

TOWNSHIP OF ALGOMA
COUNTY OF KENT, MICHIGAN

At a special 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 19th day of August, 1998 at 9:00 a.m.

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

ABSENT: Members: None

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

ORDINANCE NO. 160

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

**[Timmer Woods Site Condominium Planned Unit Development –
Site Plan #9806 (Dan Spitsbergen)]**

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 to the PUD Planned Unit Development District, in accordance with the Preliminary Development Plan of the Timmer Woods Site Condominium Planned Unit Development, subject to all of the terms and conditions of this ordinance:

Part of the Northwest fraction 1/4 of Section 31 described as commencing at the West 1/4 corner of said section; thence North 0°10'24" West 49.50 feet along the West line of said section to the place of beginning; thence continuing North 0°10'24" West 190.34 feet

along said West line; thence North 89°59'22" East 258.62 feet along the North line of the South 239.84 feet of said Northwest fractional 1/4; thence Northeasterly 118.08 feet along a 217.0 foot radius curve to the left, the long chord of which bears North 74°24'01" East 116.63 feet; thence North 29°51'49" West 201.99 feet; thence South 89°42'34" West 29.0 feet; thence North 0°10'24" West 250.0 feet; thence North 89°42'34" East 1078.0 feet along the South line of the North 37 acres of the South 1/2 of said Northwest fractional 1/4; thence South 0°10'24" East 652.0 feet along the East line of the West 1320 feet of said Northwest fractional 1/4; thence South 89°59'22" West 1320.0 feet along the North line to the South 49.5 feet of said Northwest 1/4 to the place 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 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 undeveloped, open space along the public street, Division Avenue.
- (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.
- (4) When developed in accordance with this ordinance, the development would help to achieve more affordable housing in the Township, by including a certain number of units that would have homes not larger than a stated size.

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

(1) Development Plan. Timmer Woods Site Condominium Planned Unit Development (the "Development") shall comply in all respects with the Preliminary Development Plan consisting of the "Proposed PUD Site Plan" dated February 3, 1998, and received in the Township office May 27, 1998 (showing revisions dated February 6, May 7 and May 26, 1998) except where the Plan has been changed, revised or modified by this ordinance, or as 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 not more than 17 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 front yard shall be 30 feet, as measured from the street right-of-way line; the minimum rear yard shall be 30 feet, and the minimum for each side yard shall be 20 feet. The Township Board concludes that such reduction in the required front yard, as compared to the 40-foot front yard required for the underlying R-A District, and the reduction in the width of each required side yard, as compared to the required 30-foot minimum side yard, under the R-A District, are reasonable in view of the overall design of and amenities included in the Development.

Further, the Township Board concludes that the reduction in the minimum lot width from the 200-foot width requirement specified in the R-A 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 residential units in the Development, as shown on the Preliminary Development Plan, range from 18,200 square feet up to 30,900 square feet, whereas the minimum lot area in the underlying R-A Rural Agricultural District is 42,000 square feet, for a one-family dwelling. 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 density under the terms of the R-A District. 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 a private street 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 improved width of the street shall be 22 feet, and the street shall be paved with bituminous pavement and a sufficient aggregate base. The street grade shall not exceed 8%.

(d) The private street 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 street in accordance with this ordinance.

(e) The private street 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 individual water well and by a private septic tank and drainage system, located on the same unit as the dwelling connected thereto. All wells and septic systems shall be approved by the Kent County Health Department and shall be constructed in compliance with all applicable regulations. 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 lots in the Development; such certification shall be made available to the Township Clerk upon request by the Clerk.

(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.

(8) Building Floor Area.

(a) All dwellings shall be built upon a full basement and foundation.

All dwellings shall have the minimum building floor area (as floor area is defined in Section 2.1(13) of the Zoning Ordinance) required for dwellings in the R-A Rural Agricultural District; provided, however, that the Development shall comply with both of the following requirements:

(1) The Development shall be permitted to have a maximum of three dwellings that are two-story dwellings and that have a building floor area (as defined in Section 2.1(13) of the Zoning Ordinance) of 1,344 square feet or larger; and

(2) The Development shall have at least five Units on which the dwellings are not larger than 1,400 square feet in area for a two-story dwelling, and not larger than 1,200 square feet for any other type of dwelling. This limitation on building floor area (as defined in Section 2.1(13) of the Zoning Ordinance) shall apply to a dwelling as initially constructed within the Development, but shall not apply to subsequent completion of additional living space within the dwelling or to subsequent expansions of or additions to the dwelling.

(b) Before a building permit for a dwelling in the Development is applied for, the developer of Timmer Woods shall furnish in writing to the Township building inspector a signed statement indicating which five Units in the Development shall be those on which dwellings shall comply with the maximum building floor area requirement

of subparagraph (8)(a)(2), above. Building permits for any of such Units shall be issued only if the proposed dwellings comply with the requirement.

(9) Signs. One sign identifying the Development may be located at the entrance to the Development off Division Avenue, within the assigned easement location shown on the Preliminary Development Plan. The sign shall not be larger than 18 square feet and shall not be higher than 6 feet. Under the terms of Sections 21.3(5) and 15.1(3) of the Zoning Ordinance, the Township Board determines that such a sign is necessary to the public welfare, in order that the Development may be suitably identified at the location of the entrance drive off Division Avenue. Any temporary sign pertaining to the sale of units in the Development shall comply with Section 15.1(2) of the Zoning Ordinance.

(10) Outdoor Lighting. No street lighting shall be required. Reasonable and customary porch, garage, driveway 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.

(11) Natural Areas.

(a) The areas on the Development Plan indicated as “wooded area” shall be preserved in their current wooded condition, except that dead and diseased trees may be removed. The area to the rear of Units 9, 10, 11, 12, 13, 14, 15 and 16 shall be maintained in its natural state, except that pine trees or other evergreen trees shall be planted and maintained, as shown on the Plan, and except that a playground area, with playground equipment, may be installed at the location noted on the Plan. The rows of trees and other natural areas or landscaping shown around the boundaries of the Development shall be maintained as shown on the Preliminary Development Plan.

(b) There shall be two ten-foot wide walkways, one between Units 10 and 11, and one between Units 14 and 15, for the purpose of providing access to the natural area and playground area, shown in approximately the center of the Development. The walkways shall be located as shown on the Plan.

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

(12) Private Street.

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

(b) The private street as shown in the Preliminary Development Plan would exceed the maximum 1,320-foot length provided under the terms of Section 4.27(2)(h) of the Zoning Ordinance, but the Township Board, upon recommendation of the Planning Commission, hereby modifies such requirement, so as to authorize the length of the private street as shown on the preliminary plan. Such modification has been considered under the terms of Section 21.3(6)(e) of the Zoning Ordinance, and in approving such modification, the Township Board has considered the number of dwellings served by the private road; traffic generation; existing topography; relationship of the private street with the adjacent public street; and other matters specified in the Zoning Ordinance.

(13) 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.

(14) 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.

(15) 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: Ellenwood, Bigney, Uplinger, Walkons
NAYS: Members: None
ABSTAINED: Member: Spitsbergen

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