

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 12th day of November, 2002, 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 Ellenwood:

ORDINANCE NO. 208

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

**[Russell Ridge Open Space Planned Unit Development –
(Belcover Properties)]**

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-R Rural Residential District to the Open Space Planned Unit Development District, in accordance with the Preliminary Development Plan of the Russell Ridge Open Space Planned Unit Development, subject to all of the terms and conditions of this Ordinance:

That part of the South 1/4 of the South 1/2 of the Southwest 1/4 lying Easterly of the Easterly line of the Penn Central Railroad right of way, Section 1; that part of the North 1/2 of the Northwest 1/4 of Section 12 lying Easterly of the M.N. Railroad right of way; the Southeast 1/4 of the Northwest 1/4 of Section 12 lying Easterly of the Easterly line of the Penn Central Railroad right of way; and the West 1/2 of the Northeast 1/4 of Section 12; all in Town 9 North, Range 11 West, Algoma Township, Kent County, Michigan.

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

Upon reviewing the Preliminary Development Plan, the Township Board determines that the Development, if developed in accordance with this Ordinance, would have the following desirable characteristics and would achieve the following land use objectives:

- (1) The development would encourage the creative development of land through the use of common open space areas, including natural/wetland areas, landscape parks and playground areas, green space areas and conservation easements.
- (2) The development shows a flexibility and innovation in design.
- (3) The development would promote the efficient use of land and would make possible an economic arrangement of buildings and other elements of land use.

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

(1) Development Plan. The Russell Ridge Planned Unit Development (the "Development") shall comply in all respects with the Preliminary Development Plan having a last revision date of October 31, 2002, as changed, revised or modified by this Ordinance (the "Plan").

(2) Unit Areas; Buildings; Site Access.

(a) The Development consists of 112 detached single-family dwelling units, each located on a single site condominium unit, and also 50 attached condominium dwelling units, located in 25 duplex buildings, each consisting of two dwellings. Each unit shall have the area shown on the Plan and shall be located as shown on the Plan. The minimum unit width for the

single-family site condominium units shall be as shown on the Plan and the minimum yard sizes for such units shall be as follows:

Front yard – 30 feet

Side Yard (not along street right-of-way) – 10 feet

Side Yard (along street right-of-way) – 25 feet

Rear yard – 30 feet

The Township Board concludes that the reduction in the minimum lot width from the minimum lot width requirement specified in the R-R Rural Residential District, to the various lesser widths shown on the Plan, is reasonable in view of the area of usable open space otherwise provided in the Development, and in view of the other amenities shown in the Plan.

(b) The area of the units in the Development, as shown in the Plan, shall be as shown in the Plan. Under the terms of Section 21.5 of the Zoning Ordinance, the Township Board has considered the building density represented in the Development, as compared to the maximum permissible densities under the R-R District. The Township Board concludes that the building density in the Development is appropriate under all of the circumstances, in view of the dedicated open space, required landscaping, natural areas and other amenities of the Development.

(c) Internal traffic circulation throughout the Development shall be by means of private streets to be constructed by the Developer and located as shown on the Plan. The right-of-way shall have a width of 66 feet, the travel width of the streets shall be 24 feet (26 feet if storm water drainage is included with valley gutters), and the streets shall be paved with bituminous pavement and a sufficient aggregate base. The street grade shall not exceed 8%. All aspects of the private streets shall comply with the private street requirements of the Township Zoning Ordinance.

(d) The private streets shall be maintained, repaired, replaced and snow-plowed so as to afford continuous access and unimpeded passage for vehicles (including emergency vehicles) under all weather conditions. The Master Deed and Condominium Bylaws shall have provisions requiring maintenance of the streets in accordance with this Ordinance and the other provisions of the Township ordinances pertaining to private streets.

(e) The private streets shall have names approved by the Kent County Road Commission. The street names currently indicated on the Plan shall be changed as follows: Russell Ridge Court shall be named Russell Way Court; Ives Circle Drive shall be renamed Ives Circle West from the south lines of Units 42 and 54 and extending northerly to the east lines of Units 88 and 106; that part of Ives Circle Drive commencing at the easterly lines of Units 88 and 106 and continuing south and southeasterly to Russell Ridge Drive shall continue to be named Ives Circle Drive; William Woods Drive shall be renamed Ives Circle Drive, so as to be a continuation of Ives Circle Drive from the intersection of Russell Ridge Drive and extending southeasterly and easterly to Russell Woods Drive.

Street-name signs shall be placed at approximately the east lines of Units 88 and 106, one of such signs to indicate Ives Circle West, with an arrow or other symbol indicating a westerly direction, and the other such sign shall indicate Ives Circle Drive, with an arrow or other symbol indicating an easterly direction.

The intersections of the private streets with Russell Street shall be constructed in accordance with Kent County Road Commission requirements.

(3) Sanitary Sewer Service and Water Supply.

(a) The Development shall be served by individual private water wells and by a privately-owned community septic system approved by the Kent County Health

Department. The sanitary sewer system and connections thereto shall be subject to all state and county health department requirements.

(b) It is acknowledged that State regulations require, as a condition of approval of a privately-owned sanitary sewer system, that the Township agree to guarantee proper operation of the system, should the private parties responsible therefor fail to do so. The approval of this Ordinance with respect to the zoning of the lands shall not require the Township Board to approve the proposed community sewage disposal system unless and until the Board is satisfied, in its sole discretion, that such undertaking is not contrary to the public interest, and that an agreement satisfactory to the Township Board has been reached with the Developer with respect to such undertaking.

The Master Deed and Condominium Bylaws shall contain provisions for proper continued operation of the system, and provisions constituting a petition and authorization for the Township to levy special assessments on benefitted units for repair, maintenance and replacement of the system should the Township or another governmental entity ever take responsibility for the system. The Master Deed and Condominium Bylaws shall also require that each lot and unit in the Development shall be served by the community septic system.

(c) The community sewer system treatment facility shall be located as shown on the Plan, within Phase 1 of the Development. The treatment facility shall be of the type and shall have such features as are indicated in the Wastewater Treatment Plan submitted by the applicant, all of which shall be subject to the approval of the Township Engineer and, as provided by law, the State Department of Environmental Quality and other authorities having jurisdiction.

(d) Landscaping, consisting of trees, shrubs and the like, shall be planted around all of the sides of the sanitary sewage treatment facility, located southerly of the rear lines

of Units 36 through 41 and 55 through 60, and the Plan shall be revised to indicate such landscaping. The plantings shall be for the purpose of shielding the sanitary sewage treatment facility from view from other lands, and accordingly, the trees and other vegetation shall be of such height and shall be so placed as to serve as a substantial obscuring screen or buffer. Such landscaping shall always be maintained in good condition, and any dead or diseased trees or other vegetation shall be promptly removed and replaced. The applicant shall have the obligation to plant and establish the landscaped buffer, and shall have the obligation to maintain the same until the development is turned over to the condominium association, at which time the obligations of maintenance and replacement shall be those of the condominium association. Such obligations on the part of the association shall be provided for in the condominium documents.

(4) Surface Water Drainage.

(a) The drainage of surface waters shall be accomplished by leaching basins, storm sewers, designated drainage areas, culverts, and other means, as indicated in the Plan.

(b) The use of the surface water drainage system in the Development and the discharge of waters from the storm sewer system and other elements of the surface water drainage system shall be designed, engineered and carried out so as to have no significant adverse effect upon adjacent or nearby lands or surface waters, or upon wetlands or surface waters within the Development, by reason of erosion, pollution or otherwise.

(c) The Condominium Master Deed and Bylaws shall require that all facilities for storm water management be regularly maintained in proper functioning condition.

(d) The surface water drainage plan and system shall be subject to the Township Storm Water Ordinance and subject to the approval of the Township Engineer.

(e) The Condominium Master Deed and Bylaws shall disclose the location of the Cedar Springs drain field, to the extent such drain field is located on lands adjacent to the Development.

(5) Soil Erosion and Sedimentation Control; Site Grading. In the construction and use of the Development, the Developer shall comply in all respects with any required soil erosion and sedimentation 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 lawns and other landscaped areas are established.

(6) 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 to any extent without the approval of the Department of Natural Resources, 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 and the waters of any wetland areas.

(7) Utilities. All utility service within the Development shall be by means of underground facilities. The Master Deed shall reserve easements for future private and public utility service, including water and sewer, within the private road right-of-way and within 10 feet on both sides thereof.

(8) Building Floor Area.

(a) All dwellings shall be built upon a full basement and foundation. There shall be a minimum floor area of at least 1,000 square feet for all single-family dwellings and a minimum floor area of 900 square feet for each dwelling unit in the two-family dwellings. The

buildings shall otherwise comply with the floor area requirements for the R-R Rural Residential District contained in Zoning Ordinance Section 6.3(7).

(9) Signs. One sign identifying the Development may be located at each of the two entrances to the Development off Russell Street. Each sign shall be no larger than 36 square feet and shall be no higher than 6 feet. Such signs shall, however, be subject to the further approval of the Planning Commission as to height, size, placement and other features thereof. Additionally, one temporary sign pertaining to the sale of the premises upon which it is placed may be allowed provided it does not exceed 32 square feet in total area.

(10) Outdoor Lighting. Street lights shall be installed in accordance with a street lighting plan to be submitted to the Planning Commission for approval. Such street lights as are to be installed shall be installed in accordance with the requirements of the public utility providing such lighting. Street lights shall be installed at the expense of the Developer, and the cost of operation thereof shall be paid by the unit owners. Street lights shall be of such design and height so as to minimize splashing or glare of light into the sky.

(11) Open Space Area and Landscaping.

(a) Within those areas designated as open space (including areas designated as green space, natural area or park and recreation area) on the Plan, no buildings, structures or other improvements shall be constructed, nor shall trees or vegetation be removed, except to construct the natural walking paths, trail improvements and playground areas as shown on the Plan. The Condominium Master Deed and Bylaws shall contain provisions preserving these areas as open space in perpetuity, and requiring that the walking path be maintained in a usable condition.

(b) Playground areas, as shown on the Plan, shall include customary playground equipment and similar equipment. The play area shown in the western portion of the Development shall be completed not later than the completion of Phase I. The play area in the eastern portion of the Development shall be completed no later than the completion of Phase III. The maintenance and upkeep of the play areas shall be provided for in the condominium documents.

(c) The sanitary sewer and system isolation areas shall be as shown on the Plan or as may be required by the Department of Environmental Quality or other agency having jurisdiction. The Condominium Master Deed and Bylaws shall contain provisions matching the restrictions imposed by the DEQ and other appropriate restrictions upon those units which lie partially in the isolation areas.

(d) Storm water detention areas shall be located and installed as necessary, subject to the approval of the Township's consulting engineers, with regard to design, construction and operation.

(e) Provisions for the perpetual maintenance of the open space and other natural areas within the Development shall be included in the Master Deed and Bylaws or in separate restrictive covenants. Such instruments shall be subject to the approval of the Township Attorney prior to recording.

(f) At least 40 evergreen trees, each of them to be six to eight feet tall when planted, shall be placed in the northwesterly portion of the Development, along the White Pine Trail, north of the storm water retention area. The trees shall be planted in a staggered- row fashion, as shown on the revised Plan in an area extending from the north line of Unit 90 to the South line of Unit 93.

(g) There shall be a 30-foot wide buffer strip consisting of evergreen trees, each of them four to six feet in height when planted, and located along the east line of the development as shown in the revised Plan. The evergreen trees shall be spaced 15 feet apart. The buffer strip shall also include shrubs of a height of three feet when planted, and spaced not more than five feet apart.

(12) Sidewalks. Sidewalks shall be installed as indicated in the Plan. Sidewalks shall be 4 feet in width and shall be located on one side of the road, as indicated in the Plan. Additionally, all pedestrian walking trails shall be installed and constructed at the location shown on the Plan.

(13) Underlying Zoning. Except as modified herein, the requirements of the R-R Rural Residential Zoning District shall apply to the Development.

(14) Approval of Site Condominium, Master Deed and Bylaws.

The Township Board hereby approves the Russell Ridge Site Condominium and the Condominium Plan, subject to the terms and conditions of this Ordinance.

As to any requirements required herein to be included in the Master Deed and/or Condominium Bylaws, such instruments shall specifically list such requirements and shall provide that the same shall not thereafter be amended or deleted without the written approval of the Planning Commission and Township Board. Such provisions shall be reviewed by the Township Attorney before recording, so as to verify their compliance with this subparagraph and this Ordinance.

There shall be no provisions of the Master Deed or Condominium Bylaws which are contrary to or at variance with the provisions of this Ordinance or which would in any way hinder the enforcement of this Ordinance. To the extent that any such Master Deed or Condominium Bylaw provisions may be contrary to or at variance with any of the provisions of this Ordinance, the same

shall be applicable only to the extent permitted by the terms hereof. The Master Deed and Bylaws shall make express reference to this Ordinance and state that use of property within the Development is subject to this Ordinance, notwithstanding anything to the contrary in the Master Deed or Bylaws.

(15) Phasing.

(a) The Development may be constructed in phases, as shown on the Plan.

(b) Prior to the issuance of a building permit for a unit in a development phase, the streets, and sewer systems and the construction of common improvements in that phase shall be completed and approved, or a performance guarantee which complies with Township ordinance shall be furnished by the Developer. However, prior to the issuance of a certificate of occupancy for a unit, the sanitary sewer system shall be completed and approved and shall be extended to that unit and be ready for connection. A performance guarantee may not be provided in lieu of such completion and approval of the sewer system.

(16) Additional Requirements.

(a) All dwellings in the Development shall be numbered in reasonable numerical order, so as to promote ease of locating dwellings within the Development.

(b) Stop signs and other traffic signs in the Development shall be shown on the site plan and installed within the Development, as indicated on the Plan.

(c) Accessory buildings shall not be permitted in the area containing the condominium duplex buildings and shall only be allowed on the single family condominium units to the extent allowed under the R-R zoning district.

(d) The requirements stated in the memorandum of the Township Planner dated September 17, 2002 shall be complied with, except that wood chips need not be installed on the trails, but instead the trails may be seeded with a mixture of wildflower and grass seed.

(17) Findings by the Township Board. The Township Board determines that the conditions imposed herein are reasonably necessary to ensure that public services and facilities will be capable of accommodating the Development, that the natural environment and resources are preserved, that the Development is reasonably compatible with other residential land uses, and that land be used in a socially and economically desirable manner. Furthermore, it is determined that the conditions are designed to protect natural resources, health, safety and welfare, are necessary to meet the intent and purposes of the zoning ordinance, are related to the standards established for the Development and are related to the valid exercise of the police power.

Section 3. Enforcement. 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.

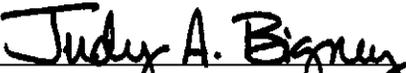
In the event that the applicant shall fail to carry out, either at all or on a timely basis, any provision or requirement of this Ordinance or other applicable law, ordinance or regulation, the Township may through its Building Inspector or other Township agency issue and post a stop work order at the 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 Township ordinances, regulations or State laws. Upon the issuance of such stop work order, the applicant 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 as to 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 all other lawful means of enforcement.

Section 4. Publication/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

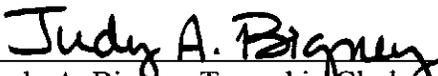
ORDINANCE DECLARED ADOPTED.



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, Township Clerk