

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, N.E., within the Township, on the 12th day of October, 1999 at 7:00 p.m.

PRESENT: Members: Uplinger, Walkons, Ellenwood, Bigney, Spitsbergen

ABSENT: Members: None

The following preamble and resolution were offered by Member Ellenwood and supported by Member Bigney.

ORDINANCE NO. 176

**AN ORDINANCE to amend the Zoning Ordinance of the
Township of Algoma**

**[Meadow Creek Site Condominium Planned Unit Development –
Site Plan #9818 (Cross Development)]**

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-A Rural Agricultural District and the R-R Rural Residential District to the PUD Planned Unit Development District, in accordance with the Preliminary Development Plan of the Meadow Creek Site Condominium Planned Unit Development, subject to all of the terms and conditions of this Ordinance:

That part of the Southeast 1/4 of Section 34, described as: Commencing at the South 1/4 corner of said section; thence N00°16'35"W 40.00 feet along the North-South 1/4 line of said section to the Northerly line of 10 Mile Road (Northerly line of 10 Mile Road being 40.00 feet North of and parallel with the South line of said section) and the point of beginning; thence N00°16'35"W 2623.22 feet; thence N89°37'12"E 1334.50 feet along the East-West 1/4 line of said section; thence S00°15'33"E 2258.19 feet along the East line of the West 1/2 of the Southeast 1/4 of said section to a point which is N00°15'33"W 400.00 feet from the South line of said section; thence S89°24'15"W 365.00 feet parallel with the south line of said section; thence S00°15'33"E 360.00 feet; thence S89°24'15"W 98.49 feet along the Northerly right of way line of 10 Mile Road; thence N00°15'35"W 400.00 feet along the East line of the West 871.00 feet of the Southeast 1/4 of said section; thence S89°24'15"W 250.00 feet; thence N00°15'35"W 331.00 feet; thence S89°24'15"W 421.00 feet; thence S00°15'35"E 731.00 feet; thence S89°24'15"W 200.00 feet along the Northerly line of 10 Mile Road to the point of beginning, Town 9 North, Range 11 West, Algoma Township, Kent County, Michigan.

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

Upon reviewing the preliminary development plan, the Township Board determines that the planned unit 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 creative development of land, through the use of common open space areas, including wetland areas, a walking path and a proposed playground and park area.
- (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 Planned Unit Development (PUD) District, is expressly subject to all of the following terms and conditions:

(1) Development Plan. Meadow Creek Site Condominium Planned Unit Development (the "Development") shall comply in all respects with the Preliminary Development Plan having a last revision date of July 2, 1999, except where the Plan has been changed, revised or modified by this Ordinance, or as it may be modified during the process of final site development plan approval by the Planning Commission in accordance with Section 21.6(3) of the Zoning Ordinance.

(2) Unit Areas; Buildings; Site Access.

(a) The Development is a site condominium development. It shall have 84 residential units ("units") for one single-family, detached dwelling each. Each unit shall have the area and shall be located as shown on the Plan. The minimum unit width shall be as shown on the Plan. The minimum yard sizes shall be as follows:

Front yard – 35 feet

Rear yard – 30 feet

Side Yard – 10 feet for each side

Further, the Township Board concludes that the reduction in the minimum lot width from the minimum lot width requirement specified in the R-A and the R-R District, to the various lesser widths shown on the Preliminary Development 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 Preliminary Development Plan.

(b) The areas of the units in the Development, as shown on the Preliminary Development Plan, shall be an average of 16,600 square feet, which results in a building density of 1.24 dwellings per acre. Under the terms of Section 21.3 of the Zoning Ordinance, the Township Board has considered the building density increase represented in the Development, as compared to the maximum permissible densities under the R-A and R-R Districts. The Township Board concludes that such increase in building density 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 concludes under the terms of Section 21.3(1)(a) that such increase in building density would not produce adverse traffic conditions or an undue burden on public facilities, in view of the maximum number of dwellings that could be constructed within 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 22 feet (26 feet including valley gutters), and the streets shall be paved with bituminous pavement and a sufficient aggregate base. The street grade shall not exceed 8%.

(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 street in accordance with this Ordinance and the other provisions of Township ordinance pertaining to public streets.

(e) The private streets shall have names approved by the Kent County Road Commission.

(3) Sanitary Sewer Service and Water Supply.

(a) Each lot in the Development shall be served by a private septic tank and drainage system, located on the same unit as the dwelling connected thereto. All septic tanks and drainfield systems shall be subject to approval of the Kent County Health Department. The Master Deed and Condominium Bylaws shall provide that all septic tanks shall be pumped out at least once every four years. A written certification of completion of such periodic maintenance shall be provided to the Association of owners of units in the Development; such certification shall be made available to the Township Clerk upon request.

(b) Each lot in the Development shall be served by a privately-owned public water supply system, in accordance with all state and county health department requirements and subject to the approval of the Township Board. As a part of the establishment of the privately-owned public water supply system, the applicant shall enter into an agreement with the Township specifying the terms under which the Township may elect to assume ownership and operation of the system, should the same be necessary in the judgment of the Township Board. Such agreement shall be satisfactory in form and content to the Township Board. The approval of this Ordinance with respect to the zoning of the lands shall not require the Township Board to approve the proposed water supply system, until the Board is satisfied in its sole discretion with regard to all matters pertaining to the legal establishment and operation of that system. The water supply system shall be designed to facilitate connection to a public water system and shall be subject to the approval of the Township's consulting engineers. The Master Deed or Condominium Bylaws shall contain

provisions for 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.

(c) Fire hydrants, of a number, design and location approved by the Township Fire Chief and/or Engineer, shall be installed by the developer.

(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 approval of the Township Engineer.

(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 20 feet on both sides thereof.

(8) Building Floor Area.

(a) All dwellings shall be built upon a full basement and foundation. Each dwelling shall have minimum building floor area of 813 square feet on the main level of the dwelling, provided, however, that the total minimum floor area of dwellings in the development shall be subject to determination by the Planning Commission as a part of its approval of the final development plan.

(9) Signs. One sign identifying the Development may be located at each of the entrances to the Development off Ten Mile Road. Such signs shall, however, be subject to the further approval of the Planning Commission as to height, size, placement and other features thereof.

(10) Outdoor Lighting. Street lights shall be installed in accordance with the requirements of the public utility providing such lighting. The height of poles for outdoor lighting fixtures, the number and placement of street lighting poles and fixtures and other aspects of the outdoor lighting system shall be as specified by the local public utility. 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.

(a) Within those areas designated as “open space” 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 path, trail improvements and playground area as shown on the Plan. The natural walking path shall be cleared and plainly marked, and shall have a suitable surface so as to constitute a usable walking path. 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) A playground, including customary playground equipment, picnic tables and similar equipment may be installed approximately where shown on the Plan in the vicinity of the well site area.

(c) There shall be at least a 200-foot radius well isolation area around the location of the water supply wells serving the Development, or such additional isolation area 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 within the well isolation area, including but not limited to a requirement that all septic tanks and drainfields, and replacement areas therefor, be located outside of the isolation area.

(d) Stormwater detention areas shall be located as shown on the Plan. All such detention areas shall be subject to the approval of the Township's consulting engineers, with regard to design, construction and operation.

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

(12) Private Streets.

(a) The streets in the Development shall comply with all Township requirements for private streets.

(b) Vertical curves in the proposed roadway profiles must be designed to provide a safe stopping sight distance for a 25 mile per hour speed. Appropriate traffic control signs shall be installed.

(c) Approach grades for intersections shall be designed to provide a maximum grade of approximately 4% within a distance of 50 feet of the centerline in the intersection.

(d) The roadway approach grade for the proposed Algoma Vista Drive at 10 Mile Road shall be designed to provide as flat as possible a staging area, as approved by the Township Engineer, for cars waiting to turn onto 10 Mile Road.

(e) Guardrails or other appropriate safety devices or features shall be provided where roads are adjacent to drop offs, as approved by the Township Engineer.

(13) Sidewalks. Sidewalks shall be installed on one side of the streets in the Development as follows: The east side of Algoma Meadows Drive; the east side and the north side of Algoma Vista Drive; the east side of Algoma Vista Court; the east side of Daveleer Drive; and the south side of Algoma Pines Drive. Sidewalks shall be shown on the street construction plans. Sidewalks shall be constructed by each unit owner prior to issuance of a certificate of occupancy for the dwelling constructed on each unit. The condominium master deed or bylaws shall contain provisions requiring such sidewalk construction by the unit owner.

(14) Underlying Zoning. Except as modified herein, or in the Final Development Plan, the requirements of the R-A Zoning District shall apply to the Development.

(15) Master Deed and Bylaws. 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.

(16) Phasing.

(a) The Development may be constructed in two phases as shown on the Plan. The first phase shall consist of Units 1-50, and the second phase of Units 51-84.

(b) No building permit shall be granted for any unit until the community water system is completed and approved, and the water distribution system is extended to that unit and ready for connection. A performance guaranty may not be provided in lieu of such completion.

(c) Prior to a building permit and/or certificate of occupancy being issued for any building on a unit within Phase 1, the following improvements shall be completed and approved by the Township, or a performance guaranty which complies with Township ordinance shall be furnished by the developer:

(1) Algoma Meadows Drive and Algoma Vista Court, in their entirety, and Algoma Vista Drive from the boundary between Units 42 and 65 to the end of the cul-de-sac in the vicinity of Units 32 and 33, shall be completed.

(2) The natural walking path shall be completed in its entirety.

(3) All stormwater management facilities required to provide drainage for the road and other improvements within Phase 1 shall be completed.

(d) No building permit or certificate of occupancy shall be granted for any unit within Phase 2 until the remainder of the improvements in the Development have been completed

and approved by the Township, or security furnished for such completion as provided by Township ordinance.

(17) Additional Findings. The Township Board hereby determines that planned unit development rezoning will result in recognizable and substantial benefit to the ultimate users of the project 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 Article XXI of the Zoning Ordinance. The planned unit development does not change the essential character of the surrounding area.

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 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

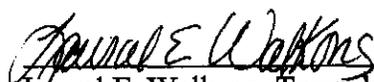
Township may through its Building Inspector or other Township agency issue and post a stop work order at the site of any improper or noncomplying part of the Development, directing that all further construction of such part of the Development be ceased forthwith, pending the compliance with any applicable 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: Walkons, Ellenwood, Spitsbergen, Bigney and Uplinger

NAYS: Members: None

ORDINANCE DECLARED ADOPTED.



Laural E. Walkons, 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.



Laural E. Walkons, Township Clerk