

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 11th day of October, 2016, at 7:00 p.m.

PRESENT: Powell, Ellenwood, Clary, W. Bigney, Pickerd, J. Bigney, Wilson.

ABSENT: None.

The following Ordinance was offered by Pickerd and seconded by W. Bigney:

ORDINANCE NO. 289

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

[Lamoreaux Farms Mixed-Use Planned Unit Development]

THE TOWNSHIP OF ALGOMA ORDAINS:

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Section 1. ***Planned Unit Development.*** The zoning ordinance and the zoning map of the Township of Algoma are hereby amended to rezone the following described lands from the R-R Rural Residential District to the Mixed-Use Planned Unit Development (M-PUD) District, in accordance with the final development plan of the Lamoreaux Farms Mixed-Use Planned Unit Development, subject to all of the following terms and conditions of this ordinance:

A parcel of land lying in the Southeast 1/4 of Section 34, Town 9 North, Range 11 West, and more particularly described as follows:

Commencing at the South 1/4 Corner of said Section 34, thence along the south line of said Section 34, North 89 degrees 23 minutes 09 seconds East, 1,334.48 feet to the West line of the East 1/2 of the Southeast 1/4 of said Section 34 and the point of beginning; thence along said West line, North 00 degrees 16 minutes 33 seconds West, 2,658.23 feet to the North line of the Southeast 1/4 of said Section 34; thence along said North line, North 89 degrees 36 minutes 02 seconds East, 1,334.38 feet to the East line of the Southeast 1/4 of said Section 34; thence along said East line, South 00 degrees 16 minutes 40 seconds East, 2,353.22 feet; thence South 89 degrees 23 minutes 09 seconds West, 110.00 feet; thence South 00 degrees 16 minutes 40 seconds East, 300.00 feet to the South line of said Section 34; thence along said South line, South 89 degrees 23 minutes 09 seconds West, 1,224.48 feet to the point of beginning, Algoma Township, Kent County, Michigan.

In the event of conflict between any part of the final development plan and the terms of this ordinance, this ordinance shall control.

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

(a) ***Development Plan.*** The Lamoreaux Farms Mixed-Use Planned Unit Development (the “Development”) shall comply in all respects with the final development plan (the “Plan”), having a last revision date of July 29, 2016, except as the Plan may be changed,

revised, modified or required to be augmented by the terms of this ordinance, and as to such matters, this ordinance shall control.

(b) *Commercial and Residential Lands and Uses.* The Development consists of five outlots, for such commercial uses as are permitted by this ordinance; and a land area and multi-family buildings consisting of residential apartments and, in other buildings, residential condominiums, together with a clubhouse building, outdoor recreation facilities, motor vehicle garages, off-street parking areas, undeveloped open space, private streets, public water and sanitary sewer facilities, a storm water drainage system, outdoor lighting, signage, landscaping and other features and amenities shown on the Plan and as otherwise required by the terms of this ordinance.

(c) *Commercial Parcels and Land Uses.*

(1) The Development shall include Outlots A, B, C, D and E, each being located and having an area and configuration shown on the Plan, with vehicle access off Ten Mile Road by means of the east and west entrances of the looped internal private street adjacent to the outlots.

(2) The outlots are included in Phase 1 of the Development, but no land uses therein have been identified, nor is a particular land use approved for any outlot by the terms of this ordinance.

(3) The use and development of each of the outlots shall be subject to site plan review and approval by the Planning Commission, including the land use of each outlot, consistent with the terms of this ordinance. It is understood that at the time of site plan review, the particular dimensions and/or configuration of an outlot may be revised, and the Planning

Commission is authorized to approve such revisions not substantially inconsistent with the Plan and this ordinance.

(4) The outlots may include a sit-down restaurant; professional offices; medical and dental offices; a bank or other financial institution; small retail or service uses such as those permitted in the C-1 District (excluding grocery stores, appliance stores and funeral homes), though subject to Planning Commission approval in site plan review; a licensed child care center; and a hotel or motel.

(5) The following land uses are prohibited in all of the outlots: a so-called big-box store; a strip commercial center (defined as more than three individual businesses in a single building); fast food restaurants; gasoline service stations; vehicle wash establishments; vehicle repair; other high-traffic commercial uses; and land uses not approved by the Planning Commission in site plan review for any of the outlots.

(d) *Residential Lands and Uses.*

(1) The Development may include an area for residential uses, consisting of apartment buildings, condominium buildings, attached and unattached garages, a clubhouse building, off-street parking areas and other residential features and amenities as shown on the Plan, but limited to the extent and in the respects stated in this ordinance.

(2) The residential portion of the Development shall consist of the following:

(i) Phase 1: three apartment buildings, of three stories each, not to exceed 35 feet in height. They shall be located as shown on the Plan and shall have access from the private street located along the north sides of Outlots A, B and C. Each building shall

consist of 24 apartment dwelling units, for a total of 72 dwelling units. Of that number, 12 units are one-bedroom apartments and 60 units are two-bedroom apartments.

(ii) Phase 1 shall also include 149 off-street vehicle parking spaces, consisting of 71 outdoor spaces and 78 indoor garage spaces.

(iii) Phase 2 shall consist of three groups of apartment buildings and associated garages and outdoor parking spaces.

(I) Group 1 (on the west side of the private street, across from the condominium buildings) shall consist of three apartment buildings, of three stories each. Each building shall have 24 two-bedroom apartment units, for a total of 72 apartment dwelling units. There shall be 148 off-street parking spaces, consisting of 78 garage stall spaces and 70 outdoor spaces.

(II) Group 2 (being the group just to the north of Group 1, on the other side of the private street) shall consist of three apartment buildings, of three stories each. Each building shall have 24 two-bedroom apartment dwelling units, for a total of 72 apartment units. There shall be 149 off-street parking spaces, consisting of 78 garage stall spaces and 71 outdoor spaces.

(III) Group 3 (being the most westerly group of apartment buildings, at the west end of the private street that extends northerly and westerly from the looped private street off Ten Mile Road) shall consist of three apartment buildings, of three stories each. Each building shall have 24 two-bedroom apartment dwelling units, for a total of 72 apartment dwelling units. There shall be 153 off-street parking spaces, consisting of 78 garage stall spaces and 75 outdoor spaces.

(IV) The apartment buildings in the above-described Groups 1, 2 and 3 shall not exceed a height of 35 feet. Each building shall have the setbacks from streets and driveways and the separation distances between buildings as shown on the dimensioned site layout plan dated July 29, 2016.

(3) There shall be eight residential condominium buildings, in a combination of one-story and two-story buildings, as shown on the Plan along the east side of the north-south private street extending northeasterly off the looped private street off Ten Mile Road.

(i) Each condominium building shall consist of two two-bedroom condominium dwelling units and two three-bedroom condominium dwelling units, for a total of 32 condominium units among the eight buildings.

(ii) For each condominium unit, there would be two garage stall spaces and two outdoor spaces, for a total of 128 parking spaces for the 32 dwelling units, plus an additional three guest parking spaces for each group of two condominium buildings, for a total of 12 guest parking spaces, and thus an overall total of 140 parking spaces for the condominium buildings. The buildings shall be included in Phase 2 of the Development.

(iii) The condominium buildings shall have the setbacks from the private street, driveways and east property line, and they shall have the separation distances between buildings, shown respectively on the Plan.

(4) The floor area of each apartment dwelling unit and each condominium dwelling unit shall be not less than the minimum floor area required by the terms of the M-PUD District; accordingly, each dwelling unit shall have a minimum floor area of at least 600 square feet plus 150 square feet for each bedroom in excess of one bedroom.

(5) The site plan shall be revised to state the actual floor area of each typical dwelling unit. (The floor-plan submitted states the typical area of an entire floor of a building, but not the size of each typical unit-type; the Phase II narrative states that a one-bedroom unit is expected to be about 900 square feet and that a two-bedroom unit is expected to be about 1,100 square feet, but does not refer to three-bedroom units, which are in the condominium buildings.)

(6) There shall be a one-story clubhouse building, of about 4,000 square feet, located as shown on the Plan, with the respective building setbacks shown on the Plan. The clubhouse shall include the uses shown on the clubhouse floor plan submitted as a part of the Plan, including a community room, recreation room, offices, conference room, garage, kitchen, mailroom and similar uses. The clubhouse shall be constructed and available for use as a part of Phase 1 of the Development.

(7) The residential portion of the Development shall include the outdoor recreation facilities shown on the Plan, these being an outdoor basketball court, pickleball court and a community garden and patio area, to be completed in Phase 1.

(8) Section 18.4(c), with respect to site amenities in an M-PUD District, identifies desirable site amenities and features, including, among others, bicycle parking structures or locations; sidewalk planters and outdoor seating areas; ponds or other water features; and the like. In this regard, the applicant has agreed to include in each phase of the Development, additional site amenities such as those stated above in this paragraph, and others as the applicant may choose, consistent with Section 18.4(c) of the M-PUD District.

(9) In view of the extended period of time during which the Development is expected to proceed and be completed, it is understood that dimensional and

similar changes that are not material or significant in relation to the entire Development may be requested by the applicant. The Planning Commission is authorized to consider and approve such type of changes in the Plan, in site plan review proceedings.

(e) *Site Access; Streets; Driveway to Adjacent Land.*

(1) Access to the Development shall be by means of the two entry/exit locations off Ten Mile Road, as shown on the Plan. The location, width and configuration of each entrance shall be subject to the approval of the County Road Commission. If required by the Road Commission, the applicant shall construct acceleration/deceleration lanes at the 10-Mile Road entrances, to Road Commission specifications, and shall permit any part thereof to be located within the frontage portion of the Development site.

(2) As noted above, the streets in the Development shall be private streets. They shall be given names that are not similar to those of other streets in the Township; the street names shall be subject to County Road Commission approval. The right-of-way for the entire length of the private streets shall be 66 feet wide. The traveled portion of the private streets shall be not less than 26 feet. The private streets shall be designed and constructed according to Township private street specifications, and shall be subject to Township inspection and approval.

(3) The private street extending directly off 10-Mile Road and which loops around Outlots A, B and C, and that part of the other private street that extends northerly to a point of termination in Phase 1 at the northerly edge of the south driveway to the clubhouse, shall be fully completed and available for use in Phase 1.

(4) A private street maintenance agreement shall be required, to be signed by all parties having any legal interest in the lands to be served by the private streets in

the Development. The agreement shall be in such form as to constitute a restrictive covenant, binding upon all current and future owners and other parties in interest in the lands to be served by the private streets. The private street maintenance agreement shall be subject to Township approval, prior to recording. The private street maintenance agreement covering the private street adjacent to the outlots and extending directly from 10-Mile Road shall be completed, approved and recorded prior to construction of any part of the private street.

(5) That part of the other private street in the Development that is included in Phase 2, and which is shown on the Plan to commence at the northerly edge of the south driveway to the clubhouse, shall be the subject of a private street maintenance agreement acceptable to the Township. It is understood that the street may be constructed in segments, over time, as groups of the approved buildings to be served by the street are completed.

(6) As shown on the Plan, there shall be a vehicle access drive, at least 26 feet wide, from the west line of the Development, off the private street serving the outlots, to the Meijer PUD lands to the west. The driveway shall be designed and constructed to serve as a convenient cross-access route for travel by vehicles between the Development and the commercial and other lands to the west, thus avoiding the use of 10-Mile Road for such short-term travel. In view of the ownership of lands on the Meijer PUD-side of the driveway, as shown on the PUD plan, it is understood that the location of the driveway to the Meijer PUD lands may change, but the applicant shall, nevertheless, in consultation with the Township, provide for such a driveway connection at a convenient location for public use. The access driveway shall be constructed by the applicant, at its expense, to the adjacent property on the west at such time as the location of the cross-access drive connection to the property to the west is determined as to location and approved by the Township, and when a construction schedule

has been established for that part of the cross-access drive to be located on the adjacent property to the west.

(f) *Off-Street Motor Vehicle Parking and Circulation.*

(1) All driveway access to, and motor vehicle parking and circulation within, the commercial outlots shall be subject to site plan review and approval by the Planning Commission.

(2) The off-street parking areas and parking spaces, including the garages and spaces therein, shall be as shown on the Plan, except that the Plan shall be corrected to indicate 644 total required parking spaces and 759 total spaces being provided. The width of all driveways into the off-street parking areas shall be at least 24 feet. The width between rows of parking spaces and garages shall be as shown on the Plan, but in any event shall be not less than 24 feet. Other dimensions within the residential off-street parking spaces shall be as indicated on the Plan.

(3) Each outdoor parking space shall be 10 feet wide by 18 feet long; each garage stall space shall be 11 feet wide by 22 feet long.

(4) All driveways, parking areas and other locations for the driving or parking of motor vehicles shall be paved in accordance with Township requirements.

(5) Barrier-free off-street parking spaces shall be provided in accordance with applicable requirements for such parking spaces. At least one barrier-free parking space shall be provided in the clubhouse parking lot.

(g) *Sanitary Sewer Service and Public Water Supply.*

(1) The Development shall be served by the public sanitary sewer system and the public water supply, in accordance with Township ordinance requirements and subject to the approval of the Township engineer. The site utilities plan submitted as a part of the Plan shall be subject to Township engineer approval. The notation on the site utilities plan, to the effect that the Township would pay for the upsizing, from eight inches to 16 inches, of a proposed 16-inch water main extending from Ten Mile Road to the north property line of the Development, is not approved by this ordinance, and shall be subject to subsequent Township Board consideration.

(2) The Township and the applicant propose to enter into a Development Agreement concerning the Development, whereby public sanitary sewer service and public water supply service would be provided to the Development, upon stated terms and conditions, and whereby the applicant would agree to pay the cost of specified public sanitary sewer and public water supply system infrastructure, and other costs, and whereby the applicant would agree to other obligations with respect to public sanitary sewer service and public water supply service for the Development. Accordingly, it is a condition of this Ordinance that the applicant fully and timely comply with the provisions of the Development Agreement and other applicable agreements, if any, once executed by the applicant and the Township.

(h) *Surface Water Drainage.*

(1) The drainage of surface waters within and for the Development shall be accomplished by storm sewers, storm water discharge, storm water detention ponds and other means of storm water control and dispersion, as indicated on the site plan, but subject to the Township storm water ordinance and the approval of the Township engineer.

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

(3) The storm water drainage system shall be subject to the issuance of a Township storm water permit, under the Township storm water ordinance. The applicant shall fully and timely comply with all of the terms and provisions of the storm water permit.

(4) If required by the Township engineer, the applicant shall submit further information and detail concerning the storm water drainage system, storm water volume calculations and other aspects of the design and projected operation of the storm water drainage system, including the various proposed elements thereof. Any discharge of storm water drainage to the wetlands shown within the Development shall be subject to applicable State of Michigan requirements, including permits for such purpose, if required by law or State regulation.

(i) *Landscaping.*

(1) The applicant has submitted a landscape plan for the Development, dated July 29, 2016. The plan includes overall site landscaping for the residential portion of the Development, including landscaping associated with the apartment buildings, within and associated with the off-street parking areas, certain landscape plantings along the east property line and otherwise. Certain existing trees are indicated to remain. Other landscaping is shown along the Ten Mile Road frontage. The existing landscaping within the identified green space areas shall also remain.

(2) Landscaping within the five proposed outlots is not included in the landscape plan, and accordingly shall be subject to site plan review by the Planning Commission as each outlot or groups of outlots are the subject of applications for site plan review.

(3) The landscaping of the commercial outlots shall be subject to the applicable provisions of Chapter 27 of the zoning ordinance, including front yard landscaping, parking area landscaping, parking area perimeter landscaping, landscaped green belts and other matters, including the respective required numbers of canopy trees, evergreen trees, ornamental trees, shrubs and other vegetation, except that the required front yard landscaping on the 10-Mile Road side of Outlots A, B and C may consist of the existing wetlands and existing vegetation at that location.

(4) Additional landscape screening shall be planted along the east side of the condominium buildings, where necessary to obscure motor vehicle lights from view from the residential lands to the east and otherwise to buffer the lands and uses to the east.

(5) The landscape plan shall be amended to include typical standard planting specifications and continuing plant-maintenance procedures, to assure healthy plant conditions as required by Section 27.6.

(j) *Outdoor Lighting.*

(1) Outdoor lighting within and for the Development is regulated by Section 4.32 of the zoning ordinance and Section 18.4(d)(6) of the M-PUD District as to nonresidential land uses, and Section 18.4(e)(7) as to residential land uses. The provisions of Section 4.32 are subject to potential modification by the Planning Commission in site plan review under the terms of the M-PUD District.

(2) Under Section 4.32(c), all outdoor light fixtures shall be shielded and are to be fully cut-off fixtures, such that light emitted from the fixture is projected only below a horizontal plane running through the lowest point on the fixture where light is emitted. Outdoor lighting shall be such as not to produce any glare, nor spill onto adjacent properties or streets. Outdoor light fixtures shall not exceed a height of 20 feet.

(3) The applicant has submitted specifications as to the proposed lights and light fixtures within the Development and a photometric plan showing the levels of illumination resulting from the proposed light fixtures. The photometric plan is subject to Township engineer approval, consistent with Section 4.32 of the zoning ordinance and other applicable Township outdoor lighting requirements.

(4) The applicant shall submit further detail as to the placement of wall-mounted lighting on the residential buildings, and the particular placement of freestanding outdoor light fixtures. Such further detail shall include the height of outdoor light poles and confirmation that all such light fixtures shall be of the fully cut-off type. All such lighting detail shall be subject to the approval of the zoning administrator.

(k) *Signage.*

(1) The applicant has submitted drawings, with dimensions, of three proposed signs in and for the Development. The site layout plan (C-200) shows (1) a multi-tenant-name monument sign on the east side of the east driveway entrance; (2) an identification monument sign at the intersection of the looped private street for the Outlots and the private street to the north and west that provides access to the condominiums and most of the apartment buildings; and (3) an identification monument sign on the east side of the west entrance drive off 10 Mile Road.

(2) The monument signs stating the name of the Development are 9.33 feet wide by 5.58 feet high, or 52.07 square feet, as measured from the ground to the top of the sign and including the total width of the base of each sign, as shown on the applicant's sign drawing. The message portion of each monument sign is nine feet wide by 3.46 feet high, or 31.14 square feet. Each sign would be internally illuminated. The message area and height of each sign is within the requirements of Section 25.10 of the zoning ordinance. The signs are approved, in view of the substantial length of the frontage of the development on 10 Mile Road.

(3) The multi-tenant sign includes the name of the Development and spaces for signs of five potential commercial tenants. The sign is 9.33 feet wide and 15 feet high, or 139.95 square feet, as measured from the ground at the base of the sign and measuring the width at the outer edges of the sign base. The message portion of the multi-tenant sign is nine feet wide by 12.92 feet high, or 116.28 square feet.

(4) Signs in the commercial portion of an M-PUD District are regulated by Section 25.10 of the zoning ordinance. Under the terms of that section, as stated in Table 25.10, the maximum height of a ground sign is eight feet and the maximum size is 50 square feet; however, in the case of a ground sign that is a multi-tenant sign, the otherwise maximum size of 50 square feet may be increased, based on the number of commercial establishments identified, but in any event, not to exceed a total of 150 square feet. On the basis of this provision, the area of the multi-tenant sign is satisfactory, but the height considerably exceeds the maximum eight-foot height for a ground sign as permitted by Table 25.10. On recommendation of the Planning Commission, the height of the multi-tenant sign is approved as a modification of the maximum height otherwise required, in view of the number of businesses to be identified and the overall scope of the Development.

(5) Signs are required to be set back at least 10 feet from street rights-of-way. The Plan does not indicate the setbacks for the proposed signs, and accordingly it shall be amended to indicate at least a 10-foot sign setback from all street right-of-way lines.

(1) *Sidewalks; Pedestrian Pathway.*

(1) The Plan shows five-foot-wide sidewalks to be located along a portion of the westerly side of the private street that extends northerly from the looped private street, and as to a portion of that street, a sidewalk is shown to be located on the other side of the street, commencing approximately at the most northerly condominium building. The sidewalk extends into the most westerly off-street parking area in the residential portion. Similarly, a five-foot-wide sidewalk is shown along the easterly and northerly side of the looped private street.

(2) The sidewalks as shown on the Plan on one side of the private street in the residential portion of the Development are approved, at the locations shown. However, the sidewalk along the looped private street around the Outlots shall be constructed and maintained on both sides of that street, in view of the commercial land uses for the Outlots. The Plan shall be revised accordingly, and shall be re-submitted for zoning administrator review and approval.

(3) All sidewalks shall be constructed of concrete, and designed and otherwise constructed to Township sidewalk specifications. The sidewalks serving the Outlots in Phase 1 of the Development shall be constructed on each Outlot not later than the issuance of a certificate of occupancy for the building completed on each respective Outlot.

(4) Sidewalks in the residential portion of Phase 1 and in Phase 2 of the Development shall be constructed not later than the issuance of a certificate of occupancy for the first building to be completed in a group or other element of the residential buildings in Phase

2, or in accordance with such other deadline as may be specified by the Planning Commission in site plan review.

(5) A non-motorized trail shall be designed and constructed by the applicant, at its expense, across the entire 10-Mile Road frontage of the Development. The trail shall be at least five feet wide, but in any case, its width shall match the width of the existing non-motorized trail across the frontage of the Resurrection Life Church property, adjacent on the south. The trail shall be located so as to connect to the trail on the church property, either within the 10-Mile Road right-of-way, if approved by the county road commission, or within an acceptable easement given to the Township across the frontage of the Development. The trail shall be constructed to the specifications of other Township trails or as otherwise required by the Township to match the existing trail. The trail shall be constructed and completed not later than a date specified by the Township.

(6) At convenient points on the sidewalks along the private streets, there shall be clearly marked pedestrian crossings, including but not limited to the sidewalks serving the Outlots and the sidewalk portion located across the street from the condominium buildings. The number and location of the crosswalks shall be subject to the approval of the Planning Commission in site plan review.

(7) The applicant shall design and construct a pedestrian trail or pathway from the Development to the adjacent Resurrection Life Church property, to the east. The trail/pathway shall have an asphalt surface or similar hard surface and shall be at least five feet wide. It shall be constructed in accordance with typical specifications for similar pathways. The applicant and the Planning Commission shall confer as to an appropriate placement of the pathway, in view of the location of the church and the convenience of pedestrians. The pathway

shall be constructed and completed upon the completion of a reasonable number of dwelling units in the Development, as determined by the Planning Commission in site plan review. However, prior thereto, the applicant and the Planning Commission shall determine a projected location for the pathway, to assure that intervening construction in the Development does not foreclose a desirable future location for the pathway.

(m) *Refuse Disposal.*

(1) Each of the four apartment building groups shall include a screened dumpster, as shown on the Plan. The condominium buildings shall be served by a residential refuse-disposal service for pick-up and emptying of trash receptacles on a regular basis. Refuse from the use of the clubhouse building shall be accumulated in an appropriate waste receptacle and emptied regularly.

(2) Each dumpster for the apartment buildings shall be fully enclosed from view from all sides, except when the doors or gates are open for disposal of refuse or for the emptying of the dumpster. The applicant shall submit to the zoning administrator a drawing showing the detail of the screening for all of the dumpsters in the Development. A dumpster shall be installed, with appropriate screening, for each group of residential apartment buildings, not later than the issuance of a certificate of occupancy for the first building to be completed in each group of buildings.

(n) *Wetland Protection.* The Plan shows an existing wetland located along the north line of Ten Mile Road and extending northerly to the proposed southerly lines of Outlots A, B and C. A portion of the wetland appears to extend across the west entry driveway off Ten Mile Road. The applicant shall fully and timely comply with applicable State requirements regarding any interference or non-permitted impact as to the existing wetland, as a result of

proposed construction in the Development. A copy of all State permits with respect to the wetlands shall be obtained, and copies thereof shall be promptly submitted to the Township zoning office.

(o) *Undeveloped Open Space.* The Plan shows forested green space of about 18 acres, to be preserved between the north line of the Development and an area just north of the two northerly apartment groups; similarly, such undeveloped green space extends southerly from that location into the interior of the Development, between Group 1 and Group 4 of the apartment buildings, this latter portion of green space being shown to be about six acres. As indicated on the Plan, the entirety of these areas shall be undeveloped and shall remain in their natural state.

(p) *Condominium Buildings.*

(1) As noted, eight of the residential buildings, consisting of 32 dwelling units, in the Development are to be established on a condominium basis. Chapter 24 of the zoning ordinance provides required Township procedures for consideration and approval of condominiums by the Planning Commission and Township Board. Under Section 24.3(c), if a condominium is included in a planned unit development, the proposed condominium may be considered and approved as a part of the approval of the planned unit development.

(2) Under the terms of Section 24.3(c), the Township Board approves the condominium buildings and condominium dwelling units proposed for the Development, as the buildings and the sites thereof are shown in the Plan, together with approval as stated herein as to the applicable private streets and other elements of the Development that serve or would affect the condominium portion; provided, however, that this approval does not include approval of the condominium subdivision plan, the master deed or the condominium bylaws.

(3) Prior to any development of the condominium buildings and the sites thereof, the applicant shall submit the condominium subdivision plan, master deed and the condominium bylaws to the Township, for review by the Township attorney, in accordance with Chapter 24, the M-PUD District and the provisions of this ordinance. Such documents shall be submitted prior to their recording with the register of deeds. If, upon considering the same, the Township attorney requires changes, corrections, additions or deletions therein, the applicant shall comply with the same, and then submit revised documents for approval prior to recording. After recording, recorded copies of the instruments shall be promptly submitted to the Township zoning office.

(4) If the condominium portion of the Development, prior to construction, is changed sufficiently as to constitute a major amendment in the planned unit development, the consideration and approval of the revised condominium portion shall occur only by Planning Commission and Township Board action in accordance with Chapter 24 or, if applicable, under Section 24.3(c), if the revised condominium and a major amendment in the planned unit development are to be considered concurrently.

(q) *Fire Code Compliance; Township Fire Chief Requirements.*

(1) The Township has adopted the International Fire Code, the most recent addition of which is the 2015 edition. Accordingly, the Development shall comply in all applicable respects with the International Fire Code, including but not limited to Chapter 5, Fire Service Features; Chapter 6, Building Services and Systems; Chapter 9, Fire Protection Systems; Chapter 10, Means of Egress; and other applicable provisions concerning access roads for fire apparatus.

(2) The applicant shall comply with the requirements of the Township fire chief, as stated in the fire chief's memorandum to the Planning Commission, submitted prior to the public hearing on the Development. Further, the applicant shall confer with the fire chief on all aspects of the Development involving or which are subject to the requirements of the International Fire Code, to verify compliance. As the Development proceeds to be constructed, perhaps over some period of years, subsequent editions of the International Fire Code may be adopted, and in that case, elements of the Development to be constructed thereafter shall comply with the then-applicable edition of the fire code.

(3) The issuance of a certificate of occupancy by the Township building official as to any building in the Development shall be subject to prior compliance with all applicable fire code requirements as to the building and fire department access thereto, and other applicable requirements as to fire suppression and emergency rescue.

(r) *Phasing of Construction.*

(1) As noted above, the Development is proposed to be constructed in two phases. The first phase would consist of the commercial Outlots, and the initial group of apartment buildings and off-street parking areas located adjacent to the looped private street, and also the clubhouse building. As a part of that phase, the applicant shall complete the entire length of the private streets providing access to the parcels and buildings within that phase, as shown on the Plan, together with public utilities, sidewalks (except as stated in subsection (1)(3)), storm water drainage, outdoor lighting, signage, and all other elements and structures within or otherwise applicable to Phase 1.

(2) Because the Development is proposed and is being approved as a mixed-use development, the construction and use of the commercial Outlots, or some approved

portion thereof, shall take place reasonably concurrently with construction of all or some approved portion of the residential portion of Phase 1 and/or Phase 2. In considering site plan review and approval of the Outlots or any of them, and/or the residential portion of Phase 1, the Planning Commission shall determine what portion of the residential part of Phase 1 and/or Phase 2 shall be constructed and completed concurrently with what portion of the commercial Outlots, or vice versa, as the case may be; but in doing so, the Planning Commission shall take account of the fact that the commercial Outlots will ultimately be owned by other parties, not the applicant, and so the applicant may have only limited ability to cause a given number of Outlots to be developed at a given time, and, further, conditions in the local real estate market will likely influence the progress of development of the Outlots. Nevertheless, the applicant has acknowledged the importance of the essential mixed-use nature of the Development, and has pledged its cooperation to that end, with a view toward ensuring a continuing reasonable balance between residential use and commercial use within the Development.

(3) Likewise, as additional portions of the Development are constructed, including greater numbers of the commercial Outlots or greater residential development, the Planning Commission in site plan review shall determine whether some further portion of residential development, or commercial development, shall be required, though the Commission shall take account of the qualifying factors stated in above in (2).

(s) *Emergency Access.*

(1) The buildings, street access, motor vehicle circulation, placement and sufficiency of driveways, intersections and other aspects of the vehicle circulation system and the Plan shall be subject to the approval of the Township fire chief, or the chief's designee, as to safe and convenient access for fire department and other emergency vehicles, to and from

the Development and for vehicle circulation and building access within the Development, consistent with the applicable provisions of the International Fire Code, which is in effect in the Township.

(2) Following review of the Plan by the fire chief or the chief's designee, the fire chief's written approval or other comments shall be submitted in writing to the Township zoning office. Any requirements of the fire chief with respect to emergency access, fire suppression water supply and related fire department and rescue matters, consistent with the International Fire Code, as in effect in the Township, shall be complied with by the applicant.

(t) *Performance Guarantee.*

(1) Under Section 18.7 and Section 11.10 of the zoning ordinance and, in addition, Section 23.9 with respect to approval of site plans, the Planning Commission and Township Board may require a reasonable performance guarantee in the form of a performance bond, letter of credit or other written assurance, conditioned upon the applicant's faithful compliance with all of the terms and provisions of this ordinance and the applicable provisions of the M-PUD District.

(2) The performance bond or letter of credit shall be in such amount as would be sufficient to cover the cost of layout, construction and completion of all common facilities within portions of the Development that are being constructed at a given time, including motor vehicle parking and circulation areas, water and sewer systems, the storm water drainage system, outdoor lighting, sidewalks, measures and facilities for soil erosion protection, as well as other common facilities.

(3) Upon request, the Township engineer shall calculate the estimated cost of layout, construction, maintenance and completion of the required protective measures and

common facilities within relevant portions of the Development and associated with the permitted uses therein. Such amount so determined shall be the required amount for a performance bond or letter of credit to be submitted by the applicant as to the portion of the Development involved. The performance bond or letter of credit, in form and content satisfactory to the Township, shall be submitted by the applicant prior to the issuance of a zoning permit or a building permit for the relevant portion of Development.

From time to time, as components of the Development are satisfactorily completed, the Township, upon decision by the Township supervisor, zoning administrator and Township clerk's office, working with the Township engineer, shall release or discharge appropriate portions of the amounts secured by the performance bond or letter of credit.

(u) *Other Matters.*

(1) The applicant shall comply with the requirements of the Township planner as stated in the planner's memorandum of August 11, 2016.

(2) The applicant shall likewise comply with the requirements of the Township engineer as stated in the engineer's letters of July 15 and August 12, 2016.

(3) The applicant shall comply with the requirements of the Township Site Plan Review Committee as stated in the Committee's report of August 9, 2016, except as to such matters as may otherwise be specified in the terms of this ordinance.

(4) The Development shall comply with all applicable provisions of Chapter 18 of the Township zoning ordinance, covering the M-PUD District, except as to such provisions therein as have been modified by the terms of this ordinance, and with respect to those matters, the terms of this ordinance shall control.

(5) That part of the lands in the Development that are located in the Ten Mile Road Corridor Overlay District, shall comply with the terms of that district. In considering site plan review for that part of the Development located within the Overlay District, the Planning Commission shall consider and apply the applicable requirements of the Overlay District.

Section 3. ***Findings Under Section 18.5.*** Upon considering the Development and the Plan, together with the other materials and information submitted by the applicant, the Planning Commission makes the following findings with respect to the Development, as those required findings are specified in Section 11.8(h) of the zoning ordinance, upon the assumption that all of the requirements herein will be fully and timely complied with:

(a) Approval of the planned unit development will result in a recognizable and substantial benefit to the users thereof and to the Township, and such benefit would otherwise be unlikely to be achieved.

(b) The proposed type and density of the commercial and residential uses would not result in an undue burden or need for public services, facilities and utilities, other than the specific utilities and other public arrangements that are proposed to be installed or augmented in order to adequately serve the Development.

(c) The Development would be compatible with the Township Master Plan and would be consistent with the intent and purposes of the M-PUD District.

(d) The Development would not substantially change the essential character of the surrounding area.

(e) The Development would not result in significant adverse effects upon adjacent or nearby lands.

(f) The Development would be suitably protective of wetlands, steep slopes and other topographical features.

(g) The Development would preserve and maintain significant open space, to be left in an undeveloped condition.

(h) The Development would be suitably set back from the adjacent Ten Mile Road.

(i) The Development includes an adequate extent of sidewalks, to promote ease of walking by pedestrians throughout the Development.

(j) The Development would otherwise advance land development and preservation, in the form of a mixed-use development, as contemplated under the terms of the M-PUD District.

Section 4. ***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 applicant 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 applicant 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 applicant 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 5. ***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: Powell, Ellenwood, Clary, W. Bigney, Pickerd, J. Bigney.

NAYS: None.

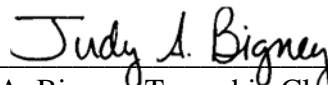
ABSTAIN: Wilson.

ORDINANCE DECLARED ADOPTED.



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, Township Clerk