

TOWNSHIP OF ALGOMA
COUNTY OF KENT, MICHIGAN

At a regular meeting of the Township Board of the Township of Algoma, Kent County, Michigan, held in the Algoma Township Center, 10531 Algoma Avenue, N.E., in said Township on the 10th day of September, 1996, at 7:00 p.m.

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

ABSENT: Members: None

The following ordinance was offered by Member Ellenwood and supported by Member Bigney.

ORDINANCE NO. 146

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

THE TOWNSHIP OF ALGOMA ORDAINS:

River Bend Planned Unit Development

Section 1. Planned Unit Development. The Zoning Ordinance of the Township of Algoma and the Land Use Map are hereby amended, so as to rezone the following described lands (the "Development") from the R-A Rural Agricultural District, C-A Conservation and Agricultural District, and the N-R Natural River District to the PUD-Planned Unit Development District, in accordance with the Final Site Development Plan of the Planned Unit Development, and subject to all of the terms and conditions of this ordinance:

Part of the Southeast one-quarter of Section 30, and part of the Northeast one-quarter of Section 31, Town 9 North, Range 11 West, Algoma Township, Kent County, Michigan, described as follows: BEGINNING at the Northeast corner of the West one-half of the Southeast one-quarter of said Section 30; thence Southerly 1331.84 feet to the Northwest corner of the Southeast one-quarter of the Southeast one-quarter of said Section 30; thence Easterly to the Northeast corner of said Southeast one-quarter of the Southeast one-quarter of said Section 30; thence Southerly along the East lines of Sections 30 and 31 of the Southeast corner of the North one-half of the Northeast one-quarter of said Section 31, thence Westerly along the South line of the North one-half of the Northeast one-quarter of said Section 31 to its intersection with the centerline of the Rogue River; thence Northwesterly along the centerline of the Rogue River to its intersection with the East line of the West 200.00 feet of the Southeast one-quarter of aforementioned Section 30; thence Northerly along said East line to its intersection with the South line of the North 1320.00 feet of the Southeast one-quarter of Section 30; thence South 89°24'20" West 200.00 feet parallel with the East - West one-quarter line of Section 30; thence Northerly 990.00 feet along said North - South one-quarter line; thence Easterly 265.00 feet parallel with the East - West one-quarter line of Section 30; thence South 01°27'05" West 620.38 feet; thence North 89°24'20" East 391.03 feet along the South line of the North 950.00 feet of the West one-quarter of the Southeast one-quarter of said Section 30; thence Northerly 620.00 feet along the West line of the East 26.00 feet of the West one-quarter of the Southeast one-quarter of Section 30; thence North 89°24'20" East 26.00 feet; thence Northerly 330.00 feet along the West line of the East one-half of the West one-half of the Southeast one-quarter of said Section 30; thence Easterly along the East - West one-quarter line of said Section 30 to the place of beginning.

The Development consists of approximately 160.00 acres. The geographic size of the PUD District may not be reduced or enlarged beyond the foregoing dimensions without the consent of the Township.

Section 2. Conditions. The rezoning of the above-described lands to the PUD-Planned Unit Development District, in accordance with the Final Site Development Plan of

the Planned Unit Development is expressly subject to all of the following terms and conditions:

(1) Development Plan. The Planned Unit Development shall comply in all respects with the Final Site Development Plan ("the Plan") of the Development prepared by Moore & Bruggink, consulting engineers, dated February 15, 1996 and revised through August 22, 1996, Project No. 930065, except where the Plan has been changed, revised or modified by this Ordinance. In such cases, the provisions of this Ordinance shall control. For purposes of this Ordinance, the term "Developer" refers to Grooters Land Company, L.C., a Michigan limited liability company, and its successors and assigns.

(2) Unit Areas; Building Envelopes; Buildings; Site Access.

(a) The Development is a site condominium project. It shall have not more than 93 site condominium dwelling units (the "units" or singular "unit"). One principal building may be constructed within each unit, within the building envelope area shown on the final site development plan. Each building envelope has a minimum front setback from the private roadways of the Development of 35 feet. The front, rear and side yard setbacks of the underlying zoning districts shall not apply to this Development. There shall be a minimum distance of 35 feet between all buildings, principal or accessory, within the Development.

(b) Ingress to and egress from the Development shall be by means of Fonger Street and Nestor Avenue, as shown in the Plan, and the Development will be

internally served by various private roadways described on the Plan. The private roadways within the Development shall be maintained, repaired and replaced solely at the cost of the owners of the Development, acting through the association of co-owners of the Development (the "Condominium Association"). The private roadways of the Development are not open to the public and should it ever be desired that the private roads shall become public roadways, the entire cost of upgrading the roads and of dedicating the roadways to the public shall be borne by the owners of the Development, and not by the Township.

(c) The existing dwellings and accessory buildings of Mr. and Mrs Gerald Grooters located within the property described on the site development plan (the "Grooters Parcel") is included within the District and also served by the private roadways shown on the Plan. The Developer may, but is not obligated to, include the Grooters Parcel as part of the site condominium development.

(d) The minimum square footage of dwellings and of other permitted buildings and structures within the Development shall be as limited in the Master Deed and Condominium Bylaws. No principal building shall exceed a height of 35 feet. No principal building shall have a size of less than 1,600 square feet. No accessory building shall have a size of more than 720 square feet. The principal building to be constructed and used within each unit shall be placed within the building envelope shown for each unit on the Plan. Accessory buildings shall only be permitted within those units designated by the Developer in the Master Deed, and designated on the site development plan with a capital

"A". Accessory buildings shall only be located within the boundary dimensions of a unit. No accessory building may be constructed or maintained upon the common element areas of the Development. No accessory building may be located within the front yard of a unit. No accessory building shall exceed a height of sixteen (16) feet nor have a door opening greater than twelve (12) feet in height.

(e) The existing pole barn located adjacent to Unit 13 shall be demolished and/or removed from the Development on or before the time the ownership of Unit 13 is transferred to a party other than the Developer.

(3) Streets and Driveways.

(a) The streets in the Development shall be hard surfaced and asphalted. The primary roads through the Development, as designated on the Plan, shall have a physical road surface width of 22 feet. The feeder drives through the Development, as designated on the Site Plan, shall have a physical road surface of 18 feet. All roadways shall be located as shown on the Plan.

(b) Street grades shall be designed and laid out so as to minimize tree and soil removal. All parking will be provided on each unit, at each single-family dwelling unit.

(c) 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 by the owners of the Development, acting through the

Condominium Association. The Master Deed and Condominium Bylaws shall have provisions requiring maintenance of roads in accordance with this ordinance. Should it at any time be deemed necessary or desirable for the private roadways of the Development to be dedicated to the use of the public, any and all costs of such dedication shall be entirely at the expense of the owners of the Development, and the Township shall have no responsibility for such expense.

(d) All streets in the Development shall have road names and intersections with public roads approved by the Kent County Road Commission.

(e) The Master Deed for the Project shall be fully signed and executed by all necessary parties, and recorded prior to the issuance of any permits for the construction of residences or the private roadways within the Development.

(4) Sanitary Sewer Service and Water Supply.

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

(b) Water wells, private septic tank and drainage systems shall be located within the boundaries of individual condominium units, subject to applicable rules of the Kent County Health Department; provided, however, if soil conditions do not permit the installation of a drainage system within a unit, then the Township Building Inspector may

allow such system to be located outside of the dimensions of a unit, within the common element areas, provided that such location does not unreasonably impair the use and enjoyment of the surrounding common element areas and does not produce an adverse effect upon adjacent or nearby lands or surface waters, or upon wetlands or surface waters within the Development. 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 by the owner of the system. The provisions of this paragraph shall be included in the Condominium Master Deed or Bylaws.

(c) All wells installed for private water supply must penetrate an adequate protective continuous clay overburden of at least 10 feet in thickness.

(d) For purposes of this Paragraph (4), the term "the boundary of individual condominium units" shall mean the legal description and boundary lines of the condominium unit, as designated on the Plan and in the condominium subdivision plan of the Development, attached as an exhibit to the Master Deed.

(5) Surface Water Drainage.

(a) The drainage of surface waters shall be accomplished by 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 signifi-

cant 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.

(6) Landscaping.

(a) No trees larger than four (4) inches in diameter may be removed from the Development, other than for the construction of streets, driveways, building foundations and septic drainage fields, except upon the prior written approval of the Developer or the Condominium Association.

(b) No trees may be cut or removed within twenty (20) feet of the property line of the Development in the areas identified on the Plan as "Tree Buffer Area", unless necessitated by disease, death, decay or to advance other commonly regarded forestry practices.

(c) Within one year after the completion of construction of a dwelling on any unit, such unit, to the extent that it does not have natural cover within any wooded area, shall be graded and shall be either covered with four inches of fertile topsoil and supplied with sufficient perennial grass seed so as to seed the same, or an alternate landscaping plan as approved by the Developer shall be implemented.

(7) Utilities. Natural gas service, electrical service and telephone service to each of the lots in 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 in the private roadways and within ten feet on both sides thereof. The Developer shall install two (2) dry water fire hydrants at the places located on the Plan as each phase of the development containing such hydrant is constructed.

(8) Soil Erosion and Sedimentation Control; Site Grading.

(a) 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.

(b) Prior to the issuance of a building permit for a dwelling upon any of the units within the Development, a site grading plan for such unit or units shall be prepared and submitted along with plans and measures for control of soil erosion during construction and thereafter shall be reviewed and approved by the Township Building Inspector. Among other matters, the site grading plan shall accurately show the drainage and flow of stormwater on each unit, in sufficient detail for appropriate evaluation by the Township. All units shall be developed only in accordance with the site grading plan as

approved by the Township Building Inspector. The provisions of this subparagraph shall be included in the Condominium Master Deed or Bylaws.

(c) Prior to the issuance of a building permit for the construction of any building, structure or driveway, within the Development, the applicant shall obtain the approval of the Developer to the applicant's proposed site development plan (including site grading plan) and construction blueprints. The Developer may assign this right of approval to the Design Board of the condominium association for the Development upon notice to the Township. The Developer shall indicate its approval of the applicant's plans by signing and dating each page of the documents. The Developer, and its successors and assigns, shall keep the current name, address and telephone number of the person responsible for approving plans for the Development on file with the Township.

(9) Garbage and Refuse Disposal. All trash, garbage and other waste shall be kept only in sanitary containers inside garages or otherwise within fully enclosed areas at all times, except for such short periods of time as may be reasonably necessary for periodic collection of trash and garbage by waste haulers.

(10) 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.

(11) Common Open Space. Except for the proposed gazebo shown on the Plan, no building or structure shall be located within the general common element areas as shown in the Plan and no materials or supplies may be stored therein, except with the approval of the Developer, and its successors and assigns, and the Township. Notwithstanding the foregoing, such areas may be used for park and playground purposes, with equipment and fixtures appropriate to such uses, as determined by time to time by the Association.

(12) Fertilizers and Pollutants. Only nonphosphate fertilizers shall be used on any of the lands within the Development. Oil, gasoline, other petroleum products, or other contaminating fluids or materials shall not be disposed of or discharged on or in any of the lands in the Development. The provisions of this paragraph shall be included in the Master Deed and Condominium Bylaws.

(13) Signage. Three (3) signs announcing the name of the Development may be erected at the entrances to the Development, in the areas designated on the Site Plan. The construction and maintenance of the signs shall comply, in all respects, with the plans and specifications for each of the signs which have been prepared by landscape architect Mark DeVries. Each unit shall have a street address sign at a clearly visible location. Except as provided herein, all other signs, if any, shall comply with applicable provisions of the Township Zoning Ordinance.

(14) Outdoor Lighting. No street or other outdoor lighting shall be permitted. Reasonable and customary porch, garage and patio lights may be permitted, provided they are shielded or directed so as not to cause glare onto adjoining properties or rights-of-way.

(15) Other Matters.

(a) The design, layout and construction of the Development has been reviewed as to matters of public safety and emergency access by the Township Fire Chief and modified so as to be satisfactory to the Fire Chief for public safety and emergency access purposes.

(b) 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 prior written approval of the Planning Commission and Township Board. Such provisions shall be reviewed by the Planning Commission before recording, so as to verify their compliance with this subparagraph. 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. 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) Additional Findings. The Township Board hereby determines that the Plan complies with the provisions of the Township Zoning Ordinance and promotes its intent and purposes. The Board further finds that the Development, upon construction and use in full compliance with all of the terms and provisions of this ordinance and the Township Zoning Ordinance, will be compatible with adjacent uses of lands, the natural environment and the capacities of public services and facilities affected by the Development. The Township Board further determines that the Development will be consistent with the public health, safety and general welfare. The conditions set forth herein with regard to the Development are determined to be those conditions which are necessary to insure that public services and facilities affected by the Development will be capable of accommodating increased public service demands caused by the Development, to protect the natural environment and to conserve natural resources and energy, to insure compatibility with adjacent land uses and to promote the use of land in a socially and economically desirable manner.

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 Developer or any successor in interest 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. Amendments. Minor changes to this Ordinance may be made by mutual agreement of the Developer or its successors in interest and the Planning Commission, provided the changes comply with all applicable requirements of this Ordinance and all other Township regulations or state law. Minor changes include: 1) moving the location of buildings, structures, roads, parking areas, signs, lighting and driveways provided they are in the same general location as approved in the Site Plan; and 2) moving the location of, or changing the size of condominium units or of building envelopes within condominium units.

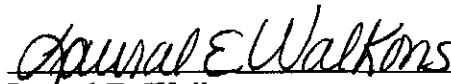
All other changes to this PUD Ordinance shall comply with the original approval procedures for a PUD. These other changes include, but are not limited to, increase in

density, change in the number of dwelling units, change in land area or overall building size, except as noted above, or the addition of other uses or buildings not authorized by the original Plan and PUD rezoning approval. The Building Inspector for the Township, or anyone else appointed by the Township Board, shall have authority to distinguish which changes are "minor changes" for purposes of this Section.

AYES: Members: Bigney, Doren, Walkons, Ellenwood

NAYS: Members: Uplinger


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

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