly right of way of said Aurora Road, said point also being the Principal Place of Beginning for the parcel of land herein described;

Course No.1 Thence North $47^{\circ}52'43''$ East along a new division line, a distance of 478.49 feet to a $5/8"$ x 30" rebar with cap "Langan" set at an angle point thereon;

Course No.2 Thence North $35^{\circ}08'16''$ East along a new division line, a distance of 164.16 feet to a $5/8"$ x 30" rebar with cap "Langan" set at an angle point thereon;

Course No.3 Thence North $54^{\circ}58'51''$ West along a new division line, a distance of 28.45 feet to a $5/8"$ x 30" rebar with cap "Langan" set at an angle point thereon;

Course No.4 Thence North $35^{\circ}44'37''$ East along a new division line, a distance of 308.15 feet to a $5/8"$ x 30" rebar with cap "Langan" set at an angle point thereon;

Course No.5 Thence North $42^{\circ}24'49''$ East along a new division line, a distance of 475.99 feet to a $5/8"$ x 30" rebar with cap "Langan" set at an angle point thereon;

Course No.6 Thence South $48^{\circ}53'20''$ East along a new division line, a distance of 378.55 feet to a $5/8"$ x 30" rebar with cap "Langan" set at an angle point thereon;

Course No.7 Thence South $03^{\circ}12'32''$ West along a new division line, a distance of 849.95 feet to a $5/8"$ x 30" rebar with cap "Langan" set at an angle point thereon;

Course No.8 Thence South $38^{\circ}19'48''$ West along a new division line, a distance of 703.96 feet to a set $5/8"$ x 30" rebar with cap "Langan" at a point along the northerly right of way of said Aurora Road;

Course No. 9 Thence North $51^{\circ}00'16''$ West along said Aurora Road, a distance of 651.03 feet



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to a point, said point being referenced by a 5/8" rebar with cap "Wollpert" found West 0.30 feet and South 0.24 feet thereof;

Course No.10 Thence South 38°59'43" West along said Aurora Road, a distance of 10.00 feet to an angle point being referenced by a found 5/8" rebar with cap "Wollpert";

Course No.11 Thence North 51°00'16" West along said Aurora Road, a distance of 277.83 feet to the Principal Place of Beginning, said parcel containing 1,069,164 square feet or 24.5446 acres of land according to a survey by Langan Engineering and Environmental Services dated July of 2020 and being the same more or less and being subject to all legal highways and easements. The basis of bearings of this survey is based on the Ohio State Plane Coordinate System, NAD 83 derived from GPS observations and bearings are to denote angles only.

The intent of this description is to divide and consolidate lands owned by Geauga Lake, LLC as recorded in Volume 2049, Page 993 of Geauga County Recorder's Office known as part of PN 02-126700 and 02-136500, creating parcel D consisting of 1,069,164 Square Feet or 24.5446 Acres



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EXHIBIT K
LOT-SPLIT MAP



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EXHIBIT L

STORMWATER MANAGEMENT APPLICABLE MEMORANDUM



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Geauga Soil and Water Conservation District

Memorandum

To: Kristina O'Brien, Bainbridge Township Trustee and CRWP Director
Jeff Markley, Bainbridge Township Trustee and CRWP Alternate
Lorrie Benza, Bainbridge Township Trustee
Karen Endres, Bainbridge Township Zoning Inspector
Dave Dietrich, Consultant to Bainbridge Township

From: Kimberly Brewster, Deputy Director, Chagrin River Watershed Partners
Keely Davidson-Bennett, Senior Project Manager, Chagrin River Watershed Partners
Carmella Shale, PE, Director/Engineer, Geauga Soil and Water Conservation District

Re: Stormwater Recommendations for Proposed Development at Former Geauga Lake Property in Bainbridge Township

Date: September 21, 2020

Bainbridge Township is entering into a judgment entry with Industrial Commercial Properties LLC (ICP) to establish the terms of a proposed mixed-use development at the former Geauga Lake property in Bainbridge Township. The Township is seeking language to include in the judgment entry for the purposes of stormwater management at this site.

All stormwater control measures (SCMs) must meet or exceed the conditions in the most recent Ohio EPA construction general permit and general permit for Small Municipal Separate Storm Sewer Systems (MS4s) and *Geauga County Water Management and Sediment Control Regulations*. If there is a conflict between these requirements, the strictest shall prevail.

For the benefits of stormwater management at the project site, within the community, and in the overall watershed, Chagrin River Watershed Partners (CRWP) and Geauga Soil and Water Conservation District (SWCD) propose that the following additional requirements be included in the judgment entry:

- a) Post-construction stormwater management shall be approached as a new development rather than a redevelopment.
- b) Post-construction stormwater management must use separate stormwater control measures (SCM)s for water quality and water quantity.
- c) Precipitation values for stormwater design must be increased by 20% from the Precipitation-Frequency Atlas of the United States, NOAA Atlas 14, Vol 2(3) due to historical flooding in the vicinity. This increase requirement will address future concerns by addressing the larger more severe storm events being experienced as well as requiring a consistent rainfall runoff value as is being used in adjacent communities within the same watershed with the same flooding issues.
- d) All storm sewers on site shall be designed for no less than the 10-year storm.
- e) Existing impervious areas must be modeled as grassland in good condition for critical storm calculations.
- f) The management company must inspect and maintain SCMs quarterly and document inspections. Snow must be stored at locations that do not negatively impact SCM functionality.
- g) There shall be no stream or wetland impacts.
- h) Riparian (stream, lake) and wetland setbacks should be maintained as natural vegetation and should be as wide as possible while achieving public access and development goals. A minimum 25-foot setback shall

be maintained along both sides of all streams. All site plans should indicate the boundaries of these setbacks. If soil disturbing activities will occur within 50 feet of the outer boundary of the applicable setback, the setback shall be clearly identified on site with construction fencing as shown on the site plan. Such identification shall be completed prior to the initiation of any soil disturbing activities and shall be maintained throughout soil disturbing activities.

- i) Areas maintained as natural open space should be permanently protected through a legal mechanism such as a conservation easement or deed restrictions.
- j) All landscaping or other plant installations shall only use plant species native to northeast Ohio that are projected to adapt to future conditions, including species with wide moisture and temperature tolerances. For tree species, the Lake Erie Allegheny Partnership for Biodiversity's list of tree species recommended for the 222Wa subregion may be used as a guide.
- k) A management company shall be designated as the party responsible for the long term maintenance of the SCMs within the Long Term Maintenance and Inspection Agreement and be responsible for ensuring the structural integrity and functionality of the structure including but not limited to the elimination and removal of non-native, invasive plant species in perpetuity.
- l) In order to promote the settling of suspended solids, stabilization of deposited sediment, and improve the ability to treat dissolved pollutants, any proposed stormwater retention ponds shall include the installation of wetland features and native wetland plant species. These features will further treat stormwater through plant uptake, adsorption, physical filtration, microbial decomposition, and shading to reduce thermal impacts. Incorporation of wetland features shall conform with design criteria and guidance specified in Chapter 2 (Post-Construction Stormwater Management Practices) of *Rainwater and Land Development*.
- m) A performance bond shall be required for all items pertaining to the proper execution of items required for the Water Management and Sediment Control Plan to ensure timely compliance.

Thank you for the opportunity to consult in this matter. Please feel free to follow up with us by phone or email if you should have questions or need additional information.

Kimberly Brewster
Deputy Director
Chagrin River Watershed Partners
440-975-3870 ext. 1006
kbrewster@crwp.org

Keely Davidson-Bennett
Senior Project Manager
Chagrin River Watershed Partners
440-975-3870 ext. 1003
Kdavidson-bennett@crwp.org

Carmella Shale, PE
Director/Engineer
Geauga Soil and Water Conservation District
PO Box 410
Burton, OH 44021
440-834-1122
cshale@geaugaswcd.com

CRWP General Disclaimer:

This advice is based on the best judgment of the CRWP and the site information provided. CRWP is not a professional engineering firm and cannot provide specific plans or specifications for projects. Any actions taken to correct erosion and stability problems are the responsibility of the landowner, and CRWP cannot guarantee or ensure the results that may be obtained.

EXHIBIT M
ODOT COMMENTS



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EXHIBIT M

From: Welch, Keri

Sent: Wednesday, October 7, 2020 3:51 PM

To: Christopher Prisk <cprisk@Langan.com>

Cc: Elliott Hair <ehair@langan.com>; NGorris@CO.GEAUGA.OH.US; DDietrich@BainbridgeTWP.com; Bill Kern <bkern@icpllc.com>; Sara Cooper <CooperS@auroraoh.com>; Jeff Martin <jmartin@icpllc.com>; Patrick Foran <pforan@cr-one.com>; Latimer, Arelis <Arelis.Latimer@dot.ohio.gov>; Wagner Schepis, Christina <Christina.Wagner@dot.ohio.gov>; Benesh, Gary <Gary.Benesh@dot.ohio.gov>; czekajj@auroraoh.com; Mason Krushinsky <mkrushinsky@langan.com>; Christopher Westbrook <cwestbrook@Langan.com>; Toth, Anthony <Anthony.Toth@dot.ohio.gov>; Hamilton, Keith <Keith.Hamilton@dot.ohio.gov>

Subject: RE: Geauga Lake Project - TIS Submission 8-24-20

The District has reviewed the Traffic Impact Study for Geauga Lake as prepared for Industrial Commercial Properties, LLC in an email transmittal dated October 24, 2020. The Traffic Impact Study for Geauga Lake is not recommended for ODOT access approval pending satisfactory resolution of the following comments:

Site Plan (Figure 2)

- It is difficult to fully comprehend the overall access plan as shown. Additionally, the scale shown is not correct.
- Something like a scaled straight-line diagram showing all access points, opposing driveways, and pavement markings would be useful to understand the proposed plan.
- In terms of ODOT, the TIS is the basis for approval of access and driveway permits along State Route 43 for the development, yet there is no detail on the location/spacing of the driveways. Access points should be in accordance with the SHAMM. If driveway spacing violates the guidelines in the SHAMM, a variance request will be required. Permits will not be issued without detailed information on each driveway.

Build Volumes

- 2022 Build Design Hour Traffic Volumes figure needs to show the overall volume scenario and all access locations.
- As this is presented, almost impossible to check the volumes. It does not comprehensively show all access points/driveways and volumes.

Outlots at SR 43/Depot Road (Existing Signalized Intersection)

- What is the access plan? No direct driveway access permitted from these outlot parcels onto SR43. Access points should be in accordance with the SHAMM. If driveway spacing violates the guidelines in the SHAMM, a variance request will be required. Permits will not be issued without detailed information on each driveway.
- What is the distance from the driveways along Depot Road to the intersection?
- Provide capacity analysis of driveways.

Outlot at SR 43/Connector Road

What is the access plan? No direct driveway access permitted from these outlot parcels onto SR43. Access points should be in accordance with the SHAMM. If driveway spacing violates the guidelines in the SHAMM, a variance request will be required. Permits will not be issued without detailed information on each driveway.

- What is the distance from the driveways along Depot Road to the intersection?
- Provide capacity analysis of driveways

Multifamily Access/SR 43 Unsignalized Drive

- Access to multifamily units will be not permitted along SR 43. All access to these units will be from the signalized connector road. This access point was not previously discussed. Access points should be in accordance with the SHAMM. If driveway spacing violates the guidelines in the SHAMM, a variance request will be required. Permits will not be issued without detailed information on each driveway.
- Provide capacity analysis of driveways.

Home Improvement/Discount Superstore Unsignalized Right in/Right out Drive proposed

- The Traffic Impact study should show a capacity need for additional access to SR 43 since there is access to the Connector Road and the signalized Marketplace Drive East otherwise no additional access will be granted. If there is a capacity need for additional access points along SR43, all unsignalized access points will be right in/right out only.
- Right turn lane warrants show that a lane is warranted but the study recommends not constructing it since it is not needed from a capacity standpoint. Turn lanes at unsignalized drives are not determined by capacity. They are determined by the warrants. If the lane is warranted and there is not physical restriction to installation, then it should be constructed.
- Turn lane calculations should be provided for this right turn lane to determine length.
- Provide capacity analysis of driveways.

SR 43/Depot Road/Marketplace West Drive (Existing signalized intersection)

- Turn lane calculations should be provided for turn lanes to see if there is enough storage provided.
- The report should state what modifications should be done to the phasing and timings (Conclusions). All signalized intersections along this corridor should be coordinated as discussed in previous meetings.

SR 43/Marketplace East Drive/Site Drive A (Existing signalized intersection)

- Turn lane calculations should be provided for turn lanes to see if there is enough storage provided.
- All signalized intersections along this corridor should be coordinated as discussed in previous meetings.

Connector Road/SR 43 Proposed Signalized Intersection

- How does this road align with the driveways on the opposite side of SR 43 (BMW & other business)?

- Can't have 2 unsignalized driveways in the middle of a signalized intersection.
- Study recommends a southbound left turn lane on SR 43. With widening necessary on the northbound leg, consideration for a short northbound left turn lane should be given for alignment.
- Turn lane storage length calculations must be provided for turn lanes.
- Report states that a northbound right turn lane is warranted at this intersection but this is not addressed anywhere else in the study.
- If widening is required for the turn lanes, right of way will need to be dedicated to the State of Ohio.

Connector Road

- The study recommends a two-lane road with "appropriate turn lanes". Turn lane warrants and turn lane calculations should be prepared for each driveway. These calculations should be used to determine the width/geometrics of the road and spacing of the driveways. The westbound left turn lane length at the SR 43/Connector intersection and a possible eastbound left turn lane to the Discount Superstore drive may determine the spacing of these driveways.

Turn Lane Warrants

Note If right in/right out driveways are shown to be needed:

- Turn lane warrants were not formally prepared for the unsignalized driveways on SR 43. Only thresholds were evaluated. Formal turn lane warrants should be prepared for all unsignalized driveways for AM and PM, in both 2022 and 2024.
 - Use the calculated volumes for these calculations, not ranges or assumed volumes, and present the warrant charts.
- If a turn lane is shown to be warranted under any volume scenario, turn lane calculations should be prepared.

General

- SR 43 is an Access Category 3 roadway as per the State Highway Access Management Manual. At 35 mph, the manual contains the following spacing requirements:
 - Driveway spacing – 250' minimum
 - Intersection spacing – recommended ½ mile (2640'), minimum ¼ mile (1320')
- The outlot at SR 43/Depot Road does not appear that it will meet the driveway spacing requirement.
- At approximately 1600' from the Depot Road signal, the SR 43/Connector Road does not meet the recommended intersection spacing but appears to meet the minimum intersection spacing.
- The outlot at SR 43/Connector Road does not appear that it will meet the driveway spacing requirement.
- The SR 43/Multifamily driveway appears to meet the driveway spacing requirement.
- All criteria that deviates from the SHAMM will require a variance request.

- Page 7 – The study assumes the City of Aurora or ODOT will install a signal on intersection #5. According to page 10, intersection 5 is Aurora Road at East Blvd within the City of Aurora. ODOT has no future plans to install this signal.
- Page 10 – There is a typo on the first sentence of the Data Collection, the “five” should be “nine.”
- Page 17 & 19 – Mentioned the LOS comparison Tables 2A-2B but they are not included in the document. However, pages 5 and 45 states that Table 2 is the Phase I Preliminary Site Generation and to reference Appendix G. Please revise.
 - It would be beneficial to have the LOS comparison tables in the study.

Appendices

- Appendix N – Signal Warrant Analyses – I am unsure why the two warrants were analyzed under the 70%. The population for both Aurora and Bainbridge is greater than 10,000 and the speed is less than 40.
 - Page 17 of the TIS explains that they use the 85th percentile speed, is this accurate?
 - Page 9 states that Aurora Rd is 35mph north of Fairview Ave and 45mph south of Fairview. Both intersections analyzed for the signal warrants are located north of Fairview Avenue, in the 35mph section of Aurora Road.

Proposed Signal Equipment

- The District requests that Ubiquiti radios be added to all of the signals so that they can communicate wirelessly with each other for signal coordination.
- In addition, the District request ODOT wireless modems be added in order to connect the intersections into Centracs.
- Additional review for signal equipment will be required.

Note: these comments cover the District’s review responsibilities for State Route 43 within Bainbridge Township. Other agency approvals will be required.

The preceding comments are limited only to items affecting the traffic operation of the proposed site, requiring either the review of its traffic impact, or a recommendation to grant or deny a variance to State Highway Access Management Manual (SHAMM) policy. Coordination for further review of other design elements such as drainage, grading, signal, driveway design will be required to be submitted with the access permit. Please refer to the attached letter for submitting an e-permit application once the Traffic Impact Study has been approved.

Please contact me if you have any questions at 216-956-0692.

Keri J. Welch, PE

Traffic Planning Engineer

ODOT District 12: Cuyahoga, Geauga & Lake counties

5500 Transportation Blvd., Garfield Heights, Ohio 44125

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EXHIBIT N
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The News-Herald

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100 7th Avenue, Suite 150
Chardon, OH 44024

STATE OF OHIO, LAKE COUNTY, ss.

W. A. M., being duly sworn, is the designated agent of the News-Herald, a newspaper printed and of general circulation in the Counties of Lake, Geauga, Ashtabula and other districts; and in compliance with sections 7.12 and 5721.1 of the revised code of the State of Ohio amended, effective September 14, 1957; that the attached notice was published.

Thrasher, Dinsmore &

Published In the following edition(s):

The News-Herald Daily OH	10/16/20
newsherald.com	10/16/20

Sworn to the subscribed before me this 10/21/20.

Eric Syler

Notary Public, State of Ohio
Acting in Lake County

NOTICE OF CONSENT JUDGMENT ENTRY

Please be advised that the Township of Bainbridge, located in Geauga County, Ohio by and through the Bainbridge Township Board of Trustees intends to enter into a settlement with Industrial Commercial Properties, LLC, ICP Geauga Lake, LLC, and Bainbridge State Route 43, LLC by means of a consent judgment entry in the case captioned Industrial Commercial Properties, LLC vs. Bainbridge Township Board of Trustees, Geauga County, Ohio Court of Common Pleas Case Number 20A000153. This settlement affects the real property more fully described as permanent Parcel Numbers 02-125100, 02-126100, 02-323900, 02-125400, 02-126300, 02-126500, 02-125600, 02-125900, 02-324100, 02-126200, 02-126600, 02-126700, 02-125800, 02-126000, 02-323800, 02-324000, 02-324300, 02-125300, 02-420210, 02-126400, 02-125700, 02-323700, which parcels are more fully described in Instrument Number 200300664317, Book 1637, Page 816 through 852. The proposed Consent Judgment Entry would allow Industrial Commercial Properties, LLC, ICP Geauga Lake, LLC, and Bainbridge State Route 43, LLC, and their successors, to use the property for mixed uses in ways, size and location that are not currently permitted in Chapter 190 of the Bainbridge Township Zoning Resolution for Mixed-Use Plan Unit Developments, subject to the conditions contained in the proposed Consent Judgment Entry. A copy of the proposed Consent Judgment Entry is available for review at the Township Fiscal Officer's office during normal business hours.

Published by Industrial Commercial Properties, Inc.
By its attorney, Dale H. Markowitz
2078328/October 16, 2020

Advertisement Information

Client Id:	74163	Ad Id:	2078328
Class:	1201	PO:	
Total Units:	64	Cost:	\$151.25
Sort Description:	NOTICE OF CONSENT JUDGMENT ENTRY Pie		