



**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number:

Title:

Public hearing regarding a Third Amendment to Meijer Annexation Agreement

Presenter:

Rita Tungare

Meeting: City Council

Date: May 1, 2017

Proposed Cost: N/A

Budgeted Amount: N/A

Not Budgeted:

**Executive Summary** *(if not budgeted please explain):*

Callie Robertson of Anchor Sign, Inc., representing Meijer, has requested approval of a PUD Amendment in order to modify the permitted wall signage on the Meijer building. The Meijer property is subject to the provisions of the Meijer Annexation Agreement which must be amended in order to permit the PUD Amendment.

On 4/10/17, the Planning & Development Committee reviewed and recommended approval of the PUD Amendment and directed staff to schedule a public hearing for an amendment to the Meijer Annexation Agreement (by a vote of 7-0).

An annexation agreement is a contractual agreement between the property owner/developer and the City that was signed at the time the property was originally annexed, and each agreement generally has a term of 20 years from the initial annexation of the property. Amending the annexation agreement is an independent City Council consideration in addition to the requested zoning/plan approval. The Council has discretion to approve or deny the annexation agreement amendment.

The Meijer Annexation Agreement is proposed to be amended by incorporating the modified sign provisions per the PUD Amendment into the Agreement. The remainder of the Annexation Agreement will be unchanged. The Annexation Agreement expires in 2019.

The proposed Annexation Agreement has been reviewed and approved by the applicant and the City Attorney. An ordinance authorizing the signing of the agreement is listed on the City Council agenda tonight (5/1/17).

**Attachments** *(please list):*

Annexation Agreement

**Recommendation/Suggested Action** *(briefly explain):*

Conduct the public hearing; close if all testimony has been received.

**THIRD AMENDMENT TO ANNEXATION AGREEMENT  
(MEIJER, INC.)**

**THIS THIRD AMENDMENT** to an Annexation Agreement dated February 18, 1999 and recorded as Document 1999K046514 (hereinafter the “Annexation Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_ 2017, by the City of St. Charles, an Illinois home rule municipal corporation (hereinafter the “CITY”) and MEIJER, INC., a Michigan corporation (hereinafter the “OWNER”) (the CITY and OWNER are hereinafter sometimes collectively referred to as the “Parties”).

WITNESSETH:

WHEREAS, the OWNER is the Owner of Record of certain Real Estate heretofore annexed pursuant to the Annexation Agreement, said Real Estate being legally described in Exhibit “A” attached hereto and make a part hereof (hereinafter the “Subject Realty”); and

WHEREAS, the CITY has previously entered into a certain First Amendment to Annexation Agreement dated August 16, 1999 by and between the City of St. Charles and Meijer, Inc. (hereinafter the “First Amendment”); and

WHEREAS, the CITY has previously entered into a certain Second Amendment to Annexation Agreement dated January 30, 2000 by and between the City of St. Charles, Meijer, Inc., Firststar Bank of Illinois as Trustee under the provisions of Trust No. 2640 dated December 7, 1987, and DGT Partnership (hereinafter the “Second Amendment”); and

WHEREAS, the OWNER has filed petitions with the CITY (a) to amend the Annexation Agreement, and (b) to amend the Special Use for Planned Unit Development described in Ordinance No. 1999-M-24 entitled “An Ordinance Granting a Special Use as a Planned Unit Development (Meijer PUD)”; and

WHEREAS, pursuant to the provisions of 65 ILCS 5/11-15.1 *et seq.*, a proposed Third Amendment to the Annexation Agreement, substantially in the form of an Amendatory Agreement, was submitted to the CITY, and a public hearing was held thereon by the CITY on May 1, 2017, pursuant to the notice duly published in the Daily Herald newspaper, being a newspaper of general circulation, on April 13, 2017, all as required by law.

NOW, THEREFORE, in consideration of the foregoing premises and of the mutual covenants, conditions and agreements hereinafter set forth, IT IS HEREBY AGREED BY AND BETWEEN THE CITY and OWNER as follows:

1. Exhibit C of the Annexation Agreement as aforementioned, said Exhibit C being entitled, "An Ordinance Granting a Special Use as a Planned Unit Development (Meijer PUD)" shall be amended with respect to the Subject Realty, which amending ordinance shall be in the form and substance of Exhibit "B" attached hereto, entitled, "An Ordinance Amending Ordinance No. 1999-M-24 to modify the permitted wall signage for Meijer, 855 S. Randall Road" (hereinafter the "PUD Ordinance Amendment").

2. This Third Amendment shall become effective upon execution by the Parties.

3. That in all other respects except for the changes set forth in this Third Amendment, the Annexation Agreement be and is hereby restated, reaffirmed, ratified and reconfirmed and shall remain in full force and effect.

Meijer, Inc.  
A Michigan corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid,  
DO HEREBY CERTIFY that \_\_\_\_\_, \_\_\_\_\_, and  
\_\_\_\_\_, \_\_\_\_\_, of \_\_\_\_\_, a  
\_\_\_\_\_, who are personally known to me to be the same persons whose  
names are subscribed to the foregoing instruments as such \_\_\_\_\_ and \_\_\_\_\_,  
respectively, appeared before me this day in person and acknowledged that they signed and  
delivered the said instrument as their own free and voluntary act and as the free and voluntary act  
of said corporation, for the uses and purposes therein set forth; and the said \_\_\_\_\_ then and  
there acknowledged that he, as custodian of the records of the corporation, did affix the  
corporate seal of said corporation to said instrument as his own free and voluntary act and as the  
free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this \_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public

The CITY OF ST. CHARLES

By: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF KANE         )

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Raymond P. Rogina, personally known to me to be the Mayor of the City of St. Charles, a municipal corporation, and Nancy Garrison, personally known to me to be the City Clerk of the City of St. Charles, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Mayor and City Clerk of said municipal corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to the authority given by the City Council of the City of St. Charles as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public

EXHIBIT "A"  
Legal Description of Subject Realty

LOT 1 OF RESUBDIVISION #2 OF THE RESUBDIVISION OF MEIJER #182  
SUBDIVISION, BEING A RESUBDIVISION IN SECTION 32, TOWNSHIP 40 NORTH,  
RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN IN THE CITY OF ST. CHARLES,  
KANE COUNTY, ILLINOIS, AS RECORDED WITH THE KANE COUNTY RECORDER'S  
OFFICE AS DOCUMENT NO. 2002K140590.

EXHIBIT "B"  
PUD Ordinance Amendment

**City of St. Charles, IL**  
**Ordinance No. 2017-Z-\_\_**

**An Ordinance Amending Ordinance No. 1999-M-24 to modify the permitted wall signage for Meijer, 855 S. Randall Road**

WHEREAS, on or about March 16, 2017, Callie Robertson of Anchor Sign, Inc., (the "Applicant"), filed a petition for Special Use to amend Ordinance No. 1999-M-24 "An Ordinance Granting a Special Use as a Planned Unit Development (Meijer PUD)" for the real estate commonly known as 855 S. Randall Road and legally described in Exhibit "A" (the "Subject Property"), attached hereto and made part hereof, for the purpose of modifying the permitted wall signage on the Meijer building; and,

WHEREAS, Notice of Public Hearing on said petition for Special Use was published on or about March 18, 2017, in a newspaper having general circulation within the City, to-wit, the Daily Herald newspaper, as required by the statutes of the State of Illinois and the ordinances of the City; and,

WHEREAS, pursuant to said Notice, the Plan Commission conducted a public hearing on or about April 4, 2017 on said petition in accordance with the statutes of the State of Illinois and the ordinances of the City; and,

WHEREAS, at said Public Hearing, the Applicant presented testimony in support of said petition and all interested parties had an opportunity to be heard; and,

WHEREAS, the Plan Commission recommended approval of said petition on or about April 4, 2017; and,

WHEREAS, the Planning and Development Committee of the City Council recommended approval of said petition on or about April 10, 2017; and,

WHEREAS, the City Council of the City of St. Charles has received the recommendations of the Plan Commission and Planning and Development Committee and has considered the same.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DUPAGE COUNTIES, ILLINOIS, as follows:

1. The preambles set forth hereinabove are incorporated herein as substantive provisions of this Ordinance as if fully set out in this Section 1.
2. The City Council hereby finds that the amendment to the Planned Unit Development is in the public interest and adopts the Criteria for Planned Unit Developments, set forth on Exhibit "B", which is attached hereto and incorporated herein.



3. Exhibit III “Development Standards and Design Criteria – Meijer PUD” of Ordinance No. 1999-M-24 “An Ordinance Granting a Special Use as a Planned Unit Development (Meijer PUD)” is hereby amended as follows:

- a. “C. Fourteen (14) signs shall be permitted on the Meijer Store parcel, in accordance with the attached schedule.”
- b. The Signage Summary set forth on Exhibit “C”, attached hereto and incorporated herein, shall replace said “attached schedule”, labeled in Exhibit III of Ordinance No. 1999-M-24 as “Schedule ‘A’”.

4. That the Pharmacy Drive-Up sign listed on the Signage Summary shall not be installed until construction of a Pharmacy Drive-Up on the Subject Property.

5. That the Subject Property may be developed and used only in accordance with all ordinances of the City now in effect or hereafter amended or enacted.

6. That after the adoption and approval hereof, the Ordinance shall (i) be printed or published in book or pamphlet form, published by the authority of the Council, or (ii) within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with a general circulation within the City of St. Charles.

PRESENTED to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this 1st day of May, 2017.

PASSED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this 1st day of May, 2017.

APPROVED by the Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois this 1st day of May, 2017.

\_\_\_\_\_  
Raymond P. Rogina, Mayor

Attest:

\_\_\_\_\_  
Nancy Garrison, City Clerk

Vote:

Ayes:

Nays:

Absent:

Abstain:

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

DATE: \_\_\_\_\_

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

LOT 1 OF RESUBDIVISION #2 OF THE RESUBDIVISION OF MEIJER #182 SUBDIVISION, BEING A RESUBDIVISION IN SECTION 32, TOWNSHIP 40 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN IN THE CITY OF ST. CHARLES, KANE COUNTY, ILLINOIS, AS RECORDED WITH THE KANE COUNTY RECORDER'S OFFICE AS DOCUMENT NO. 2002K140590.

**EXHIBIT "B"**

**CRITERIA FOR PLANNED UNIT DEVELOPMENTS**

- i. The proposed PUD advances one or more of the purposes of the Planned Unit Development procedure stated in Section 17.04.400.A:**
  - 1. To promote a creative approach to site improvements and building design that results in a distinctive, attractive development that has a strong sense of place, yet becomes an integral part of the community.**
  - 2. To create places oriented to the pedestrian that promote physical activity and social interaction, including but not limited to walkable neighborhoods, usable open space and recreational facilities for the enjoyment of all.**
  - 3. To encourage a harmonious mix of land uses and a variety of housing types and prices.**
  - 4. To preserve native vegetation, topographic and geological features, and environmentally sensitive areas.**
  - 5. To promote the economical development and efficient use of land, utilities, street improvements, drainage facilities, structures and other facilities.**
  - 6. To encourage redevelopment of sites containing obsolete or inappropriate buildings or uses.**
  - 7. To encourage a collaborative process among developers, neighboring property owners and residents, governmental bodies and the community.**

The amendment of the existing Meijer PUD to include all (8) proposed signs, would help (1) promote a creative approach to the building design that allows users to understand fully every type of business which Meijer offers. The additional signage would also (6) encourage the redevelopment of the site to no longer be inappropriate, as it would make it legal to have all the current signs installed, as it seems that a portion of them were installed without the city's prior knowledge. Including all signage on the PUD would (7) encourage a collaborative process amongst Meijer, its neighbors, the government, and the community as it would support Meijer's economic growth within St. Charles by allowing it to advertise, in a non-distracting way, the businesses located within Meijer, including US Bank and Starbucks. It would also come to the aid of customers to know how to best navigate the large parking lot with signs marking entrances, different areas of the store (Starbucks, Garden Center, etc.) and eventually where to go for the Pharmacy drive-thru.

- ii. The proposed PUD and PUD Preliminary Plans conform to the requirements of the underlying zoning district or districts in which the PUD is located and to the applicable Design Review Standards contained in Chapter 17.06, except where:**
  - A. Conforming to the requirements would inhibit creative design that serves community goals, or**
  - B. Conforming to the requirements would be impractical and the proposed PUD will provide benefits that outweigh those that would have been realized by conforming to the applicable requirements. Factors listed in Section 17.04.400.B shall be used to justify the relief from requirements:**

B. Conforming to the requirements would be impractical, as the list of proposed/current signage is not excessive, it is used to clearly mark what is available and where it located within the store.

**iii. The proposed PUD conforms with the standards applicable to Special Uses (section 17.04.330.C.2):**

**A. Public Convenience: The Special Use will serve the public convenience at the proposed location.**

The public convenience will be found in the signage alerting customers that the Meijer contains both a Starbucks and a US Bank. It also alerts them what side of the store the Garden Center is on, and where the Pharmacy Drive-thru will be.

**B. Sufficient Infrastructure: That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided.**

Not applicable; only changes to permitted signage.

**C. Effect on Nearby Property: That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.**

The Special Use will only mark the building further in a legible, yet not excessive manner. It will not diminish the use or enjoyment of other properties in the vicinity or neighborhood because it is not flashy or distracting.

**D. Effect on Development of Surrounding Property: That the establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

The establishment will not impede the normal or orderly development of the surrounding property because it will only effect the signage.

**E. Effect on General Welfare: That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The establishment will not be detrimental the general welfare of the public as it will only effect the signage.

**F. Conformance with Codes: That the proposed Special Use conforms to all existing Federal, State and local legislation and regulation and meets or**

**exceeds all applicable provisions of this Title, except as may be varied pursuant to a Special Use for Planned Unit Development.**

The proposed PUD will conform to all existing regulation, just allow for an increased amount of signage.

**iv. The proposed PUD will be beneficial to the physical development, diversity, tax base and economic well-being of the City.**

The proposed PUD will be beneficial to the economic well-being of the City as it will allow customers to come to Meijer for not only groceries, which will increase business and jobs.

**v. The proposed PUD conforms to the purposes and intent of the Comprehensive Plan.**

The proposed PUD conforms to the Comprehensive Plan's intent as it clearly marks the large building as to avoid confusion for its customers without being excessive in its signs.

**EXHIBIT "C"**  
**SIGNAGE SUMMARY**

<b>TYPE</b>	<b>LOGO</b>	<b>NUMBER</b>	<b>SQ. FT. of EACH</b>	<b>TOTAL SQ. FT.</b>
Wall Sign	Meijer	1	410.90	410.90
Wall Sign	Welcome	1	12.00	12.00
Wall Sign	Welcome	1	12.00	12.00
Wall Sign	Pharmacy	1	16.11	16.11
Wall Sign	Garden Center	1	19.28	19.28
Wall Sign	Pharmacy Drive Up	1	43.88	43.88
Wall Sign	Starbucks	1	16.00	16.00
Wall Sign	US Bank	1	27.00	27.00
<b>Total Mounted on Main Store</b>				<b>557.17</b>
Monument Sign	Meijer, 24 Hours	2	58	116
<b>Total Monument</b>				<b>116</b>
Gas Station Multiple Canopy Logos	Meijer	3	20	60
<b>Total Mounted on Gas Station Canopy</b>				<b>60</b>
Gas Station Monument Price Cabinet w/o Logo	Type of Gas/Price	1	69	69
<b>Total Free Standing Gas Station</b>				<b>69</b>
<b>Total Area of All Signage</b>				<b>802.17</b>