

TOWNSHIP OF ALGOMA
COUNTY OF KENT, MICHIGAN

Minutes of a regular meeting of the Township Board of the Township of Algoma, Kent County, Michigan, held in the Algoma Township Hall, 10531 Algoma Avenue, within the Township, on the 11th day of February, 2003, at 7:00 p.m.

PRESENT: Members: Hoemke, J. Bigney, Ellenwood, W. Bigney

ABSENT: Members: Gilcrest

The following Ordinance was offered by Member W. Bigney and supported by Member J. Bigney:

ORDINANCE NO. 211

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE
OF THE TOWNSHIP OF ALGOMA**

[Meijer Planned Unit Development]

THE TOWNSHIP OF ALGOMA ORDAINS:

Section 1. *Planned Unit Development.* The Zoning Ordinance and Zoning Map of the Township of Algoma are hereby amended so as to rezone the following described lands from the R-A Rural Agricultural District, the R-R Rural Residential District, the B-2 General Business District and the Meadow Creek Planned Unit Development District to the Commercial Planned Unit Development District, in accordance with the Development Plan of the Meijer Planned Unit Development, subject to all of the terms and conditions of this ordinance:

A parcel of land located in the Southeast quarter and the Southwest quarter of Section 34, Town 9 North, Range 11 West, Township of Algoma, Kent County, Michigan described as follows:

Commencing at the South quarter post of Section 34, Town 9 North, Range 11 West; thence along the North and South quarter line of said Section 34, N 00° 16' 26" W,

40.00 feet to the point of beginning; thence along said North and South quarter line, N 00° 16' 26" W, 10.00 feet to the northerly right of way line of 10 Mile Road; thence along said northerly right of way line, S 89° 23' 09" W, 169.89 feet; thence N 00° 36' 51" W, 272.25 feet; thence S 89° 29' 44" W, 511.63 feet to the easterly right of way line of Highway U.S.-131; thence along said easterly right of way line, N 09° 23' 09" E, 51.89 feet; thence along said easterly right of way line, N 17° 15' 59" W, 750.97 feet; thence along said easterly right of way line, N 05° 55' 39" E, 590.48 feet; thence Northeasterly 1080.07 feet along said easterly right of way and the arc of a curve to the right with a radius of 5609.58 feet, a central angle of 11° 01' 54", and a chord which bears N 23° 42' 58" E, 1078.41 feet to the East and West quarter line of said Section 34; thence along said East and West quarter line, N 89° 22' 02" E, 391.65 feet to the Center of said Section 34; thence along said East and West quarter line, N 89° 36' 02" E, 1334.38 feet to the east line of the West half of the Southeast quarter of said Section 34; thence along said east line, S 00° 16' 33" E, 2258.23 feet to point which is N 00° 16' 33" W 400.00 feet from the South line of said Section 34; thence parallel with the South line of said Section 34, S 89° 23' 09" W, 365.00 feet; thence S 00° 16' 33" E, 360.00 feet to the northerly right of way line of 10 Mile Road; thence along said northerly right of way line, South 89° 23' 09" West, 969.48 feet to the point of beginning.

In the event of conflict between any part of the Development Plan and the terms of this Ordinance, this Ordinance shall control.

Section 2. Rezoning to C-PUD District. The rezoning of the above-described lands to the Commercial Planned Unit Development (C-PUD) District is expressly subject to all of the following terms and conditions:

(1) *Development Plan.* The Meijer Planned Unit Development (the "Development") shall comply in all respects with the Development Plan (the "Plan"), having a last revision date of January 21, 2003, as the Plan may be changed, revised or modified by this ordinance.

(2) *Buildings, Lots and Uses in the Development.* The Development consists of the following:

(a) A Meijer grocery and general merchandise store, of about 210,360 square feet in area, including drive-up pharmacy, outdoor seasonal sales area, delivery and unloading

facilities, off-street vehicle parking area and other elements as shown on the Plan, to be located on Lot 1.

(b) A convenience store and gasoline service station to be located along the Ten Mile Road frontage at the intersection with proposed Meijer Drive, together with vehicle parking spaces, gasoline pumps and other elements shown on the Plan, to be located on Lot 1.

(c) Lot 2A, Lot 2B and Lot 3, to be used for any of the commercial uses included as permitted uses in the B-1 Neighborhood Business District, but for no other uses, except that a hotel or motel may be permitted if approved by the planning commission as a special exception use under the terms of subparagraph (v) of this subsection; but all of such uses (including any hotel or motel approved as a special exception use) shall be further limited as follows:

(i) No more than a total of three principal buildings shall be located on the lands that comprise Lot 2A, Lot 2B and Lot 3, and no more than one principal building shall be located on any one lot (including any lot now shown on the Plan and also any lot resulting from any division or reconfiguration of the lots now shown on the Plan).

(ii) There shall be no more than two commercial uses in any building located on Lot 2A, Lot 2B and Lot 3 (except that in any event there shall be no more than five separate commercial uses within the total of the lands comprising the three lots).

(iii) The lot lines of the three lots, as shown on the Plan, may be altered and revised, but the above-stated limitations on the number of buildings, the number of uses per building and the total number of uses shall nevertheless apply, and in addition, the above-stated limitation of only one principal building per lot shall also apply.

(iv) If any building or any commercial use on the lands comprising the three lots is a restaurant, it shall be only a restaurant that serves its customers on a sit-down basis

inside the restaurant. No drive-up, drive-in or drive-through service shall be permitted at any restaurant or at any other establishment that serves food or drink; provided, however, that food take-out service, as an incidental or secondary type of food service, may be conducted at a restaurant.

(v) The above-stated special exception use for a hotel or motel shall be considered by the Planning Commission at a public meeting, but no public hearing nor special public notice shall be required. In considering whether to approve such special exception use, the Planning Commission shall consider the following matters, among others:

(A) Whether the use will satisfy an identified need for lodging facilities and related services for the traveling public.

(B) The location of the hotel or motel in relation to other nearby land uses and the public streets.

(C) The potential effects of the use with respect to vehicle traffic volume, motor vehicle circulation, vehicle turning movements, the need for traffic control devices and other effects on traffic generation and the use of the public streets.

(D) Particular aspects of the proposed use including building placement, driveways, vehicle circulation on the site, off-street parking, signage, landscaping, stormwater drainage, and other aspects of the proposed use.

(vi) Any building on the lands comprising Lots 2A, 2B and 3, including any hotel or motel approved as a special exception use, shall not exceed a height of 35 feet.

(d) Lot 4, Lot 5, Lot 6, Lot 7 and Lot 8, for office uses (including bank or other financial institution) only, as shown on the Plan, but only one principal building shall be located on each lot.

(e) The Meijer store building; the convenience store and gasoline service station; the limited commercial-use buildings on Lots 2A, 2B and 3; and the office-use buildings on Lots 4, 5, 6, 7 and 8 shall all comply with the development requirements of the C-PUD District as stated in Section 21A.4 of the Zoning Ordinance, except for permitted modifications stated elsewhere in this ordinance as to off-street parking area, landscaping, signage, outdoor lighting and other modifications permitted by the terms of the Zoning Ordinance; further, those portions of the lands described herein that are also located within the Ten Mile Road Corridor Overlay Zone shall also comply with the minimum development requirements of that Overlay Zone, except to the extent that such requirements are modified by the Planning Commission and Township Board under the terms of this ordinance, where such modifications are permitted by the Overlay Zone or in other provisions of the Zoning Ordinance.

(f) A future residential development complying with the terms and provisions of the Open Space Planned Unit Development (OS-PUD) District in effect at the time of application for such development, consisting of single-family detached dwellings, but no other type of dwellings nor any other land uses, together with permitted residential accessory uses, but subject to site plan review and approval by the Planning Commission as to design, layout and construction of the residential development and all other details thereof.

(3) *Future Development Within the PUD.*

(a) This Ordinance approves the development of only Lot 1, together with the associated streets, access routes, sidewalks, open space area, storm water management measures,

sanitary sewer service and water supply, certain signage and outdoor lighting and other features shown on the Plan.

(b) The development of Lots 2A, 2B and 3 for B-1 District permitted uses and other permitted uses, as modified and limited by Section 2(2)(c) of this ordinance, shall take place only upon review and approval by the Planning Commission of individual building and site plans for each of such lots, or as to any of the revised parcels of land which may result from any reconfiguration of the boundaries of such lots as authorized above in this ordinance. Such review and approval of building and site plans for each parcel shall take place at such time as each lot or parcel is proposed for development. Such site plan review and approval shall include all matters permitted by the Zoning Ordinance to be considered upon site plan review, including building placement, building height, access, utility services, storm water drainage, accessory uses and all other matters authorized by the Zoning Ordinance to be considered upon site plan review.

Similarly, the development of Lots 4, 5, 6, 7 and 8 for permitted office uses shall take place only after individual site plan approval by the Planning Commission of those lots, at such time as each lot is proposed for development. Only one building shall be permitted on each of the lots. Site plan review thereof shall include all matters authorized by the Zoning Ordinance to be considered upon site plan review; provided, however, that any building on any of the lands comprising Lots 4, 5, 6, 7 and 8 shall have a height not greater than 35 feet.

(c) As noted above, the future development of the residential portion of the PUD for single-family, detached dwellings only, shall take place only upon site plan review and approval of the residential development by the Planning Commission as to all aspects of that development.

(4) *Streets and Site Access.*

(a) Access to the Development shall be by means of Meadow Creek Drive and Meijer Drive, both extending off Ten Mile Road, as shown on the Plan. Access to the future residential area shall be by means of Meijer Drive, extending northeasterly of Meadow Creek Drive.

(b) Lots 4, 5, 6, 7 and 8, for future office uses, shall have access from Meadow Creek Drive, with Lots 4 and 5 also having access from the northeasterly extension of Meijer Drive.

(c) Lots 2A, 2B and 3 shall have access from Meijer Drive and Meadow Creek Drive, such access to be constructed at the time of development of those lots, or any of them.

(d) At such time as the parcel of land adjacent on the east to Meadow Creek Drive and having frontage on Ten Mile Road, south of Lot 8, is developed for a permitted use other than a residential use, an easement for ingress to and egress from Meadow Creek Drive, the easement having the width and approximate location shown on the Plan, shall be granted by the developer of the PUD to the owners of such adjacent parcel of land, so that there will be access to and from such parcel by means of Meadow Creek Drive.

(e) There shall be a shared driveway along the westerly line of the convenience store portion of Lot 1, to serve the gas station and convenience store and to serve other uses located on the frontage lands between the convenience store portion of Lot 1 and the northbound on-ramp to Highway US-131. Such shared driveway shall, however, be subject to County Road Commission approval.

(f) All streets in the Development shall comply with Algoma Township requirements for private streets as stated in Section 4.38 of the Zoning Ordinance.

(g) The names of the streets in the Development shall be subject to the

approval of the Kent County Road Commission. The location and configuration of the intersections of Meijer Drive and Meadow Creek Drive with Ten Mile Road shall be subject to County Road Commission approval. Traffic control devices shall be placed and maintained as directed by the Road Commission.

(h) Written, recorded provisions shall be established for the perpetual maintenance, repair and replacement of the streets in the Development, consistent with the Township private street provisions. Such written arrangements for perpetual maintenance and repair may be in the form of recorded restrictive covenants, recorded condominium documents or other recorded and legally-effective means so as to assure that such obligations of perpetual maintenance and repair shall run with the land and therefore shall be binding upon all subsequent title holders.

(i) The Ten Mile Road improvements and the US-131 entrance and exit ramp improvements shall be constructed and placed in operation, prior to occupancy of the proposed Meijer store, as shown on those parts of the Plan covering those improvements, without cost to the Township, but subject to the approval of the County Road Commission and, as to the US-131 entrance ramp, subject to Michigan Department of Transportation approval. Such road improvements shall include those called for in the traffic study, and the addendum thereto, submitted by the applicant.

(j) The installation of additional traffic signals and the modification of an existing traffic signal in and for Ten Mile Road, as shown on the Plan, shall be accomplished prior to occupancy of the proposed Meijer store, without cost to the Township, as a part of the Development, but subject to the approval of the County Road Commission.

(5) *Sanitary Sewer Service and Water Supply.*

(a) Lot 1 (but not other lands in the Development) shall be served by a privately-owned sanitary sewer system approved by the Kent County Health Department; provided, however, that Lot 1 and also the other lands in the Development may instead be served by a public sanitary sewer collection and treatment system if service by such a public system becomes available and if such public sewer service is approved by the Township Board. The sanitary sewer system and connections thereto, whether the system be privately-owned or publicly-established, shall be subject to all applicable state and county health department requirements.

(b) Any installation, construction and operation of a public sanitary sewer system to serve the Development or any part thereof shall take place without cost or expense to the Township, and the Developer or parties other than the Township shall bear the entire expense thereof. Such public sanitary sewer system shall serve, in addition to the Development, such other lands as may be included in a sanitary sewer system service area approved by the Township. The operation of a public sanitary sewer system within the Township by a governmental entity other than the Township shall be subject to the grant of a nonexclusive franchise for such purpose in the discretion of the Township Board, as required by law. The adoption of this ordinance shall not constitute the granting of such a franchise.

(c) All necessary permits for a privately-owned sanitary sewer system to serve Lot 1 shall be obtained, and copies thereof shall be submitted to the Township office. The location of the sewage treatment facility for the private sanitary sewer system, and all other aspects of the private sanitary sewer system, shall be as shown on the Plan.

(d) Water supply to and for the Development shall be accomplished by extension of the Plainfield Township water system into the Township, by means of water main in the Ten Mile Road right of way and thence by water service pipes within the Development, as shown

in the utility plan. The extension and operation of the Plainfield Township water system to serve the Development and other lands shall be subject to approval by the Algoma Township Board, by means of execution of a water system agreement between the Township and Plainfield Township, and shall also be subject to the grant of a nonexclusive franchise by the Township to Plainfield Township, for the providing of public water supply to the Development and to such other lands as may comprise a water service area described in such water system agreement. The adoption of this ordinance shall not constitute approval of the Plainfield Township water system extension or the grant of a water supply service franchise.

(6) *Surface Water Drainage.*

(a) The drainage of surface waters within and for the Development shall be accomplished by storm sewers, storm water detention ponds and other means, as indicated on the Plan.

(b) The surface water drainage system shall be designed, engineered, installed and operated so as to have no significant adverse effect upon lands within the Development, adjacent or nearby lands or surface waters, or upon wetlands or other surface waters within the Development, by reason of erosion, pollution or otherwise.

(c) The design, installation, construction, maintenance and operation of the surface water drainage system shall comply in all respects with the Township Storm Water Ordinance. The Developer shall apply for a Township storm water permit and shall submit to the Township all information and data required for such an application, under the terms of the Storm Water Ordinance. The storm water drainage system shall be subject to the issuance of the Township storm water permit. The Developer shall fully and timely comply with all the terms and provisions of the storm water permit.

(d) There shall be written, recorded provisions requiring the perpetual maintenance, repair and replacement of all aspects of the storm water drainage system. Such provisions shall be in compliance with the Township Storm Water Ordinance and may be in the form of an agreement signed by all property owners, recorded restrictive covenants, condominium documents or other legally-effective instruments assuring that all obligations with respect to the storm water drainage system shall run with the land and shall therefore be binding upon all subsequent title holders.

(e) The Developer shall submit a storm water drainage plan. The plan and the storm water drainage system shall be subject to the approval of the Township Engineer, consistent with the terms of the Storm Water Ordinance.

(7) *Soil Erosion and Sedimentation Control; Site Grading.*

(a) In the construction and use of the Development, the Developer shall comply in all respects with any required soil erosion and sedimentation control permit. A copy thereof shall be submitted to the Township. Soil erosion protection and stabilization techniques and procedures shall be provided continuously during all phases of construction, until landscaped areas are established.

(b) The site grading plan submitted by the Developer shall be complied with, and shall be subject to the approval of the Township Engineer, including any modifications required by the Engineer, and the grading plan shall be subject to site plan review and approval by the Township Site Plan Review Committee.

(8) *Wetlands.* Any portions of the Development which are wetlands or which have been designated as wetlands under applicable Michigan law shall not be filled, dredged or developed without the approval of the Department of Environmental Quality, by means of such

permits as may be required by law. The design, layout and construction of the Development shall be carried out only in such a manner as to have no serious adverse effect on the quality of the waters of any wetland areas.

(9) *Utilities.* All utility services within the Development shall be by means of underground facilities.

(10) *Off-Street Vehicle Parking.*

(a) Off-street vehicle parking areas shall be provided and maintained on Lot 1, for the Meijer store and for the convenience store and gas station as shown on the Plan. There shall be a total of 1,093 off-street parking spaces for the Meijer store and a total of 13 off-street parking spaces for the convenience store and gas station.

(b) The off-street vehicle parking areas for Lot 1 shall comply with the off-street parking requirements of the C-PUD District and, as to that part of Lot 1 located within the Ten Mile Road Corridor Overlay Zone, the off-street parking area shall comply with the parking requirements of that zone; provided, however, that the Planning Commission and Township Board hereby approve modifications in the off-street parking requirements of the Ten Mile Road Corridor

Overlay Zone such that the off-street parking provisions of the Lot 1- portion of the Overlay Zone, as shown on the Plan, are hereby approved, subject to the terms of this ordinance.

Further, the Planning Commission and Township Board hereby approve the off-street parking areas of the other portions of Lot 1, as shown on the Plan, including the number and size of parking spaces shown and other features of the off-street parking areas, subject to the terms of this ordinance, but all aspects of the off-street parking areas shall be subject to site plan review and approval by the Site Plan Review Committee, consistent with this ordinance.

(c) The off-street parking areas of Lots 2A, 2B, 3, 4, 5, 6, 7 and 8 (or, with respect to Lots 2A, 2B and 3, the parking areas of such revised parcels into which such lots may be divided, subject to the building and use limitations specified above in this ordinance), and all features of such off-street parking areas, shall comply with the off-street parking requirements of the C-PUD District and, as to those portions of Lots 2A and 2B that are located in the Ten Mile Road Corridor Overlay Zone, such parking areas shall comply with the off-street parking requirements of that zone except that the Township Board and Planning Commission hereby approve modifications in such off-street parking areas, as authorized under the terms of the C-PUD District and the Ten Mile Road Corridor Overlay Zone. Other permissible modifications in the off-street parking areas that are permitted by the C-PUD District and the Ten Mile Road Corridor Overlay Zone may be accomplished by Planning Commission approval, without further action by the Township Board, as a part of the site plan review and approval of individual lots, at the time of development thereof.

(11) *Landscaping and Open Space Area.*

(a) Lot 1 shall be landscaped as shown on the Landscape Plan dated January 21, 2003, except as modified by the terms of this ordinance, and subject to site plan review and approval by the Site Plan Review Committee.

(b) Landscaping in the off-street parking areas of Lot 1, including the landscape islands in the parking area of the Meijer store building, shall comply with the parking area landscape requirements of the C-PUD District and the Ten Mile Road Corridor Overlay Zone; provided, however, that the Planning Commission and Township Board hereby approve the landscape modifications as shown on the Plan, under the terms of the C-PUD District and the Ten Mile Road Corridor Overlay Zone, and subject to site plan review and approval by the Site Plan Review Committee.

(c) There shall be a landscaped buffer of evergreen trees planted and maintained along a portion of the westerly boundary and a portion of the northerly boundary of the Meijer store building site, as shown on the Plan. The evergreen trees in the buffer area shall be at least six feet high when planted. Further, the trees shall be planted on an earthen berm of sufficient height so that the berm and the trees will serve as an effective landscape screen so as to substantially obscure the delivery docks and the truck unloading area of the Meijer store building, from view from the west and north on and along the US-131 highway and otherwise. The evergreen trees may be planted in a varied configuration, and may be planted in groups at different locations, so long as the resulting effect is that the trees and the berm will serve effectively as a substantial landscaped screen. The trees shall always be maintained in good condition, and any dead or diseased trees shall be promptly removed and replaced with trees of such size that the berm and trees continue to serve effectively as a landscape screen.

(d) There shall be landscaping installed along the frontage of Lots 2A and 2B, along Ten Mile Road, but such landscaping may be deferred until such lots are developed. Such landscaping, and the landscaping on the other lots comprising the limited commercial and office portion of the Development shall be subject to site plan review by the Planning Commission at the time such lots are respectively developed.

(e) The open space area as shown on the Landscape Plan shall be preserved in perpetuity as an area of open space, undeveloped except for that part thereof designated for sanitary sewer system facilities. The current natural greenbelt areas and the wetland areas as shown on the Plan shall remain undeveloped and undisturbed. The open space area shown on the Plan to the north of the Meijer store building site may be utilized in the future for trails and walkways for the use of persons residing in the residential portion of the Development, at the time

such residential portion is developed. Such paths and walkways shall be subject to the approval of the Planning Commission as a part of site plan approval of the residential portion of the Development, and the paths and walkways shall be subject to the approval of the Department of Environmental Quality insofar as they may affect or be located within any regulated wetlands on the site.

(f) The species of trees and shrubs to be planted within the Development, and shall be those shown on the Landscape Plan.

(g) The Landscape Plan shall be subject to the site plan review and approval by the Site Plan Review Committee.

(12) *Signage.*

(a) The wall signs and the freestanding signs to be installed and maintained on Lot 1, at the Meadow Creek Drive entrance off Ten Mile Road and at the entrance to the future residential portion of the Development, shall comply with the sign provisions of the C-PUD District, but in accordance with the sign modification provision of that district, and, where applicable, the Ten Mile Road Corridor Overlay Zone, the Planning Commission and Township Board hereby approve the wall signs and the freestanding signs for the Development, as shown on the Site Signage Plan dated January 21, 2003, subject to the provisions of this ordinance.

(b) The pylon sign to be located on Lot 1, the multi-tenant monument sign to be located at the intersection of Meadow Creek Drive and Ten Mile Road and the monument sign located at the entrance to the residential portion of the Development, shall be as depicted on the Site Signage Plan and shall be located as the plan indicates.

(c) The wall signs proposed to be placed and maintained on the Meijer store building and the convenience store and gas station shall be as depicted on the Site Signage

Plan. The total area of all wall signs on the front wall of the Meijer building shall not exceed 643.25 square feet. The area of the "Meijer Fresh" sign on the rear wall of the Meijer building shall not exceed an area of 417.75 square feet; no other signage shall be located on the rear wall of the Meijer building.

(d) Up to four of the wall signs proposed for placement on the front (south) wall of the Meijer store building and indicated on the Signage Plan as signs for "leasee" may be placed as indicated on the store building, and such signs shall be approximately of the size indicated in the drawing of the "hair salon" sign shown on the Site Signage Plan.

(e) No signs other than those shown on the site signage plan shall be installed within the Development, except for necessary traffic control signs.

(f) The Meijer pylon sign, the multi-tenant monument sign at the Meadow Creek Drive entrance off Ten Mile Road and the residential monument sign shall be illuminated only by internal means.

(13) *Outdoor Lighting.*

(a) The outdoor lighting on Lot 1 and at other locations in the Development as shown on the Site Lighting Plan dated January 21, 2003, shall comply with the outdoor lighting requirements of the C-PUD District and, as to that part of Lot 1 located within the Ten Mile Road Corridor Overlay Zone, the outdoor lighting shall comply with the outdoor lighting requirements of that zone; provided, however, that the Planning Commission and Township Board hereby approve modifications of the outdoor lighting requirements of the C-PUD District and the Ten Mile Road Corridor Overlay Zone such that the outdoor lighting shown on the Site Lighting Plan, is hereby approved, subject to the terms of this ordinance and subject to site plan review and approval by the Site Plan Review Committee.

(b) The Meijer store parking area and the drive around the Meijer store site may have that number of outdoor lighting fixtures indicated on the Site Lighting Plan, of such height, intensity and other characteristics as shown in the Plan, subject to site plan review and approval by the Site Plan Review Committee.

(c) The outdoor lighting for that part of Lot 1 comprising the convenience store and gas station site, and including the lighting on and along Meijer Drive and Meadow Creek Drive may be as indicated in the Site Lighting Plan, as to placement of outdoor lighting fixtures, the height and intensity thereof and other characteristics thereof, subject to the terms of this ordinance.

(d) All outdoor lighting fixtures shall be so designed and installed so that light shall be directed downward only, and so that light does not spill onto adjacent properties or streets or produce glare.

(e) The lights mounted in the canopy of the gasoline station shall be recessed so that the light source and the lens cover is fully recessed or is flush with the ceiling of the canopy, so that light is emitted only through the horizontal surface of the lens, and not otherwise. Lighting shall not be mounted on the top or the sides of the canopy, and the sides of the canopy shall not be illuminated, except where necessary for the reasonable illumination of any permitted sign.

(f) The illumination of building facades within the Development shall be limited to lighting necessary to provide reasonable illumination of permitted wall signs, but not otherwise.

(g) The Site Lighting Plan shall be supplemented, and such supplement shall be promptly submitted to the Site Plan Review Committee for its review and approval, so as to show exterior building lights, any permitted sign lighting not currently shown on the Lighting Plan and so as to indicate by photo or drawing the design of the various lighting fixtures, including

the fixtures on the outdoor light poles at the Meijer store site and those mounted on poles at the convenience store and gas station site.

(14) *Sidewalks.*

(a) Concrete sidewalks, at least five feet wide, shall be located as shown on the Plan.

(b) There shall be a concrete sidewalk, at least five feet wide, installed and maintained along the Ten Mile Road frontage, as shown on the Plan. A concrete sidewalk, at least five feet wide, shall be located on one side of Meadow Creek Drive and on one side of Meijer Drive, as shown on the Plan.

(15) *Other Matters.*

(a) Temporary seasonal outdoor sales of garden supplies and related merchandise, may be held annually, during the period from March 1 through July 31, within the temporary seasonal sales area as shown in the Plan along the easterly side of the Meijer store building. During the period of such temporary seasonal sales, the parking spaces shown on the Plan at that location may be utilized as a sales area, but thereafter the area shall revert to vehicle parking use, as shown on the Plan.

(b) If the shared driveway proposed along the westerly line of the convenience store and gas station portion of Lot 1, and connecting with the other lands to the west, is approved by the County Road Commission, the Developer and the owners of the lands to the west shall enter into an easement agreement or comparable title instrument so as to provide for the joint use, maintenance, repair and replacement of the shared driveway. The easement shall be recorded with the County Register of Deeds before the use of the shared driveway commences, and a recorded copy of the easement shall be promptly furnished to the Township office, following recording.

(c) All aspects of the Development, as shown or to be shown in the Plan and the various components of the Plan, shall be subject to final site plan review and approval by the Site Plan Review Committee, consistent with this ordinance and so as to assure compliance with the terms hereof and applicable provisions of the Zoning Ordinance. In its discretion, the Site Plan Review Committee may refer all or any aspect of the final site development plan to the Planning Commission for comment or final approval. Any such review and approval of the Plan, by the Site Plan Review Committee, or, in its discretion by the Planning Commission, shall extend only to matters of the site development plan and shall not include requirements not specified in or reasonably inferred from the terms of this ordinance.

(d) Performance Guarantee.

(i) Before commencing any construction in the Development, the Developer shall deposit with the Township an executed performance bond or letter of credit, in form and with content satisfactory to the Township, and in the case of a performance bond, an acceptable surety, conditioned upon the Developer's timely and faithful performance of all of the requirements of this ordinance, the Township Zoning Ordinance, the Township Building Code, the Township Storm Water Ordinance and other applicable laws, ordinances and regulations, including Township and County requirements for soil erosion and sedimentation control.

The performance bond or letter of credit shall be in that amount sufficient to cover the cost of layout, construction and completion of all common facilities within the Development, including streets, water and sewer systems, the storm water drainage system, all protective measures and facilities provided for in the soil erosion protection plan and otherwise required for soil erosion and sedimentation control, in addition to other common facilities within the

Development. A separate performance bond or letter of credit may be submitted for each phase of the Development.

(ii) For the purpose of determining the appropriate amount of the required performance bond or letter of credit, the Township Engineer shall calculate the estimated cost of layout, construction, maintenance and completion of the above-described protective measures and common facilities, including but not limited to the storm water drainage system and all protective measures and facilities for soil erosion and sedimentation control, and the Engineer shall provide such cost figure in writing to the Township Board. Such amount so determined shall be the required amount for the performance bond or letter of credit, for the entire Development, or for each phase thereof, unless the Township Board determines a different amount, by resolution or motion.

(iii) If the amount of a performance bond or letter of credit should subsequently be deemed insufficient by the Township, by reason of costs incurred or to be incurred by the Township from the amount of the bond or letter of credit, then the Developer shall promptly upon request deposit with the Township an amended or subsequent performance bond or letter of credit in such additional amount as the Township may require. Such amended or additional bond or letter of credit shall be in form and with content satisfactory to the Township, and shall be upon the same conditions as are required for the original bond or letter of credit.

(iv) From time to time, as components of the Development are satisfactorily completed, the Township Supervisor is hereby authorized to approve, in behalf of the Township, the release or discharge of appropriate portions of the amounts secured by the performance bond or letter of credit; alternatively, the Supervisor may refer to the Township Board

the decision on any proposed release or discharge of portions of the performance bond or letter of credit, and in that case, the matter shall be decided by the Township Board.

(d) The Township Board determines that the terms and conditions imposed on the PUD are reasonably necessary to insure that public services and facilities will be capable of accommodating the Development, that the natural environment and resources of the site shall be reasonably preserved, that the Development would be reasonably compatible with other land uses in the vicinity and that the land shall be used in a socially and economically desirable manner. Further, the Board determines that the conditions imposed herein are designed to promote the public health, safety and welfare, to protect natural resources and to assure compliance with the intent and purposes of the zoning ordinance, all such conditions being in support of the valid exercise of land use authority vested in the Township under the terms of the Township Zoning Act.

Section 3. Enforcement.

(a) With respect to the Development, the Township may enforce the provisions of this Ordinance and applicable provisions of the Township Zoning Ordinance, Building Code and other ordinances, laws and regulations to the extent and in any manner provided by law.

(b) In the event that the Developer shall fail to carry out, either at all or on a timely basis, any provision or requirement of this Ordinance or other applicable law, ordinance or regulation, the Township may through its building inspector or other Township agency issue and post a stop work order at the site of any improper or noncomplying part of the Development, directing that all further construction of such part of the Development be ceased forthwith, pending the compliance with any applicable provisions of this Ordinance or of other Township ordinances, regulations or State laws.

Upon the issuance of such a stop work order, the Developer and its agents shall comply fully therewith without delay. Upon the correction of any matters as to which the stop work

order was issued, the Township shall promptly rescind and remove the stop work order, whereupon the Developer may again proceed with construction or other permissible activity within the Development. The issuance and posting of any stop work order shall not be an exclusive remedy, but may be undertaken by the Township in addition to other lawful means of enforcement.

Section 4. **Publication and Effective Date.** This Ordinance, or a summary of its provisions, shall published in a local newspaper of general circulation within the Township. This Ordinance shall take effect seven days following such publication.

AYES: Members: J. Bigney, Ellenwood, Hoemke, W. Bigney

NAYS: Members: None

ABSENT: Member: Gilcrest

ORDINANCE DECLARED ADOPTED.

Judy A. Bigney
Judy A. Bigney, Township Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF KENT)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board of the Township of Algoma at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

Judy A. Bigney
Judy A. Bigney, Township Clerk