

1/14/2014.

TOWNSHIP OF ALGOMA
COUNTY OF KENT, MICHIGAN

At a regular meeting of the Township Board of the Township of Algoma, held in the Algoma Township Hall, 10531 Algoma Avenue, within the Township, on the 14th day of January, 2014, at 7:00 p.m.

PRESENT: Ellenwood, Hoemke, Clary, W. Bigney and Pickerd.

ABSENT: J. Bigney and Powell.

The following Ordinance was offered by Trustee Clary and seconded by Treasurer Ellenwood.

ORDINANCE NO. 274

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

[Amendment No. 1 in Meijer Planned Unit Development Ordinance]

THE TOWNSHIP OF ALGOMA ORDAINS:

Section 1. **Meijer Planned Unit Development.** The Township adopted the Meijer Planned Unit Development (PUD) Ordinance, being Township Ordinance No. 211, on February 11, 2003. The Ordinance became effective February 25, 2003.

Section 2. **PUD Lands.** The lands comprising the Meijer PUD are legally described in Section 1 of Ordinance No. 211. These lands are designated as Parcel Nos. 41-06-34-400-050, 41-06-34-400-049, 41-06-34-400-051 and 41-06-34-400-052. These are more commonly designated as 2799, 2951, 2835 and 2879 Ten Mile Road.

Section 3. **Lands Included in Amendment No. 1.** This Amendment No. 1 covers a portion of the Meijer PUD lands; other portions of the PUD are unaffected by this Ordinance and continue to be regulated by the Meijer PUD Ordinance and applicable site plan approvals by the

Planning Commission. This Amendment No. 1 covers that part of the Meijer PUD lands consisting of nine parcels designated respectively as Outlots 3 through 11 and shown on the PUD plan for this Amendment No. 1 (the "Amendment Plan"), dated December 19, 2013.

As shown on the Amendment Plan, Outlots B and C are located on the Ten Mile Road frontage, between the Fifth Third Bank parcel on the west and Meijer Drive on the east. Outlots D, E and F are located north of the north line of the Fifth Third Bank parcel and are bounded on the northeast by Meadow Creek Drive and on the northwest by the southerly line of the Meijer store parcel. Outlots G and H are located along the north line of the frontage parcels lying east of Outlot C and are bounded on the southwest by Meadow Creek Drive. Outlot L is bounded on the south by the north lines of Outlots G and H. Outlot M is bounded in part on the east by Outlot L and on the south by the northerly line of the open space area that is adjacent on the east to the Meijer store site.

Section 4. **Revision of Former PUD Parcels.** The Meijer PUD Ordinance established several parcels within the PUD, in addition to the Meijer store site (Lot 1), and an adjacent frontage parcel (Lot 2A – Fifth Third Bank). These were designated Lots 2B, 3, 4, 5, 6, 7 and 8, and permitted land uses were specified for each of them. These additional parcels have not been developed at this time.

All such references in the Meijer PUD Ordinance to the above-stated additional parcels are hereby amended to designate those parcels as, respectively, Outlots B, C, D, E, F, G, H, L and M, and as they are depicted on the Amendment Plan.

Section 5. **Amendments in Meijer PUD Ordinance.** Section 2 of the Meijer PUD Ordinance, Township Ordinance No. 211, is hereby amended to read in its entirety as follows:

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, and the Amendment Plan (collectively, the "Plans"), except as such Plans are 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) Outlots B and C may be used for the permitted retail sales uses listed for the C-1 Neighborhood Business District under Section 13.2 of the zoning ordinance; banks or other

financial institutions; restaurants that serve customers on a sit-down basis inside the restaurant, but no drive-up, drive-in or drive-through service shall be permitted, though food take-out service may be conducted as an incidental and secondary type of food service.

(d) Outlots D, E and F may be used for the retail sales uses listed for the C-1 Neighborhood Business District under Section 13.2 of the zoning ordinance; office buildings; restaurants that serve customers on a sit-down basis inside the restaurant, but no drive-up, drive-in or drive-through service shall be permitted, though food take-out service may be conducted as an incidental and secondary type of food service.

(e) Outlots G and H may be used for office buildings; and hotels and motels, but any such hotel or motel use shall be subject to the approval of the Planning Commission as a special exception use, at a public meeting, but no public hearing shall be required. In considering whether to approve such special exception use for a hotel or motel, the Planning Commission shall consider the following matters, among others:

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

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

(iii) 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 public streets.

(iv) 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 land use.

(f) Outlot L may be used for a multi-family senior housing/assisted living facility.

(g) Outlot M may be used for single-family detached dwellings.

(h) The design, development and use of Lot 1, Lot 2A and Outlots B, C, D, E, F, G, H, L and M shall comply with the development requirements and other applicable requirements of the C-PUD District as stated in chapter 17 of the zoning ordinance, except for permitted modifications specified for that District, including modifications as to minimum lot size, minimum building setbacks, minimum lot widths, building façade requirements and other available modifications specified in the C-PUD District.

(i) Those portions of Lot 1, Lot 2A and Outlots B, C, D, E, F, G and H that are 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 the Township Board under the terms of this Ordinance, if such modifications are permitted by the terms of the Overlay Zone or by other provisions in the zoning ordinance.

(j) The design, development and use of Lot 2A and Outlots B, C, D, E, F, G, H, L and M shall be subject to site plan review and approval by the Planning Commission of individual building and site plans for each of the Outlots. Such review and approval of building and site plans for Lot 2A and each Outlot shall take place at such time as each of them is proposed for development. Such site plan review and approval shall be conducted, and decisions shall be made, under the terms of Chapter 23 of the zoning ordinance, pertaining to site plan review. Site plan approval may include approval of an off-premises sign (but not a billboard) identifying a land use or uses on any of Outlots, D, E, F, G, H, L and M, if such approval is authorized by the terms of the C-PUD District and, if applicable, the terms of the Ten Mile Road Corridor Overlay District.

(k) Outlots B, C, D, E, F, G, H, L and M shall have access only from Meadow Creek Drive or Meijer Drive.

(l) All streets in the Development shall comply with Township requirements for private streets as stated in Section 4.27 of the zoning ordinance.

(m) The names of any streets in the Development shall be subject to the approval of the Kent County Road Commission. Written, recorded provisions, by means of agreement or other recordable legal instrument, shall be established for the perpetual maintenance, repair and replacement of any private streets in the Development, consistent with Township private street provisions. Such written provisions may be in the form of recorded restrictive covenants, recorded condominium documents or other legally effective means so as to assure that obligations of perpetual maintenance and repair of any private streets shall run with the land and shall therefore be binding on all subsequent title holders.

(n) The following subsections or other subdivision of Section 2 of the Meijer PUD Ordinance remain in effect according to their terms: subsections (4) (i) and (j); subsections (5), (6), (7), (8), (9) and (10); subsections (11)(a), (b), (c), (d), (e), (f) and (g); subsections (12), (13), (14) and (15).

(o) All matters involving sidewalks, off-street parking, landscaping, outdoor lighting, signage, utilities, storm water management, open space, soil erosion and sedimentation control and site grading in and for Outlots B, C, D, E, F, G, H, L and M shall comply with the provisions of the C-PUD District, subject to permitted modifications and subject to site plan review and approval by the Planning Commission.

(p) All buildings in Outlots B, C, D, E, F, L and M shall not exceed a height of 35 feet; all buildings in Outlots G and H shall not exceed a height of 45 feet.

(q) There shall be no construction or use of so-called big-box retail buildings on any of the Outlots.

(r) Performance guarantees with respect to development and construction of any of the Outlots shall be subject to determination by the Planning Commission in site plan review for the respective Outlots.

Section 6. 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 non-complying 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.

(c) 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 7. **Township Board Findings.** The Township Board determines that the terms and conditions imposed on the PUD, with respect to the Outlots, are reasonably necessary to insure that public services and facilities will be capable of accommodating the Outlots, that the natural environment and resources of the site shall be reasonably preserved, that the Outlots 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 Enabling Act.

Section 8. **Consolidated PUD Ordinance.** This Ordinance, together with Ordinance No. 211, shall be combined into a single consolidated ordinance for the PUD, which shall serve as the controlling ordinance until further amendment therein. For clarity and consistency, non-substantive words and phrases of Ordinance No. 211 and this Ordinance may be revised, added or deleted as necessary. The numbers and letters of sections and subsections herein, and in Ordinance No. 211, may be revised as necessary to achieve appropriate and consecutive numbering and lettering as to the provisions of the consolidated ordinance.

Section 9. **Publication and Effective Date.** This Ordinance, or a summary of its provisions, shall be published in a local newspaper of general circulation within the Township.

This Ordinance shall take effect seven days following such publication.

AYES: Ellenwood, Hoemke, Clary, W. Bigney and Pickerd.

NAYS: None.

ABSENT: J. Bigney and Powell.

ORDINANCE DECLARED ADOPTED.

Judy A. Bigney

Judy A. Bigney, Township Clerk

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

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Effective February 1, 2014