

**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 14th day of December, 2004, at 7:00 p.m.

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

ABSENT: Members: None

The following ordinance was offered by Member W. Bigney and supported by Member Gilcrest:

**ORDINANCE NO. 227**

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

**[Cottages on the Rogue Site Condominium Planned Unit Development –  
Rockford Development Group]**

THE TOWNSHIP OF ALGOMA ORDAINS:

Section 1. *Open Space Planned Unit Development.* The Zoning Ordinance and Zoning Map of the Township of Algoma are hereby amended so as to rezone the following described lands from the R-A Rural Agricultural District and the N-R Natural River District to the Open Space Planned Unit Development (OS-PUD) District, in accordance with the Final Development Plan of the Cottages on the Rogue Site Condominium Planned Unit Development, subject to all of the terms and conditions of this Ordinance:

That part of the East 1/2 of the Southwest 1/4 of Section 28, Town 9 North, Range 11 West, lying East of the Rogue River, except the South 440 feet thereof.

And also, that part of the West 1/2 of the Southeast 1/4 of Section 28, Town 9 North, Range 11 West, lying South of the Rogue River, except the South 440 feet of the

West 349.0 feet of the Southwest 1/4 of the Southeast 1/4 of said Section 28, 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 Final 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, trail systems, and green space areas.
- (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 Cottages on the Rogue Site Condominium Planned Unit Development (the "Development") shall comply in all respects with the Final Development Plan (the "Plan") having a last revision date of November 22, 2004, as changed, revised or modified by this Ordinance.

(2)     Unit Areas; Buildings; Site Access.

(a)     The Development consists of 29 detached single-family dwellings, each located on a single site condominium unit. All dwellings in the Development shall be stick-built; there shall be no modular homes or manufactured homes. Each unit shall have the area shown on the

Plan and shall be located as shown on the Plan. The minimum unit width for each condominium unit shall be at least 120 feet at the minimum building setback line, as shown on the Plan. The minimum building setbacks for such units shall be as follows:

Front yard – 30 feet

Side Yard – 10 feet

Rear yard – 30 feet

The Township Board concludes that the reduction in the minimum unit width from the minimum lot width requirement specified in the R-A Rural Agricultural District and from the N-R Natural River District, where applicable, 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.

Setbacks from the river, in areas formerly within the Natural River District, are hereby approved as shown in the Plan, as to buildings and private sewage disposal facilities.

(b) The area of the units in the Development shall be as shown in the Plan. Under the terms of Section 11.5 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-A 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. The Township Board further concludes that the building density will not produce adverse traffic conditions or an undue burden on public facilities.

Except as stated in this subparagraph, there shall be no detached accessory buildings within the Development. All garages shall be attached dwellings; no garage shall be smaller than 400 square feet. There may be a gazebo and boat house with canoe launch, as shown on the Plan.

The gazebo shall have a diameter, measured between its widest points, no greater than 28 feet. The boat house shall be one story and have an area no greater than about 30 feet by 50 feet.

(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 Booth Bay Circle street right-of-way shall have a width of 40 feet and the width of the paved portion of the street shall be 26 feet, including 4 feet for valley gutters. The private streets identified as access drives or "courts" shall have a right-of-way width of 25 feet, and the width of the paved portion of the courts shall be 16 feet. The streets shall be paved with bituminous pavement of at least 3-1/2 inches in depth, and a sufficient aggregate base.

The foregoing modifications of the private streets are made in accordance with Section 11.6, after a consideration of the factors listed in that section. It is hereby determined that the modifications will provide for an enhanced neighborhood atmosphere, will not compromise traffic or emergency vehicle safety and will improve the overall Development.

Street grades on the streets in the Development shall not exceed 8%.

Except as otherwise provided in this Ordinance, the private streets shall comply with the private street provisions of the Township Zoning Ordinance and shall be subject to the approval of the Township Engineer.

(d) The private streets shall be maintained, repaired, replaced and snowplowed 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 provisions of the Township Zoning Ordinances pertaining to private streets.

(e) The private streets shall have names approved by the Kent County Road Commission and the intersections of the private streets shall be constructed in accordance with Kent County Road Commission requirements.

(f) The driveways to the dwellings on units that have frontage on both Booth Bay Circle and on the access drives identified as "courts" shall extend off the courts only.

(3) Sanitary Sewer Service and Water Supply.

(a) Each condominium unit in the Development shall be served by an individual private water well and an individual septic tank and drainfield system approved by the Kent County Health Department and in compliance with the Township building code and other applicable Township regulations.

(b) The Master Deed or Condominium Bylaws shall require that the buildings in the Development shall be connected to public water and/or sewer if a system with available capacity is located anywhere within the public right-of-way adjacent to the Development. The cost of constructing a sewer collection and/or water distribution system within the Development shall be borne by the owners of the units therein. Such systems shall be constructed in compliance with the Township's customary specifications and shall be dedicated to the Township or other public agency having jurisdiction when satisfactorily completed.

(c) Private septic tank and drainage systems shall be located not closer than 10 feet to any condominium unit line and not closer than 100 feet from any identified regulated wetland. Each septic tank and drainage system shall at all times be maintained in good order and working condition and in compliance with all applicable governmental requirements. The Master Deed or Condominium Bylaws shall require that all septic tank systems be pumped out at least once every two years. Written proof of such pumping shall be made available to the Township upon request.

(d) All wells installed for private water supply must penetrate an adequate protective continuous clay overburden of at least 10 feet in thickness, unless otherwise approved by the Kent County Health Department.

(4) Surface Water Drainage.

(a) The drainage of surface waters shall be accomplished by rain gardens, designated drainage areas, culverts, and other means, as indicated on the Plan. Storm water drainage shall be adequately controlled so that there are no adverse effects on lands in the Development or on adjacent or nearby lands by reason of excessive storm water runoff. Storm water drainage shall be controlled in compliance with the Township's Storm Water Ordinance.

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

(c) The storm water drainage plan and the design, construction and operation of the storm water drainage system shall comply in all respects with the Township Storm Water Ordinance. The drainage plan and storm water drainage system for the Development shall be reviewed by the Township Engineer and shall be subject to the Engineer's approval, under the terms of this ordinance and the Township Storm Water Ordinance.

(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. Trees located in wetland areas or in the Natural River District shall not be cut if they exceed in four inches in diameter; provided, however, dead, diseased, unsafe or fallen trees and noxious plants and shrubs may be removed.

(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. All dwellings shall be built upon a full basement and foundation. There shall be a minimum floor area of at least 1,280 square feet, exclusive of garage and open porches, for all single-family dwellings of one story. For a two-story dwelling, the fully enclosed main floor area shall be at least 780 square feet per floor, exclusive of garage and open porches. No multi-level dwellings shall have less than 1,280 square feet of fully enclosed floor area, exclusive of garage and open porches. Other permitted types of buildings shall comply with the floor area requirements for the R-A Rural Agricultural District stated in Section 5.6 of the zoning ordinance, except as stated in this ordinance.

(9) Signs. One sign identifying the Development may be located at the entrance to the Development off 11 Mile Road. The sign shall be ground mounted and may be illuminated. The area, height and all other aspects of the sign shall comply with the sign provisions of the R-A District. Further, signs shall be installed to mark trail openings, at locations to be shown on the site plan.

(10) Outdoor Lighting. Street lights shall be installed as shown on the Plan, in accordance with a street lighting plan to be submitted to the Planning Commission for approval. Such street lights are to 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 full cut-off fixtures, such that light emitted by the fixture are projected only below a horizontal plane running through the lowest point on the fixture where light is emitted.

(11) Landscaping.

(a) A landscaping plan shall be submitted to the Planning Commission for approval. All landscaping shall be in compliance with the provisions of Chapter 27 of the Zoning Ordinance. As part of the landscaping plan, the Developer shall submit details regarding the timing of the construction of the walking trails shown on the Plan, together with the materials and width of the trails and any benches, facilities or associated landscaping to be constructed as part of the trail system.

(b) No tree larger than 6 inches in diameter shall be removed from any unit, or otherwise within the Development, except as needed for construction of a dwelling or installation of a drain field; provided, however, that this provision shall not apply to such trees located within 50 feet of a dwelling.

(c) The existing trees specifically designated on the Plan shall be preserved.

(12) Open Space Areas.

(a) Areas designated as open space (including areas designated as green space, natural area or park and recreation area) on the Plan shall remain in a natural state, and no buildings, structures or other improvements shall be constructed, nor shall trees or vegetation be removed, except for the following:



(i) The open space areas near the entrance to the Development shall be cleared and landscaped as shown in the Plan.

(ii) Trees and vegetation shall be removed as necessary to maintain the quality of soil in the Development at a level acceptable to the Michigan Department of Environmental Quality.

(iii) The walking trails as shown in the Plan shall be constructed according to the landscaping plan.

(b) The Condominium Master Deed and Bylaws shall contain provisions preserving the open space areas in perpetuity, including the maintenance of the walking trails within the open space in a usable condition.

(c) 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.

(13) Approval of Site Condominium, Master Deed and Bylaws. The Township Board hereby approves the Cottages on the Rogue Site Condominium and the Plan of the Site Condominium, 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 other provisions of 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.

(14) Underlying Zoning. Except as modified herein, or in the approved Final Development Plan, the requirements of the R-A Rural Agricultural District shall apply to that portion of the Development previously zoned in the R-A District, and the requirements of the N-R Natural River District shall apply to that portion of the Development previously zoned in the N-R District.

(15) Construction of Common Improvements. No building permit shall be granted for any dwelling within the Development until the private streets have been completed and a certificate of compliance has been issued by the Township Clerk in the manner provided in Section 4.28(e) of the Zoning Ordinance, or until a performance guarantee assuring the completion of the private streets has been submitted in the manner provided in Section 4.28(f)(2) of the Zoning Ordinance. No certificate of occupancy shall be granted for any dwelling within the Development until the private streets and all amenities shown on the Plan, including the trail system, have been completed to the satisfaction of the Township.

(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 Plan and shall be installed as indicated on the Plan.

(c) The Developer shall comply with the requirements stated in the September 21, 2004, October 11, 2004 and November 11, 2004 reports of the Township Planner, including but not limited to providing adequate street cross-sections, rain garden information and information as to street lights, signs and landscaping. The Developer shall also comply with the requirements stated in the letters of the Township Engineer dated September 17, 2004 and October 19, 2004.

(d) The design, layout and construction of the entrance to the Development, including associated landscaping and berming, shall be as shown on the site entrance drawing submitted by the Applicant and showing a last revision date of November 16, 2004.

(e) The Development may have the identification sign shown on the sign drawing dated as of November 16, 2004, with the dimensions and placement shown on the drawing.

(f) Plantings and other features of the rain gardens shall be as shown on the rain garden plan submitted by the Applicant and dated as of November 16, 2004.

(17) Additional Findings.

(a) The Township Board hereby determines that open space planned unit development rezoning will result in recognizable and substantial benefit to the ultimate users of the Development and to the community, and such benefit would otherwise be unfeasible or unlikely to be achieved. The proposed type and density of use would not result in an undue burden upon public services, facilities and utilities, will be compatible with the Master Plan of the Township, and will be consistent with the intent and spirit of Chapter II of the Zoning Ordinance.

(b) It is further determined 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 compatible with adjacent land uses, and that the land will be used in a socially and economically desirable manner. Furthermore, it is determined that the conditions stated herein are designed to protect natural resources, public health, safety and welfare, are necessary to meet the intent and purposes of the zoning ordinance, and constitute a valid exercise of the Township's police power.

Section 3.     ***Enforcement.***

(a) 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 Zoning Administrator or other Township Official 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. 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.

(c) 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 be published in a local newspaper of general circulation within the Township. This Ordinance shall take effect seven days following such publication.

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