

**OTSEGO COUNTY  
PLANNING COMMISSION**

**AGENDA  
January 23, 2012  
6:00 PM**

**MEETING WILL BE IN THE PLANNING AND ZONING MEETING ROOM LOCATED AT 1066 CROSS STREET.**

1. CALL TO ORDER
2. PLEDGE OF ALLEGEANCE
3. ROLL CALL
4. CONSENT AGENDA:
5. APPROVAL OF MINUTES: From the 11-28-2011 meeting
6. OTHER:
7. PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA  
(Please identify yourself for the record. All comments will be limited to two minutes)
8. UNFINISHED APPLICANT BUSINESS:

None

9. PUBLIC HEARINGS: Public hearing for Z11-240 parcel # 010-029-200-010-06

David Drews of Northern Michigan Engineering representing Maitland – A&G Vacation Properties LLC has requested approval for a three parcel Site Condominium project, the parcel being considered is a 3.86 acre parcel. The proposal is to create three single family building sites each site being a minimum of 1.06 acre. The parcel is located in a Recreation Residential zoning district which by ordinance has a minimum lot size of .46 acres

Legal Description:

COMM @ N COR, TH S38DEG05'23"W 563.98', TH S01DEG15'52"W 332.48', TH S81DEG59'04"E 91.67', TH N38DEG23'52"E 34.43' FOR POB, TH N38DEG23'52"W 15.40', TH ALG CURVE TO R 1335.10', RAD 218', ANG 35DEG30'29", LC N27DEG42'10"W 132.95' TH ALG CURVE TO L 133.42', RAD 182', ANG 42DEG00'05", LC N30DEG56'58"W 130.45' TH N38DEG03'01"E 286.35', TH S61DEG50'40"E 398.58', TH S28DEG00'00"W 421.40', TH N66DEG10'22"W 230.23' TO POB. SEC 29, T30N-R3W.

10. UNFINISHED COMMISSION BUSINESS:
  1. Proposed mining language, Planning Commission discussion or forward information to Townships for input.
  - 2.
  - 3.
11. NEW BUSINESS:
  1. Z11-240 parcel # 010-029-200-010-06 ~~(with consent this will be moved to follow the public hearing)~~
  - 2.
12. REPORTS AND COMMISSION MEMBER'S COMMENTS:
  1. Committee report on assisted living facilities (Mr. Arndt & Mrs. Jarecki)
  2. Executive Committee Report
  - 3.
  - 4.
13. ADJOURNMENT:

# Otsego County Planning Commission

PROPOSED Minutes for November 28, 2011

**Call to Order:** 6:00 pm by Chairperson Stults

Pledge of Allegiance

**Roll Call:**

Present: Chairperson Stults, Vice-Chairperson Arndt, Secretary Borton, Mr. Hilgendorf, Mrs. Jarecki, Mr. Hartmann, Ms. Nowak, Mr. Klee, Mr. Mang, Mr. Hendershot

Absent: Mr. Colosimo

Staff Present: Mr. Ferrigan

Others Present: Jeff Ratcliff, Economic Alliance Director

Public Present: Karen Darner, Rick Chelotti, Erma Backenstose, Bob Cooley, Tom Listvan

**Consent Agenda:** None

**Approval of minutes from October 17, 2011:**

Mr. Klee requested a spelling correction of transposed letters on page two (2), from 'NCRS' to 'NRCS.'

Motion made to approve minutes as corrected by Mr. Borton; Seconded by Mr. Hartmann.

Motion approved unanimously.

**Other:** None

**Public participation for items not on the agenda:** None

**Unfinished applicant business:** None

**Public Hearing:**

Applicant: Rick Chelotti/Karen Darner

Owner: MDP Development LLC

SPR11-004/Special Use Permit

Parcel #080-210-000-051-00/080-210-000-062-00

Lot 51/Lot 62 West Gaylord Subdivision/Section 32/Livingston Township

1091 Anna Dr Gaylord, MI

The applicants stated they proposed to lease a ninety-seven hundred (9,700) square foot existing building located at 1091 Anna Dr Gaylord, MI for the purpose of recycling used mattresses and box springs. Their plan to recycle consists of dismantling, shipping materials (metal, cotton, and foam) to end users, selling or recycling (wood) and disposing of any remaining non-recyclable parts properly.

Materials will be received and stored inside the building until dismantled. Metal will be stockpiled inside and transported to A&L Iron and Metal periodically or stored in a container at the back of the building. Cotton and

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foam will be baled and stockpiled inside until shipped. Wood will be stored inside and periodically taken to Grayling to be used at the power station as fuel. Any remaining non-recyclable material will be stored in a commercial dumpster for disposal.

Jeff Ratcliff, Otsego County Economic Alliance Director, stated the proposed use is a permitted use under B2 zoning. He also considered it a good use of an existing building.

Public Hearing: Open: 6:06 pm

Mr. Cooley asked if any activities would be taking place outside the building. Mr. Chelotti stated the process would be done entirely inside with only dumpster use outside.

Mr. Listvan questioned if there were any plans for the vacant lot to the east of the building and Mr. Chelotti stated there was not.

Public Hearing: Closed: 6:10 pm

Number one (1) *SPR11-004 Special Use Permit* under **New Business** moved to follow public hearing.

SPR11-004/Special Use Permit Livingston Township/Section 32  
#081-210-000-051-00/081-210-000-062-00 1091 Anna Dr Gaylord, MI

Mr. Ferrigan read the following list of exhibits for the record:

- Exhibit 1:* Application for case #SPR11-004 including site plan and nine (9) photographs
- Exhibit 2:* Otsego County Zoning Map dated March 20, 2010
- Exhibit 3:* Otsego County Zoning Ordinance dated March 20, 2010
- Exhibit 4:* Permission letter from Penny Merry, resident agent of MDP Development LLC, dated October 28, 2011
- Exhibit 5:* Copy of Quit Claim Deed
- Exhibit 6:* Public Hearing Notice
- Exhibit 7:* Letter to Livingston Township Planning Commission dated October 27, 2011
- Exhibit 8:* Letter from Livingston Township dated November 2, 2011
- Exhibit 9:* Map and list of parties notified
- Exhibit 10:* Receipt #01101945 dated November 3, 2011
- Exhibit 11:* Application and Site Plan Review check list sent to Livingston Township

Chairperson Stults requested documentation stating Penny Merry was owner of MDP Investments LLC.

Motion made by Mr. Hilgendorf to approve the list of eleven (11) exhibits; Seconded by Mr. Mang.

Motion approved unanimously.

Mr. Ferrigan read the following General Finding of Facts of SPR11-004:

1. This is an existing building and the proposed use is to be a Specialized Recycling Center. (*Exhibit #1*)
2. The property is located in the B2 Zoning District. (*Exhibit #2*)
3. The proposed use is a permitted use subject to special conditions under B1 Zoning section 10.20.8 of the Otsego County Zoning Ordinance and also a permitted use subject to special conditions under B2 Zoning section 11.2.1. (*Exhibit #3*)

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4. The property is located at 1091 Anna Dr Gaylord, MI. (*Exhibit #1 & Exhibit #2*)
5. The minimum lot area in square feet in the B2 district is ten thousand (10,000) square feet. (*Article 14 Schedule of Dimensions*) (*Exhibit #2 & Exhibit #3*)
6. The Planning Commission has the authority to approve Site Plans after review and compliance with the Otsego County Zoning Ordinance. (*Section 20.5*) (*Exhibit #3*)
7. The Planning Commission has the authority to review and approve a special land use request. (*Section 16.6*) (*Exhibit #3*)
8. The requirements of Article 24 of the Otsego County Zoning Ordinance have been met. (*Exhibit #7 & Exhibit #8*)
9. The Public Hearing Notice was published in the paper. (*Exhibit #6*)
10. All property owners within three hundred (300) feet were properly notified of the Public Hearing. (*Exhibit #9*)
11. The required fees have been collected by Otsego County Land Use Services. (*Exhibit #10*)
12. The Otsego County Planning Commission has reviewed the site plan and the notes regarding the building not meeting the current setback requirements. Due to the fact that this is an existing building, it is considered a legal non-conforming structure under Section 18.26 of the current zoning ordinance and therefore, the requirements are waived. (*Section 18.26*) (*Exhibit #3*)
13. The Otsego County Planning Commission has reviewed the site plan and has found that the impervious surface is greater than fifteen thousand (15,000) square feet. However, since this application contains legal non-conforming lots with no changes to existing building development, the maximum of fifteen thousand (15,000) square feet of impervious surface is waived pursuant to Section 18.26 of the Zoning Ordinance. (*Section 18.26*) (*Exhibit #3*)
14. Bob Cooley spoke and was in favor of the project.
15. Tom Listvan spoke and was in favor of the project.

Motion made by Mr. Arndt to approve fifteen (15) general finding of facts; Seconded by Mr. Klee.

Motion approved unanimously.

The following Specific Findings were voted on individually:

## ***Section 16.7 Standards for Special Land Use Approval***

16.7.1 The property subject to the application is located in the zoning district in which the proposed special land use is allowed.

Standard met, agreed unanimously.

16.7.2 The proposed special land use will not involve uses, activities, processes, materials or equipment that will create a substantially negative impact on the natural resources of the County or the natural environment as a whole.

Standard met, agreed unanimously.

16.7.3 The proposed special land use will not involve uses, activities, processes, materials or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors or accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.

Standard met, agreed unanimously.

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16.7.4 The proposed special land use will be designed, constructed, operated and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.

Standard met, agreed unanimously.

16.7.5 The proposed special land use will not place demands on fire, police or other public resources in excess of current capacity.

Standard met, agreed unanimously.

16.7.6 The proposed special land use will be adequately serviced by public or private streets, water and sewer facilities and refuse collection and disposal services.

Standard met, agreed unanimously.

16.7.7 The proposed special land use includes more than fifteen (15) thousand square feet of impervious surface,... (additional conditions that do not apply.) *General Finding of Fact #13*

Standard waived, agreed by a consensus vote of the members with Mr. Mang being the only descending vote.

16.7.8 The proposed special land use complies with all specific standards required under this Ordinance applicable to it.

Standard met, agreed unanimously.

## ***Section 18.10 Fencing***

Requirement met, agreed unanimously.

## ***Section 18.18 Landscaping***

Requirement met, agreed unanimously.

## ***Section 18.19 Lighting, Outdoor***

Requirement met, agreed unanimously.

## ***Section 18.21 Loading and Unloading (Off-Street)***

Requirement met, agreed unanimously.

## ***Section 18.28 Performance Standards***

Performance standards met, agreed unanimously.

## ***Section 18.36 Recycling, Facilities and Solid Waste Haulers***

Requirements met, agreed unanimously.

## ***Section 18.38 Signs and Billboards***

Requirement met, agreed unanimously.

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Motion made to approve Specific Finding of Facts by Mr. Mang; Seconded by Mr. Hilgendorf.

Motion approved by majority, opposed by Mr. Mang.???

## ***Section 16.8 Conditions***

Mr. Ferrigan read the following conditions:

1. Provide Otsego County with a letter from land owner granting permission to make application.
2. Any future signage shall meet the requirements of the Otsego County Zoning Ordinance.
3. All outside storage shall be screened from public view.
4. All exterior lighting shall be brought in compliance with the Otsego County Zoning Ordinance.
5. Provide Otsego County with a letter regarding the permission to use off site sewer and water.
6. Existing landscaping shall remain.

Motion made by Mr. Klee to approve the six (6) conditions, Seconded by Mr. Hartmann.

Motion approved unanimously.

The following motion made by Mr. Borton; Seconded by Mr. Klee:

A motion based upon all evidence provided to the Otsego County Planning Commission including:

1. Applicant provided information including the application, site plan and site plan compliance check list and narrative describing the proposed use.
2. General finding of fact for SPR11-004.
3. Specific finding of fact for SPR11-004.

That SPR11-004 is approved with the conditions that were approved.

Motion approved unanimously.

Chairperson Stults requested moving item number six (6) *B3 Zoning district discussion* under **New Business** to follow SPR11-004.

Jeff Ratcliff, Otsego County Economic Alliance Director requested the consideration of rezoning the West Gaylord Subdivision from B2 to B3 based on the following findings:

1. **Current and Historical Use:**  
Nine (9) of the fifteen (15) businesses currently in the subdivision are B3 type uses. Two (2) are either B1 or B3 and four (4) are unclear.
2. **Intent of the Zoning Ordinance:**  
The intent of the B2 district is to provide more diversified business type than B1 and the intent of B3 is to provide sites for light manufacturing and wholesale storage and as a distribution area to retail stores or industrial uses. The location has very few uses under the current B1 and B2 permitted uses.
3. **Changes in Zoning Ordinance Language:**  
A district of non-conforming and illegal users has been created due to the Zoning Ordinance language change in permitted uses.
4. **Availability of B2 and B3 Zoned Land:**

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Rezoning the West Gaylord Subdivision would not create a shortage of B2 or detract from existing B3 zoned areas. It would encourage occupancy of current and future vacant buildings in the area.

5. Impact on Future Development along West M-32:  
Rezoning will not impact future development in the area. Livingston Township has previously agreed to allow development in the area to come into the City under a 425 agreement which would fall under a C2 zone allowing for the broadest range of uses. County zoning does not affect the future use under City zoning.

Commission members requested a map depicting B1, B2 and B3 zoned areas in different colors to get an overall visual of existing zones.

Mr. Ferrigan stated he would have maps produced for all the members.

## Unfinished Commission Business:

1. Proposed mining language  
Mr. Ferrigan presented a final draft of the proposed mining language and requested Commission members review it before the next meeting.
2. Article 18 Table I: Planting Buffer Yard  
A revised table was presented by Mr. Ferrigan for review by members.
3. Article 14 Schedule of Dimensions  
Commission members were asked to also review the revised Schedule of Dimensions.
4. Article 18, Section 18.27 Parking  
Mr. Ferrigan stated he would recopy Section 18.27 Parking in color to clarify what new wording had been added and send to Commission members to further review.
5. Update Assisted Living Facilities  
Mr. Arndt was asked to meet with the Assisted Living Committee members and report at the next Planning Commission meeting.

## New Business:

2. Motion to require all Site Plan Approvals for Louis M Groen Nature Preserve to require Planning Commission approval.  
A motion to require each phase of the redevelopment of the Louis M. Groen Nature Preserve to be brought before the Otsego County Planning Commission for site plan approval prior to the commencement of redevelopment.

Motion made by Mr. Mang; Seconded by Mr. Klee.

Motion approved unanimously.

3. Approval of 2012 meeting schedule.

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Chairperson Stults requested an addition to the Resolution for Adoption 2012 Meeting Schedule. At the end of the second paragraph following, 'Unless the third Monday should fall...*and further unless cancelled by the chairperson.*'

Motion made by Mr. Hilgendorf; Seconded by Mr. Arndt.  
A roll call vote was taken:

Mr. Stults-yes, Mr. Arndt-yes, Mr. Borton-yes, Mr. Hilgendorf-yes, Mrs. Jarecki-yes, Mr. Hartmann-yes, Ms. Nowak-yes, Mr. Klee-yes, Mr. Mang-yes, Mr. Hendershot-yes

Resolution declared adopted.

4. Objectives for 2012

Mr. Ferrigan handed out worksheets to Commission members for input on prioritizing the 2012 agenda.

5. Representing important segments of the community

As required in Section 125.3815 (3) of the Planning Enabling Act; Planning Commission members shall be representative of important segments of the community. Commission members were asked to choose which segments of the community they would like to represent.

**Reports and Commission Member's Comments:**

Land Use Director-Update on dumpsters, Highway Interchange  
Tabled

**Adjournment:** 9:25 pm by Chairperson Stults.

Christine Boyak-Wohlfeil, Recording Secretary

Ken Borton, Planning Commission Secretary

# **OTSEGO COUNTY PLANNING COMMISSION**

## **PUBLIC HEARING NOTICE**

**January 23, 2012**

The Otsego County Planning Commission will hold a public hearing on Monday, January 23, 2012 at 6:00pm in the Planning and Zoning Meeting room located at 1066 Cross Street, Gaylord, Michigan.

The purpose of the public hearing will be to obtain citizen comment on the following:

David Drews of Northern Michigan Engineering representing Maitland - A&G Vacation Properties LLC has requested approval for a three parcel Site Condominium project, the parcel being considered is a 3.86 acre parcel. The proposal is to create three single family building sites each site being a minimum of 1.06 acre. The parcel is located in a Recreation Residential zoning district which by ordinance has a minimum lot size of .46 acres

Parcel identification number 010-029-200-010-06

Legal Description:

COMM @ N COR, TH S38DEG05'23"W 563.98', TH S01DEG15'52"W 332.48', TH S81DEG59'04"E 91.67', TH N38DEG23'52"E 34.43' FOR POB, TH N38DEG23'52"W 15.40', TH ALG CURVE TO R 1335.10', RAD 218', ANG 35DEG30'29", LC N27DEG42'10"W 132.95' TH ALG CURVE TO L 133.42', RAD 182', ANG 42DEG00'05", LC N30DEG56'58"W 130.45' TH N38DEG03'01"E 286.35', TH S61DEG50'40"E 398.58', TH S28DEG00'00"W 421.40', TH N66DEG10'22"W 230.23' TO POB. SEC 29, T30N-R3W.

All citizens are welcome to attend the meeting or provide written comment. If written comments are provided, the comments must be received at the Otsego County Land Use Services Office by noon the day of the meeting.

Any citizen who has questions regarding this application or who need assistance to attend this meeting should contact the Director of Land Use Services at (989) 731-7420.

OTSEGO COUNTY LAND USE SERVICES DEPARTMENT  
1068 CROSS STREET  
GAYLORD MICHIGAN 49735  
989-731-7420 \* FAX 989-731-7429

Application for Site Plan Review

Applicant:

Name: David Drews, NME Owner  Agent  Other interest ( circle one)  
Address: Po Box 1763 Gaylord MI 49734  
Phone 989-370-8429 Fax 888-893-9761

Property Owner: (if different from applicant)

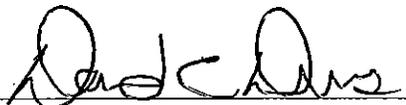
Name: Maitland - AEG Vacation Properties, LLC  
Address: 32239 Robinhood Dr.  
Phone: Beverly Hills, MI 48025 Fax: \_\_\_\_\_

Property Location:

Township Bagley Section 29 Town 30N Range 3W Zoning District RR  
Site Address: W. Otsego Lakes Drive  
Parcel Code: 029 - 200 - 010 - 06

Description of Project and Proposed Use:

Vacant land; proposed single family residential  
Site Condominium

Signature of Applicant:  Date: 10/10/11

\*All information received by this department is subject to the Freedom of Information Act. Under this act, persons are allowed to request copies of said information. This includes, but not limited to, copyrighted drawings and blueprints.

The following items are required on all site plans before they can be submitted for review to the various approving entities.

1. The applicant's name, address, and phone number in full.

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

2. Proof of property ownership, and whether there are any options on the property, or any liens against it.

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

3. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.

Yes  No \_\_\_ Na \_\_\_ if "Na" explain will deliver to you ASAP

4. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

5. The address and or parcel number of the property.

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

6. Name and address of the developer (if different from the applicant).

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

7. Name and address of the engineer, architect and/or land surveyor.

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

8. Project title.

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

9. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the ordinance.

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

10. A vicinity map drawn at a scale of 1" = 2000' with north point indicated.

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

11. The gross and net acreage of all parcels in the project.

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

13. Project completion schedule/development phases.

Yes \_\_\_ No \_\_\_ Na  if "Na" explain No building proposed at this time

14. The site plan shall consist of an accurate, reproducible drawing at a scale of 1" = 50 or fewer feet or less for sites of less than 3 acres and 1" = 100 or fewer feet or less if the site is larger than 3 acres. The site plan shall show the site and all land within fifty (50) feet of the site. If multiple sheets are used, each shall be labeled and the preparer identified. All site plans shall be sealed by a professional engineer, surveyor, architect or landscape architect and each site plan shall depict the following:

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

15. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines, monument locations, and shoreland and natural river district, if any.

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

16. Existing topographic elevations and proposed grades in sufficient detail to determine direction of drainage flows.  
 Yes \_\_\_ No \_\_\_ Na  if "Na" explain Site is generally level, some slope W to E
17. The type of existing soils at proposed storm water detention and retention basins and/or other areas of concern.  
 Boring logs may be required if necessary to determine site suitability.  
 Yes \_\_\_ No \_\_\_ Na  if "Na" explain No stormwater retention required
18. Location and type of significant existing vegetation.  
 Yes \_\_\_ No \_\_\_ Na  if "Na" explain Site is completely wooded
19. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, flood plains and wetlands within fifty (50) feet of the parcel.  
 Yes \_\_\_ No \_\_\_ Na  if "Na" explain Nearest water (Otsego Lake) is 300ft to East
20. Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building and typical elevation views of proposed structures.  
 Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
21. Proposed location of accessory structures, buildings and uses, including all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.  
 Yes \_\_\_ No \_\_\_ Na  if "Na" explain None proposed at this time
22. Location of existing public roads, rights-of-way and private easements of record and abutting streets. Notation of existing traffic counts and trip generation estimates may be required if deemed appropriate by the Zoning Administrator or Planning Commission.  
 Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_
23. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations shall be separately depicted with an elevation view.  
 Yes \_\_\_ No \_\_\_ Na  if "Na" explain No proposed new streets
24. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), and fire lanes.  
 Yes \_\_\_ No \_\_\_ Na  if "Na" explain None proposed
25. Location, size, and characteristics of all loading and unloading areas.  
 Yes \_\_\_ No \_\_\_ Na  if "Na" explain None proposed
26. Location and design of all sidewalks, walkways, bicycle paths and areas for public use.  
 Yes \_\_\_ No \_\_\_ Na  if "Na" explain None proposed
27. Location of water supply lines and/or wells, including fire hydrants and shut off valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, clean-out locations, connection points and treatment systems, including septic systems if applicable.  
 Yes \_\_\_ No \_\_\_ Na  if "Na" explain None proposed
28. Location of all other utilities on the site including natural gas, electric, cable TV, telephone and steam.  
 Yes \_\_\_ No \_\_\_ Na  if "Na" explain Existing utilities serve part of Rakeron
29. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.  
 Yes \_\_\_ No \_\_\_ Na  if "Na" explain None proposed
30. Location, size and specifications of all signs and advertising features with elevation views from front and side.  
 Yes \_\_\_ No \_\_\_ Na  if "Na" explain None proposed

31. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.

Yes \_\_\_ No \_\_\_ Na  if "Na" explain None proposed

32. Location and specifications for all fences, walls, and other screening features with elevation views from front and side.

Yes \_\_\_ No \_\_\_ Na  if "Na" explain None proposed

33. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.

Yes \_\_\_ No \_\_\_ Na  if "Na" explain None proposed

34. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.

Yes \_\_\_ No \_\_\_ Na  if "Na" explain None proposed

35. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.

Yes \_\_\_ No \_\_\_ Na  if "Na" explain None

36. Identification of any significant site amenities or unique natural features.

Yes \_\_\_ No \_\_\_ Na  if "Na" explain No unique features

37. Identification of any significant views onto or from the site to or from adjoining areas.

Yes \_\_\_ No \_\_\_ Na  if "Na" explain None

38. North arrow, scale and date of original submittal and last revision.

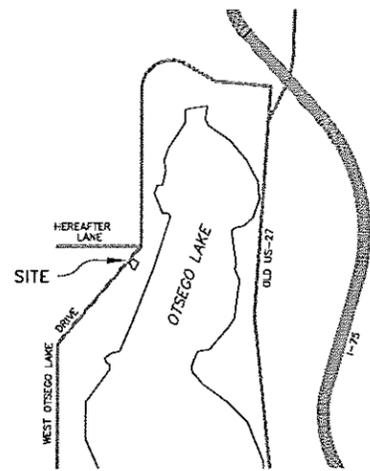
Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

39. Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the site plan.

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_

40. Paid appropriate fees to Otsego County.

Yes  No \_\_\_ Na \_\_\_ if "Na" explain \_\_\_\_\_



LOCATION MAP

**IMPACT STATEMENT**

**LAND USE:**

KOKOZEN ESTATES is a single family residential development consisting of (3) Site Condominium Units. Unit areas range from 1-1.6 acres.

**IMPACT ON PUBLIC UTILITIES AND SCHOOLS:**

The proposed units all have frontage on an existing private road, known as the Kokozen Access Road, and on an existing public road in the Amended Plat of Kokozen known as Kokozen Avenue, and on the public road, West Otsego Lake Drive. Electric and telephone service is currently available to each of the units. Utility extensions to building sites shall be by underground service. Development of the (3) residential home sites will not have a significant impact on the public schools.

**SURFACE AND STORMWATER MANAGEMENT:**

Development of the (3) residential home sites does not require any additional grading or site work. Stormwater runoff from the public road is contained in the road right of way.

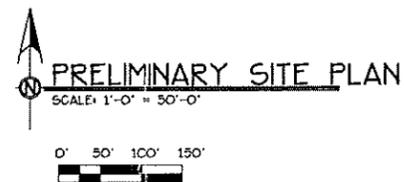
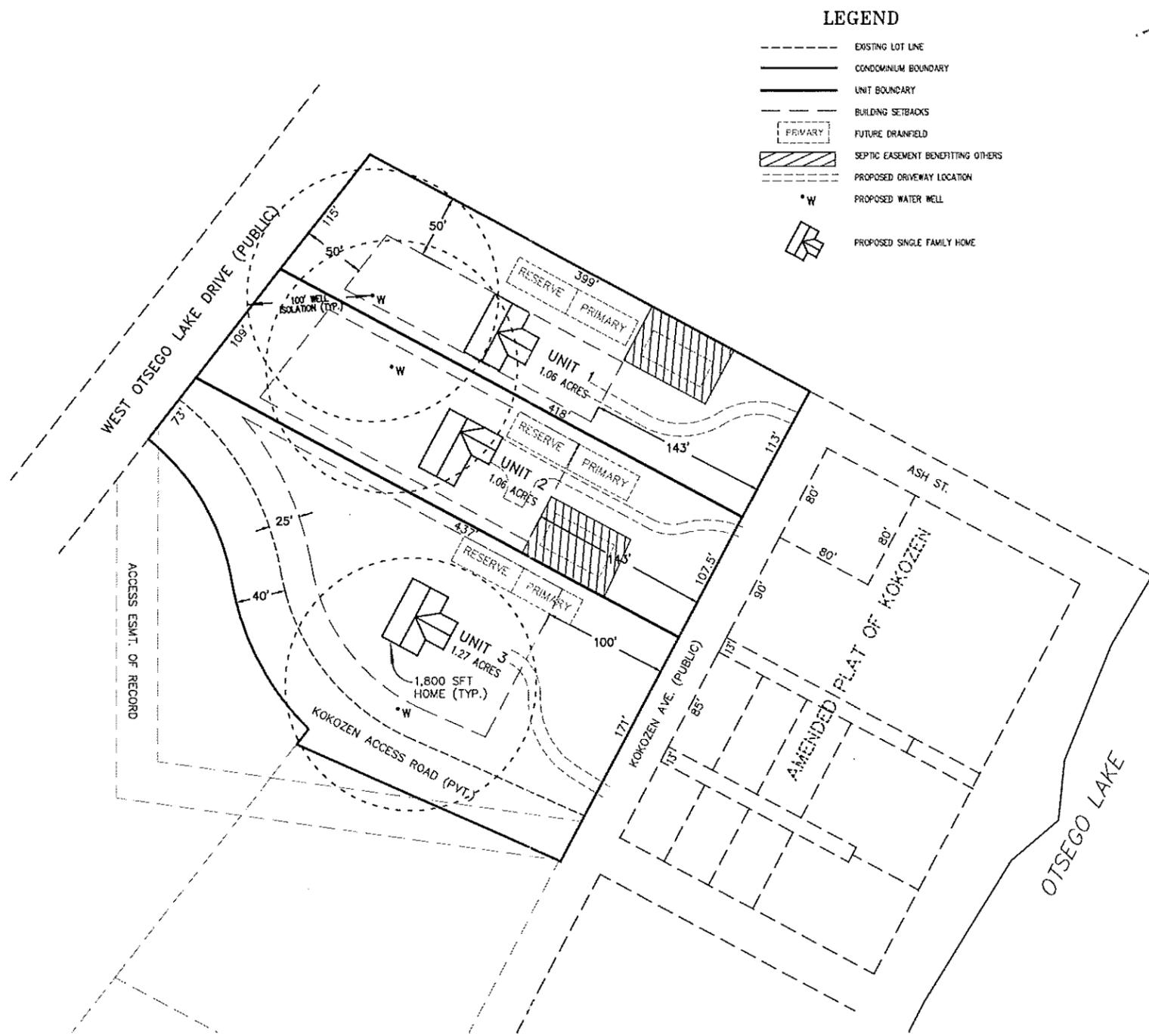
**POTABLE WATER AND SANITARY SERVICE:**

All units will be served by on-site individual well and septic system permitted by the Health Department. The locations shown are approximate, final well and drainfield locations to be determined following soils investigation and review by the district sanitarian.

**TREE REMOVAL, WETLAND PROTECTION AND SITE IMPROVEMENTS**

The site is 100% wooded with a mix of hardwoods, softwoods and conifers. Tree removal and site improvements shall be restricted by language contained in the Master Deed.

LEGAL DESCRIPTION (FROM OTSEGO CO. EQUALIZATION #010-029-200-010-06)  
 COMM • N COR. TH S38DEG05'23"W 563.98'. TH S01DEG15'52"W 332.48'. TH S81DEG59'04"E 91.67'. TH N38DEG23'52"E 34.43' FOR POB. TH N38DEG23'52"W 15.40'. TH ALG CURVE TO R 1335.10' RAD 218'. ANG 35DEG30'29". LC N27DEG42'10"W 132.95'. TH ALG CURVE TO L 133.42'. RAD 182'. ANG 42DEG00'05". LC N30DEG56'58"W 130.45'. TH N38DEG03'01"E 286.35'. TH S61DEG50'40"E 398.58'. TH S28DEG00'00"W 421.40'. TH N66DEG10'22"W 230.23' TO POB. SEC 29, T30N-R3W.



**LEGEND**

- EXISTING LOT LINE
- CONDOMINIUM BOUNDARY
- UNIT BOUNDARY
- BUILDING SETBACKS
- FUTURE DRAINFIELD
- SEPTIC EASEMENT BENEFITING OTHERS
- PROPOSED DRIVEWAY LOCATION
- \*W PROPOSED WATER WELL
- PROPOSED SINGLE FAMILY HOME



PREPARED FOR:  
 MAITLAND-A+G VACATION PROPERTIES LLC  
 32239 ROBINHOOD DRIVE  
 BEVERLY HILLS, MI 48025  
 (248) 626-0699

PREPARED BY:  
 NORTHERN MICHIGAN ENGINEERING INC.  
 PO BOX 1763  
 GAYLORD, MI 49734  
 (989) 370-8429

**SITE DATA**  
 PARCEL ID: 010-029-200-010-06  
 SITE AREA: 3.86 ACRES  
 CURRENT ZONING: RR RECREATIONAL RESIDENTIAL  
 MINIMUM LOT AREA: 20,000 SF  
 SETBACKS:  
 FRONT - 25 FT (ROAD)  
 SIDE - 10 FT  
 REAR - 30 FT

MINIMUM LOT WIDTH: 100 FT

**PROPOSED LAND USE DATA**

PROPOSED USE: SINGLE FAMILY RESIDENTIAL  
 PROPOSED LOT AREA: 1 ACRE+ TYPICAL  
 PROPOSED LOT WIDTH: 100 FT OR MORE  
 PROPOSED SETBACKS:  
 FRONT - VAREG  
 SIDE - 10 FT  
 REAR - 50 FT

UNIT DIMENSIONS ARE APPROXIMATE, THE FINAL DIMENSIONS AND SETBACKS WILL BE SHOWN ON THE EXHIBIT B DRAWINGS TO THE MASTER DEED.

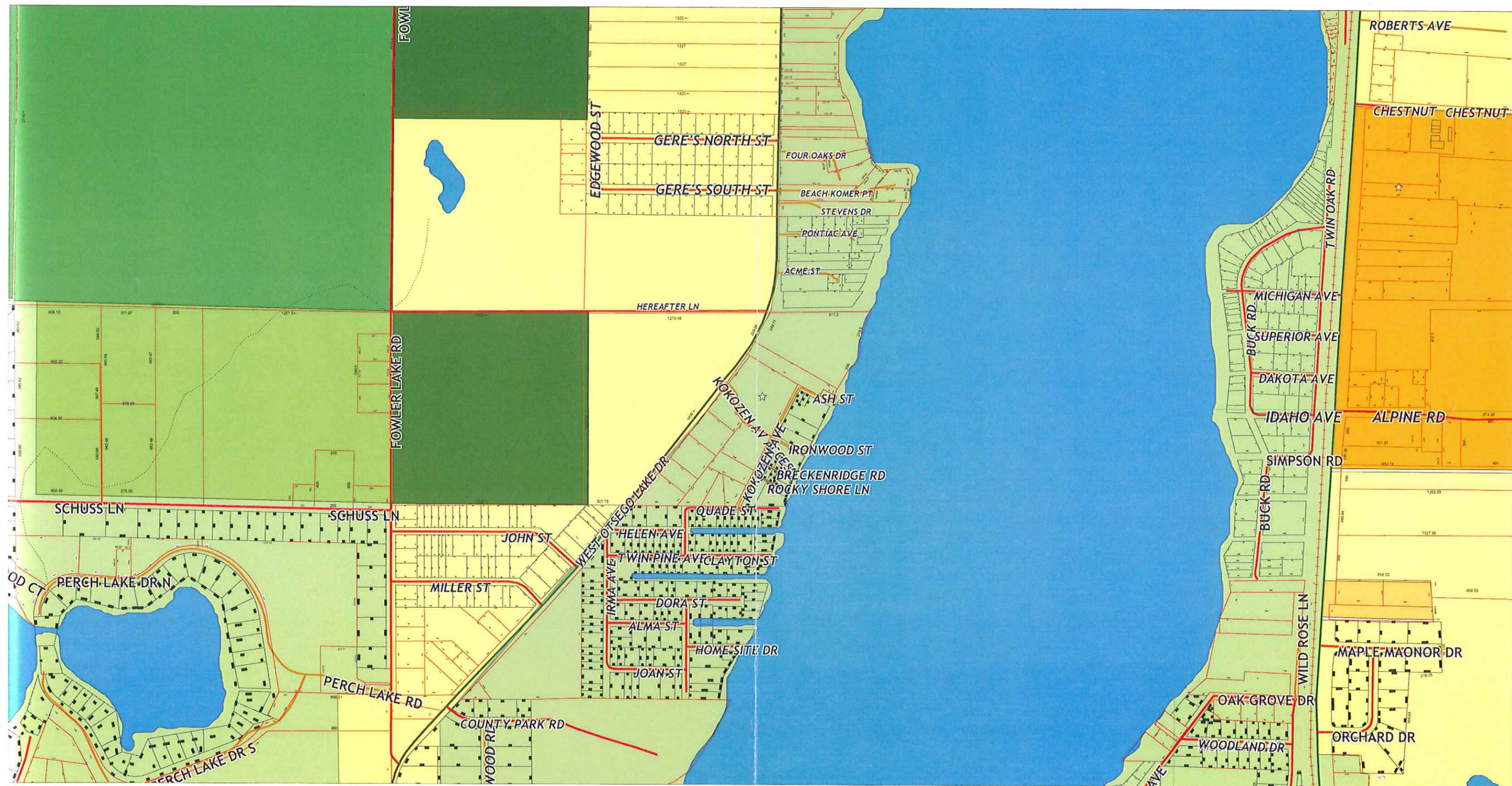
UNIT AREAS DO NOT INCLUDE ROAD RIGHT OF WAY.

I DO HEREBY CERTIFY THAT THESE PLANS HAVE BEEN PREPARED UNDER MY SUSTAINED REVIEW AND, TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, UNDERSTANDING AND INFORMATION, THE DESIGN OF THIS PROJECT IS IN COMPLIANCE WITH THE OTSEGO COUNTY ZONING ORDINANCE 2003-02, UPDATED 02/2007.

Thomas D. Zipp  
 THOMAS D. ZIPP, PE  
 NORTHERN MICHIGAN ENGINEERING INC.  
 DATE 11/1/11

JOB#11-018 DRAWING V1.0 9/24/2011

PROJECT	KOKOZEN ESTATES - SITE PLAN PART OF GOV'T LOT 1, SEC. 29, T30N-R3W	DATE	
BY	THOMAS D. ZIPP, PE	DATE	
CHECKED	D.C.D.	DATE	
APPROVED BY	T.D.Z.	DATE	
DATE	3/25/2011	DATE	
PRINT DATE	3/26/2011	DATE	
REVISIONS		DATE	
NORTHERN MICHIGAN ENGINEERING INC. <b>NME</b> 200 PARKVIEW AVE. GAYLORD, MI 49734 (989) 370-8428		THOMAS D. ZIPP, PE MI LICENSE #32295	
PROJECT KOKOZEN ESTATES - A+G VACATION PROPERTIES VACANT - WEST OTSEGO LAKE DRIVE		SHEET <b>P1</b>	



## Joseph Ferrigan

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**From:** David Drews [ddrews@chartermi.net]  
**Sent:** Monday, January 09, 2012 3:48 PM  
**To:** Joseph Ferrigan  
**Subject:** Kokozen Estates  
**Attachments:** Master Deed DRAFT \_2\_.pdf; Bylaws DRAFT \_2\_.pdf

Attached is a copy of the DRAFT documents. This is a generic Master Deed; final documents will reinforce and expand on the county zoning ordinance, and may include more restrictive requirements on structure size, building materials, accessory buildings and access. Lot clearing will be limited to the extent necessary to construct a home and access drives; the large setbacks shown on the Preliminary Site Plan are intended to preserve natural buffers.

We will submit a final copy of these documents as soon as available.

**David C. Drews, Project Manager**

*NME*

Northern Michigan Engineering Inc.  
507 Woodridge Drive  
PO Box 1763  
Gaylord, MI 49734  
Ph. 989.370.8429 Fax 888.893.9761  
[ddrews@chartermi.net](mailto:ddrews@chartermi.net)

This e-mail is confidential. If you are not the intended recipient of this e-mail, please immediately notify Northern Michigan Engineering Inc. by reply e-mail or by collect telephone call. If you are not the intended recipient of this e-mail, please delete this e-mail. If you are not the intended recipient of this e-mail, you are also notified that any disclosure, distribution, copying, or other use of this e-mail is prohibited.

# MASTER DEED

[]

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THIS IS THE MASTER DEED OF [] (this "Master Deed"). The date of this Master Deed is \_\_\_\_\_, 2012.

[] ("Developer") is recording this Master Deed with the [] County Register of Deeds to establish as a condominium project certain real property that is located in [] TOWNSHIP, [] COUNTY, MICHIGAN, that is more particularly described as:

[] (the "Land");

and that is: (a) subject to and together with any easements, restrictions, reservations, exceptions, or conditions of record and to any governmental limitations and (b) subject to the reservation by Developer of all oil, gas, and mineral rights and (c) together with any improvements now or later located on the Land and any appurtenances to the Land (the Land and all of the other matters that are described above are collectively referred to in this Master Deed as the "Condominium Project"); and by recording this Master Deed Developer declares that:

1. The Condominium Project.

(a) The Condominium Project is established as a condominium project under the Michigan Condominium Act, Act 59 of the Public Acts of 1978, as amended (the "Act"). The Condominium Project will be held, conveyed, hypothecated, encumbered, leased, rented, occupied, improved, or in any other manner used according to the terms of the Act and to the terms of this Master Deed. All of the terms of this Master Deed are covenants running with the land and are a burden and a benefit to Developer, to any other persons acquiring or owning an interest in the Condominium Project, to the Association, and to the respective successors or assigns of all of these parties.

(b) The Condominium Project will be known as [], [] County Condominium Subdivision Plan No. \_\_\_\_\_.

2. Definitions.

(a) Whenever used in this Master Deed:

(i) "Association" means [] Condominium Association, a Michigan nonprofit corporation. Each Owner will be a member of the Association.

Exhibit A. (ii) "Bylaws" means the Bylaws that are attached to this Master Deed as

(iii) "Common Elements" means General Common Elements and Limited Common Elements. Common Elements are more particularly described in Paragraph 3, below.

(iv) "Condominium" means the Condominium Project, and includes (without limitation) each Unit and all of the Common Elements.

(v) "Condominium Documents" means this Master Deed (including without limitation attached Exhibit A and attached Exhibit B, the terms of which are each incorporated into this Master Deed), the Declaration, the Articles of Incorporation of the Association, and any other instruments pertaining to the use and operation of the Condominium, as all or any of these instruments are amended at any time and from time to time.

(vi) "Condominium Subdivision Plan" means "[ ] County Subdivision Plan No. \_\_\_\_\_, Exhibit B to the Master Deed of [ ]", which is attached to this Master Deed as Exhibit B.

(vii) "Developer" means [ ] and its successors and assigns; but "Developer" does not mean any Successor Developer (as this term is defined under Section 135 of the Act).

(viii) "Owner" means any Person, including without limitation Developer, owning one or more Units.

(ix) "Person" means any natural person, corporation, limited partnership, limited liability company, limited liability partnership, general partnership, trust, or other entity that exists under the laws of the State of Michigan.

(x) "Unit" means each unit in the Condominium. Each Unit is described in the Condominium Subdivision Plan, which identifies each Unit by the number of each Unit and which depicts the boundaries, dimensions, and the area of each Unit. Each Unit consists of the area contained within the boundaries of that Unit. The boundaries of each Unit are delineated by the heavy outlines in the Condominium Subdivision Plan. "Unit" also has the same meaning as "Condominium Unit" under the Act.

(b) If any of the terms that are defined under subparagraph (a), above, appear in any of the Condominium Documents or in any deeds, mortgages, easements, or other instruments that transfer interests in and to the Condominium or that pertain to the use or operation of the Condominium, then those terms will have the same meaning in those other instruments as in this Master Deed.

### 3. Common Elements.

(a) (i) The General Common Elements of the Condominium are:

(A) Any of the Land that is not a Unit or a Limited Common Element.

(B) Any easements that benefit the Condominium Project.

(C) Any other elements of the Condominium that are not designated as Common Elements and which are not located within a Unit and which are intended for common use by all of the Owners or are necessary for the existence, upkeep, or safety of the Condominium.

(ii) General Common Elements are appurtenant to each Unit in proportion to the percentage of value assigned to each Unit under Paragraph 4(b), below. Each Owner will have

undivided and inseparable rights in and to General Common Elements and may use General Common Elements in common with other Owners, subject to the terms of the Condominium Documents.

(iii) Some or all of the utility systems that are described above as General Common Elements may be owned by a public authority; and in that event those utility systems are only General Common Elements to the extent of the interest of Developer (if any) in and to those systems.

(b) The Limited Common Elements of the Condominium are any portion of the Condominium that is identified on the Condominium Subdivision Plan as a Limited Common Element.

(c) (i) Each Owner will at the sole cost and expense of that Owner maintain, repair, and replace (according to the terms of the Condominium Documents) the Unit that is owned by that Owner and any and all improvements that are located within the Unit in order that the condition of the Unit and the condition of any and all improvements will satisfy the requirements of the Condominium Documents.

(ii) Each Owner will at the sole cost and expense of that Owner maintain, repair, or replace (according to the terms of the Condominium Documents) any of the Limited Common Elements that are appurtenant to the Unit that is owned by that Owner and that are specifically described below, in order that the condition of that Limited Common Element will satisfy the requirements of the Condominium Documents.

(d) (i) The Association will maintain, decorate, repair, or replace the Common Elements, including (without limitation) any Limited Common Elements that are not specifically described under subparagraph (c)(ii), above.

(ii) All of the costs that are incurred under subparagraph (i), above, by the Association to maintain, repair, or replace the Common Elements will be paid by the Association. All of the costs of maintaining, repairing, or replacing the General Common Elements will be expenses of administering the Condominium. All of the costs of maintaining, repairing, or replacing any of the Limited Common Elements will be paid by the Owners of the Units to which the Limited Common Elements are appurtenant.

(e) The Common Elements may not be used by any Owner or by any other Person in any manner that is not consistent with the purposes of the Condominium (as these purposes are described under the Bylaws) or that will interfere with or impair the rights of any Owner using a Unit or using the Common Elements.

#### 4. Unit Description and Percentage of Value.

(a) Each Unit is described in the Condominium Subdivision Plan. Each Owner will have the exclusive right to occupy the Unit owned by that Owner. Each Unit includes all of the space that is contained within the walls that are General Common Elements and that are the perimeter boundaries of that Unit and the floor and the ceiling that are General Common Elements and that are the lower and the upper boundaries of that Unit. The boundaries of each Unit are depicted in the Condominium Subdivision Plan.

(b) The percentage of value assigned to each Unit determines (i) the proportionate share of General Common Elements that are appurtenant to that Unit and (ii) the proportionate share of the proceeds and the expenses of administering the Condominium that will be assessed to that Unit and (iii) the value of the vote that will be cast by the Owner of that Unit at meetings of the Association. Developer has determined that for the purpose of assigning percentages of value to each Unit, material differences do not exist between each Unit and each Unit has the same percentage of value. The sum of the percentages of value of all of the Units is 100%.

(c) A Unit may not be used by any Owner (or by any other Person) in any manner that is not consistent with the purposes of the Condominium (as these purposes are described under the Bylaws) or that will interfere with or impair the rights of any Owner using any other Unit or the Common Elements.

5. Relocation of Unit Boundaries and Consolidation of Units.

(a) (i) Developer may at any time and from time to time amend this Master Deed either (A) to subdivide any Unit that is owned by Developer or (B) to relocate the boundary between adjoining Units that are each owned by Developer or (C) to consolidate into a single Unit two or more Units that are located adjacent to one another and that are each owned by Developer. Developer may install any walls, floors, ceilings, or utility conduits that are required to be installed in order that a Unit may be subdivided or in order that the boundary between adjoining Units may be relocated and Developer may alter any walls, floors, ceilings, utility conduits, or any other parts of the Building that are required to be altered in order that the adjoining Units are consolidated into a single Unit. Any subdivision of Units or any relocation of Unit boundaries or any consolidation of Units will not impair the structural integrity of the Building and will not cause any utility services to be discontinued to any other Units for any longer than the period of time that is reasonably required to complete any of the work that is described under this subparagraph (i).

(ii) Every Owner and every mortgagee of any Unit and every other Person now or at any time and from time to time having any interest in and to any of the Condominium are each deemed to have irrevocably and unanimously and unconditionally consented to any amendments of this Master Deed for the purposes that are described under subparagraph (i), above; and all of these Persons are deemed to have irrevocably appointed Developer as their agent and attorney to sign and deliver any amendments to this Master Deed for these purposes.

(b) The Owner of any Unit may request that the Association subdivide that Unit. The Owner of any two or more Units that are adjacent may request that the Association consolidate those Units into a single Unit. The Owners of any two or more Units that are adjacent may request that the Association relocate the boundary between those Units. In any of these events the President of the Association will cause an amendment to this Master Deed to be prepared that will describe the Units as subdivided or consolidated or modified, as the case may be. That amendment will also convey between these Owners those particular portions of each Unit that must be conveyed in order that after that amendment is recorded, each Owner will own all of the Unit owned by that Owner, as that Unit has been modified. Owners requesting the subdivision of any Unit or the consolidation of any Units or the relocation of the boundaries of any Units may (at their own cost) install any walls, floors, ceilings, or utility conduits that are required to be installed in order that a Unit may be subdivided or in order that Units may be consolidated or in order that the boundary between adjoining Units may be relocated, but any of this work may only be conducted according to the requirements of the Bylaws and the subdivision of Units or the consolidation of Units or the relocation of Unit boundaries will not impair the structural integrity of the Building and will not cause any utility services to be discontinued to any other Units for any longer than the period of time that is reasonably required to complete any of the work that is described under this subparagraph (i). Any Owners requesting any subdivision or consolidation or relocation of Unit boundaries will pay all of the costs, fees, and expenses to determine the description and identification of the subdivided Units or the consolidated Unit or the modified Units and to cause to be prepared and recorded an amendment to this Master Deed. The relocation of any boundaries under this subparagraph (b) is subject to the approval of any Persons that are first mortgagees of the Units being modified and the prior written approval of Developer, which approval Developer may withhold in its sole and arbitrary discretion.

(c) Any amendment of this Master Deed under this Paragraph 5 will be in writing and will be effective as of the date upon which that amendment is recorded with the [] County Register of

Deeds. The relocation of any boundaries or the consolidation of Units under this Paragraph 5 is subject to the terms of this Master Deed and to the requirements of any applicable governmental authorities. The percentage of value that is assigned to any subdivided or consolidated or modified Units will be determined by Developer in its sole and arbitrary discretion; and in any event, the total of the percentage of value of all of the Units will be 100%.

(d) Units may not be subdivided or consolidated and Unit boundaries may not be modified except according to the terms of this Paragraph 5.

6. Contraction or Conversion of the Condominium.

(a) (i) "Contractable Area" means all of the Condominium.

(ii) Any of the terms and conditions of this Master Deed to the contrary notwithstanding, Developer may at any time and from time to time contract the Condominium by withdrawing from the Condominium all or any portions of the Contractable Area that are then owned by Developer as hereinafter provided.

(iii) If Developer elects to contract the Condominium:

(A) the right of Developer to elect to contract the Condominium is not restricted and Developer is not required to obtain the consent of any Owners to contract the Condominium;

(B) Developer must contract the Condominium not later than the last day of the sixth year from and after the date of this Master Deed;

(C) Developer may withdraw from the Condominium all or any portions of the Contractable Area and the right of Developer to withdraw all or any particular portions of the Contractable Area is not restricted; and

(D) Developer is not required to withdraw from the Condominium any particular portions of the Contractable Area and if Developer does contract the Condominium, Developer is not required to withdraw from the Condominium any particular portions of the Contractable Area in any particular order.

(b) (i) "Convertible Area" means all of the Condominium.

(ii) Any of the terms and conditions of this Master Deed to the contrary notwithstanding, Developer may at any time and from time to time convert any portion of the Condominium to a Unit or a Limited Common Element or a General Common Element.

(iii) If Developer elects to convert any portion of the Condominium:

(A) Developer may designate all or any portions of the Convertible Area as condominium units; but Developer may not establish more than [] condominium units in respect of the Convertible Area;

(B) Developer may create in respect of the Convertible Area any types of condominium units that are described in this Master Deed or any other types of condominium units that are not unreasonably inconsistent with the purposes for which the Condominium has been established by Developer;

(C) Any structures erected on the Convertible Area will not unreasonably diminish the appearance of the Condominium and will be reasonably compatible with structures on other portions of the Condominium;

(D) Developer may complete any improvements in respect of the Convertible Area that are not unreasonably inconsistent with the purposes for which the Condominium has been established by Developer;

(E) Developer may create Common Elements within any Convertible Area; and Developer may designate as Limited Common Elements any of these Common Elements and Developer may subsequently assign these Limited Common Elements.

(F) Developer must convert any portion of the Condominium not later than the last day of the sixth year from and after the date of this Master Deed.

(c) (i) Any contraction or conversion of the Condominium will be effective as of the date that an amendment to this Master Deed is recorded with the [] County Register of Deeds which contains all of the essential elements of the contraction or conversion of the Condominium, as the case may be. Any amendment to this Master Deed to contract or to convert the Condominium will be prepared by Developer, will contain terms and conditions required by law, and will contain any other terms and conditions that are determined by Developer in its sole discretion, including without limitation any provisions that are required to define or redefine any Common Elements in order that the Condominium (and every Unit) will have proper ingress and egress and will be furnished all of the utility services that are described in this Master Deed.

(ii) Upon concluding all contractions or conversions of the Condominium, Developer will prepare a Consolidating Master Deed and Developer will record the Consolidating Master Deed with the [] County Register of Deeds. The Consolidating Master Deed will entirely supersede the previously recorded Master Deed and any and all amendments to that Master Deed.

(iii) Every Owner and every mortgagee of any Unit and every other Person now or at any time and from time to time having any interest in and to any of the Condominium are each deemed to have irrevocably and unanimously and unconditionally consented to any of the amendments of this Master Deed that are described above; and all of these Persons are deemed to have irrevocably appointed Developer as their agent and attorney to sign and deliver any of these amendments to this Master Deed.

## 7. Easements.

(a) If any portion of any Unit or any Common Element encroaches upon another Unit or Common Element due to shifting, settling, or moving or due to survey errors or construction deviations or to a change in ground elevations, reciprocal easements are deemed to exist to permit that encroachment and to permit the encroaching Unit or Common Element to be rebuilt in the same location, if that structure is destroyed.

(b) Developer reserves for itself and for the Association:

(i) an easement over and across the Condominium for the purpose of permitting Developer to install, extend, enlarge, operate, maintain, repair, and replace utilities in the General Common Elements; and

(ii) an easement over and across the Condominium for the purpose of permitting Developer or the Association to maintain, repair, and replace any Unit and any improvements

on any Unit, if any Unit and any improvements on any Unit are not maintained, repaired, and replaced by the Owner of that Unit according to the terms and conditions of the Condominium Documents.

(c) The Condominium Subdivision Plan depicts the location of easements over, across, and under the Condominium Project. The Condominium Subdivision Plan also depicts the location of certain utility facilities across the Condominium Project. The use of the Condominium Project is subject to these easements and facilities.

8. Omitted.

9. Amendment of this Master Deed and Termination of the Condominium.

(a) If all of the Units are owned by Developer, Developer may unilaterally amend this Master Deed or terminate the Condominium.

(b) If any one or more of the Units are not owned by Developer, this Master Deed (including the Exhibits attached to this Master Deed) may only be amended with the consent of two-thirds of the value of all of the votes of all of the Owners and all of the first mortgagees of any Units (each mortgagee having one vote for each first mortgage of a Unit to that mortgagee); except that:

(i) the dimensions of any Unit may not be modified in any material way without the consent of the Owner and each mortgagee of that Unit and the nature and extent of the Limited Common Elements appurtenant to any Unit and the responsibility for the maintenance, repair, or replacement of those Limited Common Elements not be modified in any material way without the written consent of the Owner and each mortgagee of that Unit; and

(ii) Developer may amend this Master Deed (including the Exhibits attached to this Master Deed) without the consent of any Owner or any mortgagee of any Unit or any other Person having any interest in and to the Condominium to correct survey or other errors in the Condominium Documents, to clarify or explain any particular terms of the Condominium Documents, to comply with any provisions of the Act, to comply with the requirements of any lender to which a Unit will be mortgaged, to satisfy the requirements of a title insurance (or other insurance) company, or for the purpose of correcting survey or other errors in this Master Deed, or for any other purpose that does not materially affect the rights of any Owners or mortgagees of any Units or that is otherwise permitted under this Master Deed; and

(iii) the percentage of value assigned to any Unit and the corresponding value of the vote of the Owner of that Unit and the corresponding proportion of expenses assessed against the Unit owned by that Owner may not be amended or modified without the written consent of that Owner and the mortgagee of the Unit owned by that Owner; and

(iv) easements under the Condominium Documents may not be modified and any obligations in respect of any easements may not be varied without the consent of each Owner who benefits from the easement or obligation, except to the extent described under Paragraph 7, above;

(v) this Master Deed may be amended by Developer as otherwise specifically permitted in the Condominium Documents; and.

(c) If any of the Units are not owned by Developer, the Condominium may be terminated only with the consent of 100% of the value of the votes of all of the Owners and with the consent of 100% of all of the first mortgagees of any Units (each mortgagee having one vote for each first mortgage of a Unit to that mortgagee).

(d) Any amendment to this Master Deed will be effective as of the date that a written instrument describing the amendment to this Master Deed is recorded with the [] County Register of Deeds which contains all of the essential elements of the amendment and which otherwise contains all of the terms and conditions required by law.

9. Assignment. Any or all of the rights and powers granted or reserved to Developer in the Condominium Documents or by law may be assigned by Developer to the Association, to the Village Association, or to any other Person, including without limitation any of the powers of Developer under the Bylaws to approve or to disapprove any matter or action. Any assignment by Developer of any of its rights or powers will be effective as of the date that a written assignment thereof is recorded with the [] County Register of Deeds.

10. Developer's Right to Use the Condominium. Developer or its members, employees, or agents may maintain offices, model units, or any other facilities on the Condominium that are reasonably required by Developer to permit Developer to develop the Condominium or to sell or to lease Units, as the case may be. This means (without limitation) that Developer may use any particular Units that are owned by Developer to market for sale those particular Units and any other Units owned by Developer. Developer will pay all of the costs related to the use of these particular facilities and Developer will restore these facilities to habitable status upon terminating its use of these facilities pursuant to this Paragraph 10.

11. Omitted.

12. Water Supplies and Wastewater Treatment and Disposal Systems.

(a) All Units are restricted to single-family use only.

(b) The initial and replacement drainfield and well locations depicted on the condominium subdivision will be preserved for that use by the Unit Owner, unless otherwise permitted by the Health Department (or any successor local public health agency).

(c) Initial and replacement drainfield areas will be preserved by restricting vehicular traffic, filling or cutting of grade, and placing structures on these areas, unless otherwise permitted by the Health Department (or any successor local public health agency).

(d) All water wells must be isolated at least 75 feet from any potential source of contamination.

(e) Water wells must be constructed to provide water to a home at a minimum sustainable capacity of 10 gallons per minute. Additional capacity may be necessary, depending on the needs of any particular homeowner.

(f) Permits for the installation of individual water wells and sewage treatment/disposal systems must be obtained from the Health Department (or any successor local public health agency), before starting any site preparation or construction on any particular Unit. Variations to an approved Unit development plan (including the location of a drainfield or water well) may be proposed by a Unit Owner with a permit application.

(g) Each Unit Owner is responsible to maintain and to properly operate the water well and the wastewater treatment/disposal system on that particular Unit.

(h) These restrictions are perpetual and may only be waived by the Health Department (or any successor local public health agency).

Developer:

By:

Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_, 2012

State of Michigan )  
County of )ss  
)

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012,  
by \_\_\_\_\_ the \_\_\_\_\_ of [].

\_\_\_\_\_  
\_\_\_\_\_, Notary Public  
\_\_\_\_\_ County, \_\_\_\_\_  
Acting in \_\_\_\_\_ County  
My Commission Expires:

This instrument was drafted by  
and when recorded return to:

# EXHIBIT A

## BYLAWS OF []

These are the Bylaws of [] Condominium. [] is a condominium project that is located in the [] Township, [] County, Michigan. [] will be administered by [] Condominium Association, a Michigan nonprofit corporation. These Bylaws are required under Section 3(8) of the Act and are also the bylaws of [] that are required under the Michigan Nonprofit Corporation Act. Capitalized terms that appear in these Bylaws and that are not defined in these Bylaws will have the same meanings that are attributed to those terms in the Master Deed of [] -.

1. Association of Owners. The Association will administer the Condominium according to the terms of the Condominium Documents and the laws of the State of Michigan, including (without limitation) the Act. Each Owner will be a member of the Association and no other Person will be a member of the Association. The interest of an Owner in the funds and assets of the Association cannot be assigned, pledged, or transferred, other than as an appurtenance to the Unit owned by that Owner. The Association will maintain current copies of the Master Deed, all amendments to the Master Deed, and any other Condominium Documents. These copies will be available upon request to Owners, to prospective purchasers of Units, to mortgagees of Units, and to prospective mortgagees of Units. Every Owner and every Person using or entering upon or acquiring any interest in all or any of the Condominium is subject to the terms and conditions of these Bylaws and all of the other Condominium Documents.

2. Assessments.

(a) All of the costs, fees, or expenses incurred or payable by the Association to manage, administer, or operate the Condominium according to the terms and conditions of the Condominium Documents and the Act will be paid to the Association by the Owners. Unless otherwise provided in these Bylaws or the Master Deed, the foregoing costs, fees, and expenses will be allocated among and paid by the Owners according to the percentage of value assigned to each Unit under Paragraph 4(b) of the Master Deed.

(b) (i) The Association will prepare and approve an annual budget for each fiscal year of the Association. This budget will estimate all of the expenses to manage, administer, and operate the Condominium during that fiscal year. To determine this budget, all of the costs, fees, and expenses incurred or payable by the Association to manage, administer, or operate the Condominium (including without limitation the Common Elements) according to the Condominium Documents and the Act are expenditures in respect of the administration of the Condominium and all of the sums received by the Association (including without limitation any amounts received by the Association as proceeds of or pursuant to a policy of insurance maintained by the Association) are receipts in respect of the administration of the Condominium, within the meaning of Section 54(4) of the Act. The budget may also include a reasonable allowance for contingencies and reserves and the budget will include a reserve for major repairs and for replacement of Common Elements. The amount of the reserve for major repairs and for replacement of Common Elements will equal 10% of the then current annual budget of the Association, on a noncumulative basis. Notwithstanding the foregoing, the minimum amount required under this subparagraph may prove to be inadequate for the Condominium. The Association should carefully analyze the Condominium to determine if a greater amount should be reserved or if additional reserve funds should be established for other purposes.

(ii) After the budget has been adopted by the Association, the Association will deliver to each Owner a copy of that budget. The total amount of that budget will be the total amount of the assessment against the Condominium for that fiscal year. The total of the amount of each

assessment by the Association will be allocated between all of the Units according to the percentage of value assigned to each Unit under Paragraph 4(b) of the Master Deed (without increase or decrease in respect of any Limited Common Elements that are appurtenant to any particular Unit). The amount of each assessment that is allocated to each Unit will be levied against that Unit and will be paid to the Association by the Owner of that Unit in periodic installments that are determined by the Association. Each Owner is personally liable (jointly and severally, if any Unit is owned by more than one Person) for the payment of any and all assessments levied against the Unit owned by that Owner; except that if an Owner sells the Unit owned by that Owner under a land contract, that Owner is not liable to pay any assessments levied against that Unit from and after the date of that land contract. The obligation of each Owner to pay assessments commences as of the acceptance by that Owner of a fee simple interest or a land contract vendee's interest in and to a Unit. The failure of the Association to deliver a copy of any budget to each Owner will not affect or in any way diminish the liability of any Owner to pay any existing or future assessments against the Unit owned by that Owner or the right of the Association to enforce any of its rights or remedies against that Owner.

(iii) If at any time and from time to time the Association determines in its sole discretion (A) that the amount of any annual assessment is or may not be sufficient to pay all of the costs to administer the Condominium or (B) that the proceeds of any insurance maintained by the Association are not sufficient to pay for the cost of repairing or replacing any Common Element or (C) to enlarge or to expand the Common Elements and if the cost of enlarging or expanding the Common Elements is less than or equal to \$10,000 for the entire Condominium in any fiscal year or (D) that an emergency exists, the Association may increase the amount of the then assessment or the Association may levy additional assessments, as the Association deems necessary; and in this event the Association may increase the amount of any assessment or levy additional assessments without the consent of any Owner. The rights of the Association under this subparagraph (iii) are solely for the benefit of the Owners and are not enforceable by any creditors of the Association or by the Owners.

(iv) At any time and from time to time the Association may levy special assessments. Special assessments may be levied by the Association (A) to permit the Association to enlarge or to expand the Common Elements, if the cost of enlarging or expanding the Common Elements exceeds \$10,000.00 for the entire Condominium in any fiscal year, (B) to permit the Association to purchase any Unit at a sale to foreclose any lien of the Association against that Unit, or (C) for any other purpose determined by the Association. A special assessment under this subparagraph (iv) must be approved by the affirmative vote of at least 66.67% of the total value of all of the votes of the Owners at a meeting of the Association that has been duly called and convened. The right of the Association to levy a special assessment under this subparagraph (iv) is solely for the benefit of the Owners and is not enforceable by any creditors of the Association or by any Owners.

(c) (i) If any assessment against a Unit is not paid to the Association on or before the 10th day after the date when the payment of that assessment is due, the Owner of that Unit will be in default. If any Owner is in default with respect to the payment to the Association of any assessment that has been levied against the Unit owned by that Owner, then and in addition to any other remedies available to the Association at law or in equity (including without limitation an action at law for damages), the Association may declare all unpaid installments of that assessment immediately due and payable. The Association may also discontinue furnishing utilities or other services to that Owner or to the Unit owned by that Owner, upon seven days prior written notice to that Owner. Any Owner in default under these Bylaws may not vote at any meetings of the Association and may not use any of the Common Elements; provided, however, that an Owner will not be denied ingress or egress to and from the Unit owned by that Owner.

(ii) (A) Pursuant to Section 108 of the Act, the Association will have a lien against each Unit to secure the payment by the Owner of that Unit of each assessment that is levied against that Unit. This lien will be deemed to have been imposed against each Unit as of the first day of the fiscal year in respect of which each assessment is levied. Each Owner and every other Person at any time and from time to time having any interest in and to the Condominium is deemed to have granted to

the Association the unqualified right to elect to foreclose this lien in the same manner as the foreclosure of a mortgage under the laws of the State of Michigan pertaining to the foreclosure of mortgages by judicial action or by advertisement, as the case may be; and each defaulting Owner is hereby deemed to have authorized and empowered the Association to sell the Unit owned by the Owner and to receive, hold, and distribute any proceeds of that sale according to applicable law. By acquiring title to a Unit, each Owner acknowledges the terms and conditions of this subparagraph.

(B) Regardless of the terms of subparagraph (B), the Association may not begin to foreclose any lien against any Unit (whether by judicial action or by advertisement) until after the expiration of the 10 day period beginning as of the later of the dates upon which the Association (1) delivers a Notice of Lien (as this term is defined in subparagraph (C), below) to the Owner of that Unit by first class mail, postage prepaid, addressed to the last known address of that Owner and (2) records that Notice of Lien with the Charlevoix County Register of Deeds.

(C) "Notice of Lien" means a written notice prepared by an authorized representative of the Association and stating (1) the number of the Unit in respect of which the notice has been prepared, (2) the name of the Owner of that Unit, (3) the amount due and payable to the Association by that Owner as of the date of the notice (exclusive of interest, costs, attorney fees, and future assessments), and (4) any other information that the Association deems necessary.

(iii) Any Owner who has failed to pay any assessment hereunder on or before the 10th day after the date when that assessment is due must also pay to the Association a \$250.00 late charge. Any and all costs, fees (including without limitation reasonable attorney's fees), expenses, and other amounts incurred or paid by the Association to enforce its rights under these Bylaws (including without limitation its rights under Paragraph 23, below, or to protect its lien under subparagraph (ii)(A), above) in respect of any defaulting Owner, will be due and payable to the Association by that Owner not later than 10 days after written request therefor is delivered by the Association to that Owner. Pursuant to Section 108 of the Act, the Association will have a lien against each Unit to secure to the Association the payment of any and all of these costs, fees, and expenses. Interest will accrue in respect of the amount of any unpaid assessment or other payments at the rate of seven per cent per annum, from the date upon which the assessment or other payment was due to the date that the assessment is paid in full to the Association; and pursuant to Paragraph 23, below, the Association may also assess fines for late payment or non-payment of assessments. Payments to the Association in respect of delinquent assessments will be allocated first, to any costs to collect that assessment or to enforce the rights of the Association under these Bylaws, including without limitation reasonable attorney's fees; second, to any late charges, interest, or fines; and third, to the delinquent assessments, in the order of their due dates.

(d) Every Owner must pay the assessments levied against the Unit owned by that Owner, even if that Owner has waived the right to use the General Common Elements or has abandoned the Unit owned by that Owner.

(e) Before any Unit or the interest of any Owner in and to any Unit) may be conveyed or transferred or assigned in any manner (including any involuntary conveyance, transfer, or assignment or any conveyance, transfer, or assignment upon the death of the Owner of any Unit, but not including any conveyance, transfer, or assignment for estate planning purposes), the Owner of the Unit will deliver to the Association a written notice describing the conveyance, transfer, or assignment and identifying the Person who will be the new Owner of the Unit. When the Association receives this written notice, the Association will deliver to Owner a statement by the Association of the amount of any unpaid assessments then levied against that Unit. This statement will be binding upon the Association for the period of time that is described in that statement. If this statement discloses that any assessments against that Unit are not paid and if that unpaid amount is paid to the Association on or before the date for the payment of that amount that is stated in the statement, the lien of the Association in respect of that assessment will be extinguished. If any Owner of a Unit does not request this statement at least five days before the date upon which that Owner will convey, transfer, or assign, the interest of that Owner in and to the Unit, then, any assessments levied against that Unit that are not paid as of the date upon which that conveyance,

transfer, or assignment occurs will be enforceable against the new Owner of the Unit, to the extent permitted under the Act. The written notice describing any conveyance, transfer, or assignment must be accompanied by a \$250.00 payment to the Association. This payment will be used by the Association to pay the costs of administering the Condominium, including the expenses incurred by the Association to prepare and to deliver the statement that is described in this subparagraph (f). The Association may at any time and from time to time increase amount of the payment that is described under this subparagraph (e).

(f) Regardless of any of the other terms of the Condominium Documents, the foreclosure of any first mortgage of any Unit (or the conveyance of that Unit pursuant to a deed in lieu of the foreclosure of that mortgage), will be deemed to have extinguished the lien of the Association in respect of any assessments or charges against that Unit as of the date of the foreclosure sale or conveyance in lieu of foreclosure; but, any Person acquiring that Unit will be liable to pay to the Association the amount of any unpaid assessments or charges in respect of that Unit if the amount of those unpaid assessments or charges are allocated to all of the Units.

(g) The Association will be deemed to be in possession of any tangible personal property of the Condominium that is owned or possessed in common by all of the Owners. Any personal property taxes in respect of this tangible personal property will be assessed against the Association and will be an expense of the administration of the Condominium. Property taxes and special assessments will be levied by any public taxing authority according to the provisions of Section 131 of the Act.

(h) Any construction lien under Act No. 497 of the Michigan Public Acts of 1980, as amended, is subject to the terms and conditions of Section 132 of the Act.

3. Disputes, Claims, or Grievances. Any disputes, claims, or grievances arising out of or relating to the interpretation or the application of the Condominium Documents or any disputes, claims, or grievances between Owners or between any Owner and the Association may be submitted to arbitration, if written notice thereof is delivered to the Association and if that notice is accompanied by a written agreement by the parties to submit the dispute, claim, or grievance to arbitration and to accept as final and binding the decision of any arbitrator and to permit any circuit court of the State of Michigan to render a judgment upon any award or determination of the arbitrator. The Commercial Arbitration Rules of the American Arbitration Association, as amended and in effect from time to time, will apply to any arbitration. An agreement to arbitrate any particular dispute, claim, or grievance will preclude any of the parties to that agreement from thereafter commencing a judicial action in respect of that same dispute, claim, or grievance. If the parties do not elect to arbitrate any particular dispute, claim, or grievance, any of the parties may commence a judicial action to resolve that dispute, claim, or grievance. Regardless of the other terms of this Paragraph 3, any dispute, claim, or grievance pertaining to the title of any Person to any Unit may not be submitted to arbitration.

4. Insurance.

(a) The Association will obtain and maintain in full force and effect:

(i) liability insurance in a minimum amount determined by the Association, but in no event less than \$1,000,000 per occurrence;

(ii) officers and directors liability insurance and workers compensation insurance, if applicable;

(iii) insurance against fire and other perils described by a standard extended coverage endorsement in an amount equal to the current insurable replacement value of the Common Elements (including without limitation all of the Common Elements that are appurtenant to any particular Unit), as this amount is determined and as this insurance is deemed appropriate and applicable by Developer in its sole discretion; and

(iv) any other insurance that the Association deems desirable or necessary.

(b) At any time and from time to time the Association may elect to discontinue any of the insurance that is described in the Condominium Documents, based upon the particular nature of the then Common Elements.

(c) All of the insurance obtained by the Association will be obtained by the Association for the benefit of Developer, the Association, all of the Owners, and any mortgagees, as their interests may appear. Each policy of insurance will include a provision that appropriate certificates of insurance or mortgagee endorsements may be issued to mortgagees of Units. All of the premiums payable by the Association to obtain insurance under to these Bylaws (and the amount of any deductible under any of the insurance that is obtained under the Bylaws) are expenses of administering the Condominium.

(d) Any proceeds payable under any of the insurance policies obtained by the Association will be paid to the Association and will be held by the Association in a separate account. These proceeds will be paid to the Association and to any Owners and their mortgagees, as their interests may appear; but any proceeds paid to the Association in respect of any damage or destruction to any Common Elements will be first used by the Association to pay for the repair or replacement of these Common Elements, pursuant to Paragraph 5, below.

(e) Each Owner and every other Person at any time and from time to time having any interest in and to the Condominium is deemed to have appointed the Association as the true and lawful attorney-in-fact of that Owner or Person, as the case may be, to act for and on behalf of that Owner or Person in any manner that is necessary or desirable to obtain and to maintain in full force and effect any of the foregoing insurance or to settle any and all matters pertaining to any insurance obtained and maintained hereunder by the Association, including without limitation settling any claims under any insurance policy and signing any release of liability.

(f) (i) Each Owner will at the sole cost and expense of that Owner obtain and maintain in full force and effect insurance against loss or damage to any personal property located in the Unit owned by that Owner or otherwise owned or under the control of that Owner and located anywhere within the Condominium (including without limitation any Limited Common Elements appurtenant to that Unit). Each Owner will also obtain and maintain in full force and effect personal liability insurance with a minimum \$1,000,000 limit per occurrence.

(ii) Upon the request of the Association, each Owner will deliver to the Association evidence satisfactory to the Association that the foregoing insurance is in full force and effect. If any Owner fails to maintain the foregoing insurance in full force and effect, the Association may obtain that insurance on behalf of that Owner. In this event the amount of any premiums paid by the Association will be paid to the Association not later than 10 days after written request therefor is delivered to that Owner. The amount of any premiums paid by the Association will be a lien against the Unit owned by that Owner, pursuant to the provisions of Paragraph 2(d)(ii), above.

(iii) The Association is not required to obtain any of the insurance described under this subparagraph (f).

(g) Each of the property and liability insurance policies obtained by the Association and by each Owner will include a waiver by the insurer of all rights of subrogation against the Association and each Owner and Developer, as the case may be, in respect of any claims that arise by reason of any payment under that policy or by reason of any act or omission of the Association or any Owner and Developer, as the case may be.

(h) Each Owner will indemnify and hold each other Owner and the Association and Developer harmless from and against any and all damages, costs, or fees (including without limitation reasonable attorney's fees) that each other Owner or the Association or Developer pays or incurs in respect of any claim arising out of any occurrence on or about the Unit owned by that Owner, but any Owner will not be required to indemnify or hold any other Owner or the Association harmless from any damages, cost, or fees that arise due to any acts or omissions by the other Owner or the Association, as the case may be. If required by Developer or the Association, each Owner will obtain and maintain in full force and effect contractual liability insurance in respect of this indemnity; but, this requirement does not mean that any insurer has any right to be subrogated to any claim by Developer or the Association or any other Owner.

5. Reconstruction and Repair; Eminent Domain.

(a) (i) If all or any of the Condominium (including all or any of the Units or all or any of the Common Elements) is damaged or destroyed by casualty or by any other cause, the Association will obtain a detailed estimate of the cost to repair or to replace the damaged portion of the Condominium in order that the Condominium will be restored to the condition that is required under the Condominium Documents and the Association will then cause the Condominium to be restored to the condition of the Condominium that is required under the Condominium Documents. If the damage or destruction of the Common Elements adversely affects the appearance of the Condominium or the use of any particular Unit, the Association will immediately repair or replace the damaged or destroyed Common Elements in order that these Common Elements will be restored to the condition of these Common Elements that is required under the Condominium Documents.

(ii) If the Condominium is damaged to the extent that every Unit is not habitable, the Association will not rebuild the Condominium unless the Owners of at least 80% of the total percentage of value of all of the Units elect to rebuild the Condominium. In this event the Association will cause this vote to occur not later than 90 days after the Condominium is damaged. If the Owners of at least 80% of the total percentage of value of all of the Units elect to rebuild the Condominium, then the Association will cause the Condominium to be rebuilt according to the requirements of the Condominium Documents. If less than 80% of the Owners of the total percentage of value of all of the Units do not elect to rebuild the Condominium to the condition that is required under the Condominium Documents, then Developer may elect to purchase the Condominium by delivering to the Association written notice of that election. This written notice must be delivered to the Association not later than 45 days after the vote by the Owners. If Developer elects to purchase the Condominium, the purchase price will be the fair market value of the Condominium as of the date upon which Developer elects to purchase the Condominium. In this event the purchase price will be paid to the Association, the Association will pay the purchase price (together with any insurance proceeds) to the Owners and any mortgagees of the Units, as the case may be, and each Owner will sign and deliver to the Developer a warranty deed conveying to the Developer the Unit that is owned by that Owner.

(iii) If the amount of the proceeds payable under any insurance policy in respect of any damage or destruction to the Condominium is not sufficient to pay the total amount of the estimated cost to repair or restore the Condominium, or if during any repair or replacement the Association determines that the total amount of insurance proceeds payable to the Association will not be sufficient to pay the total amount of the actual costs of repair or replacement, then the Association may immediately levy an assessment in the amount of the excess cost. This assessment will be levied according to the terms and conditions of Paragraph 2(b)(ii), above.

(b) (i) If all or any portion of the Condominium (including without limitation any Unit) is taken by eminent domain or deed or other conveyance in lieu thereof, the award in respect thereof will be paid to the Owner of that Unit and any mortgagee thereof, as their interests may appear, any of the terms and conditions of the Act to the contrary notwithstanding.

(ii) If all or any portion of the Common Elements are taken by eminent domain or deed or other conveyance in lieu thereof, the award in respect thereof will be paid to the Owners (and their respective mortgagees) in proportion to their respective interests in the Common Elements. In this event the Owners will determine whether or not to rebuild, repair, or replace the Common Elements thereby taken.

(iii) If the Condominium continues after any taking, the remaining portion of the Condominium will be resurveyed. The Master Deed will be amended to incorporate any modifications of the Condominium and if any Units have been taken, the percentage of value of the remaining Units will be adjusted in order that the total percentage of value of all of the Units is 100%. This amendment may be signed by an officer of the Association, duly authorized by the board of directors of the Association.

(iv) The Association will promptly notify each first mortgagee of any Unit if the Association is notified that the Condominium or any Unit or any portion of the Condominium or any Unit (including any of the Common Elements) will be subject to any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority.

(v) To the extent not inconsistent with the foregoing, the terms and conditions of Section 133 of the Act will determine the rights and remedies of any parties in the event of any taking described in this subparagraph (b).

(d) Regardless of any of the other terms of these Bylaws, the payment of any insurance proceeds or the payment of any proceeds in respect of any taking are each subject to the terms of any mortgage of the Unit in respect of which the proceeds were paid.

6. Leasing. An Owner may lease the Unit (or any Limited Common Element that is appurtenant to the Unit) owned by that Owner pursuant to the terms of the Master Deed.

7. Requirements Regarding Use of the Condominium.

(a) The Association and each Owner, as the case may be, will at all time use and maintain the Condominium (including without limitation each Unit and the Common Elements) as a beautiful, first class, residential condominium project, as the case may be, according to the terms of the Condominium Documents. The Common Elements may only be used for purposes that are consistent with the terms of the Condominium Documents. This means (without limitation) that the Common Elements may not be used for storage of any materials and that the Common Elements may not be obstructed.

(b) Units may only be used for single-family residential purposes.

(c) Any activity that is conducted upon any Unit or the Condominium that is noxious or offensive or that is a nuisance or that may embarrass, discomfort, or annoy any other Persons occupying Units is prohibited and any device or thing or activity that is in any manner noxious, noisy, dangerous, unsightly, or unpleasant or that might diminish or destroy the reasonable enjoyment of the Condominium is prohibited, including without limitation any firearms, fireworks, air rifles, pellet guns, BB guns, bows and arrows, spear guns, slingshots, or other dangerous weapons.

(d) At any time and from time to time the Association may establish reasonable rules regarding the use of the Condominium that are consistent with the of the Condominium Documents and with the Act. Copies of all of these rules (and any amendments to these rules) will be furnished to all of the Owners.

8. Voting.

(a) At any meeting of the Association, each Owner may cast one vote in respect of each Unit owned by that Owner. Except as provided under Paragraph 9(d) of these Bylaws, Developer is the only person entitled to vote at meetings of the Association prior to the first annual meeting. At and after the first annual meeting Developer may cast one vote in respect of each Unit owned by Developer; except that if Developer designates any directors pursuant to Paragraph 9(d) of these Bylaws, Developer may not cast any votes to elect any other directors.

(b) Immediately after acquiring a Unit, the Owner of that Unit will deliver to the Association a written notice identifying that Unit and stating the name and address of the Owner of that Unit. If that Unit is owned by more than one Person, this notice must state the name and address of each Person owning the Unit and must also identify the one Person that is authorized by all of the Persons owning that Unit to cast the one vote in respect of that Unit. All notices delivered by the Association will be delivered to that one Person on behalf of all of the Persons owning that Unit. This notice must be signed by each Person owning that Unit. At any time and from time to time all of the Persons owning any particular Unit may deliver to the Association a written notice signed by all of those Persons and designating any other Person to cast the one vote in respect of that Unit.

(c) An Owner (other than Developer) may not vote at any meeting of the Association unless that Owner has delivered to the Association the notice described under subparagraph (b), above. Each vote in respect of each Unit must be cast by the Owner of that Unit or by the duly designated representative of the Persons owning that Unit. A vote may be cast in person or by proxy or in writing. Any votes that are cast in writing must be signed by the Owner or the duly designated representative casting that vote. Proxies and written votes must be delivered to the secretary of the Association not later than the scheduled time of any meeting of the Association. Cumulative voting is prohibited.

9. Meetings of the Association.

(a) (i) The first annual meeting of the Association may only be convened by Developer. Developer may convene the first annual meeting at any time after more than 50% of all of the Units have been conveyed to Persons other than Developer and all of those Owners have qualified as members of the Association; provided, however, that the first annual meeting must be convened not later than 120 days after Developer has conveyed legal or equitable title to non-developer Owners of 75% of all of the Units that may be created in the Condominium or 54 months after the date upon which Developer first conveyed to a non-Developer Owner legal or equitable title to any Unit, whichever first occurs. At any time prior to the first annual meeting, Developer may call meetings of the Association for informative or other appropriate purposes; but in no event will any of these meetings be the first annual meeting. At least 10 days prior to the date of the first annual meeting, the Association will deliver written notice to each Owner stating the date, time, and location of that meeting.

(ii) Not later than the earlier of (A) one year after Developer has conveyed to any other Person legal or equitable title to any Unit and (B) 120 days after Developer has conveyed to any other Persons at least one-third of all of the Units that may be created in the Condominium, Developer will establish an Advisory Committee consisting of at least three Owners other than Developer. This committee may be established and operated by Developer in any manner that Developer determines. The only purpose of the Advisory Committee is to facilitate communication between the Association and non-Developer Owners and to aid in the transition of control of the Association from Developer to non-Developer Owners. The Advisory Committee will automatically terminate when non-Developer Owners have sufficient votes to elect a majority of the board of directors of the Association. At any time and from time to time Developer may in its sole discretion remove any member of the Advisory Committee and replace that member with any other Owner designated by Developer.

(b) After the first annual meeting of the Association, annual meetings of the Association will be held on the second Tuesday of each September. The second annual meeting will not be held any sooner than eight months from and after the date of the first annual meeting. The date, time, and location of each annual meeting after the first annual meeting will be determined by the Association and at least 10 days prior written notice thereof will be delivered to each Owner.

(c) If directed by a resolution of the board of directors of the Association or by a petition signed by at least one-third of all of the Owners and presented to the secretary of the Association, the president of the Association will call a special meeting of the Association to conduct any business specified in that resolution or petition. Notice of any special meeting will state the specific business to be conducted at that meeting and the only business that may be conducted at that meeting is the business stated in this notice.

(d) The secretary of the Association will deliver to each Owner a notice of each annual or special meeting of the Association. This notice will state the purpose of the meeting and the time of the meeting. Meetings of the Association will be held at the principal office of the Association or at any other location that is convenient to all of the Owners and that is specified in this notice. This notice must be delivered to each Owner not less than 10 days and not more than 60 days prior to the meeting described in that notice. If the notice is addressed to each Owner at the address of that Owner that has been identified to the Association pursuant to Paragraph 8(b), above, and if that notice is deposited with the United States Postal Service, with postage prepaid, for delivery by first class mail, that notice will be deemed to have been properly delivered to the recipient of that notice. This notice may be waived by any Owner, if that Owner delivers a written waiver of that notice to the secretary of the Association.

(e) A meeting of the Association may not be conducted if a quorum is not present at that meeting. Unless otherwise provided in the Condominium Documents, a quorum is present at any meeting of the Association if at that particular meeting at least 35% of the percentage value of all of the votes that could be cast at a meeting of the Association at which all of the Owners permitted to vote were present in person, may be cast at that particular meeting (either by Owners or designated representatives present in person or by proxy or by written vote). If a quorum is not present at any particular meeting, the Owners that are present in person at that meeting will adjourn that meeting and may reschedule that meeting to any time that is at least 48 hours later than the adjourned meeting. Unless otherwise provided in the Condominium Documents, any matter in respect of which the votes of the Owners are cast will be determined by a majority of the votes that are cast, whether the votes are cast in person or by proxy or by written vote. A majority of votes is more than 50% of the total percentage of value of all of the votes cast at any meeting of the Association that has been duly called and convened.

(f) The order of the business to be conducted at meetings of the Association will be: First, to determine whether a quorum is present; Second, to determine that every Owner has received notice of the meeting or has duly waived notice of the meeting; Third, to read the minutes of the preceding meeting; Fourth, to receive reports by officers; Fifth, to receive reports by committees; Sixth, to appoint inspectors of election (at annual meetings and at special meetings called to elect directors); Seventh, to elect directors (at annual meetings and at special meetings called to elect directors); Eighth, to attend to any unfinished business; and Ninth, to attend to any new business. Meetings of the Association will be conducted by the most senior officer of the Association who is present at that meeting. The order of seniority of the officers is president, vice president, secretary, treasurer. Meetings of the Association will otherwise be conducted according to any generally recognized manual of parliamentary procedures, to the extent that those procedures are not in conflict with the Condominium Documents or the laws of the State of Michigan.

(g) Minutes of each meeting of the Association will be prepared by the secretary of the Association and will be signed by the president or the secretary; and when signed will be presumed truthfully to evidence the matters set forth in those minutes. A recitation in the minutes of any meeting that notice of that meeting was properly delivered to each Owner is prima facie evidence that notice of that meeting was properly delivered to each Owner.

(h) Any action that may be taken at a meeting of the Association may be taken by written ballot of the Owners, without a meeting of the Association. In this event, ballots will be delivered to each Owner in the same manner that notices are required to be delivered under subparagraph (d), above. These ballots will state (i) the specific action in respect of which the ballot has been delivered, (ii) the number of ballots that must be returned in order that a quorum will have been constituted in respect of that action, (iii) the total value of votes that are required to approve that action, and (iv) the date by which the ballot must be returned to the secretary of the Association to be a valid ballot. The ballot will be in a form that will permit each Owner to approve or to disapprove the action specified in that ballot. Any action in respect of which written ballots are delivered to Owners will be deemed to have been approved if a sufficient number of valid ballots are delivered to the secretary of the Association to constitute a quorum and if the value of the votes cast pursuant to those ballots which have been marked to indicate that the action described in the ballots has been approved, exceeds the value of votes that is required to approve that action.

10. Board of Directors of the Association.

(a) The board of directors of the Association has all of the powers and duties necessary to administer the Association and the Condominium and may do any and all other acts and things that are not prohibited by the Condominium Documents or that are not required by the Condominium Documents to be done by the Owners. Any action required by the Condominium Documents to be done by the Association will be performed by action of the board of directors, unless specifically required to be done by or with the approval of the Owners. In addition to the foregoing powers and duties, the board of directors has the power and authority and the duty:

(i) To manage and administer the affairs of and to maintain the Condominium according to the terms and conditions of the Condominium Documents and the Act.

(ii) To levy assessments against Units and to collect assessments from Owners and to use the proceeds thereof for the purposes of the Association.

(iii) To obtain and maintain insurance and to collect and to disburse any insurance proceeds, including without limitation for the purpose of rebuilding any improvements to the Condominium.

(iv) To contract for and to employ persons, firms, corporations, or other agents to assist the board of directors to manage, operate, maintain, and administer the Condominium.

(v) To acquire, maintain, improve, operate, manage, sell, convey, assign, mortgage, or lease any real or personal property (including without limitation any Unit owned by the Association or any easements, rights-of-way, and licenses).

(vi) To borrow money, to issue evidence of indebtedness, and to secure any indebtedness by mortgage, pledge, or other lien on property owned by the Association; provided, however, that this action must also be approved by the affirmative vote of 75% of the value of all of the votes that may be cast by all of the Owners.

(vii) To establish rules and regulations pursuant to these Bylaws.

(viii) To establish any committees that the board of directors deems necessary, convenient, or desirable to implement the administration of the Condominium and to delegate to these committees any functions or responsibilities that are not required to be performed by the board of directors and to appoint Owners to these committees.

(ix) To enforce the terms and conditions of the Condominium Documents.

(b) On behalf of the Association the board of directors may employ a professional manager (which may be Developer or any Person related to or otherwise affiliated with Developer) to perform any duties and services that the board of directors may authorize, including without limitation any of the duties and services to be performed by the board of directors (but not any of the duties of the board of directors that by law or by the terms and conditions of the Condominium Documents must be performed by the board of directors). This manager may be paid a reasonable fee that will be determined by the board of directors. The board of directors is not permitted to enter into any contract with a professional manager (or into any contract with Developer), if the maximum term of that contract is greater than three years or if that contract may not be terminated by the Association upon 90 days prior written notice or if that contract requires the payment of a termination fee or if that contract violates any of the provisions of Section 55 of the Act.

(c) Subject to subparagraph (d), below, the board of directors of the Association will be elected by the Owners at annual meetings of the Association. The board of directors will consist of three directors.

(d) The first meeting of any board of directors as to which any new director has been elected will be held not later than ten days after the election of that new director. This meeting will be held at a place that will be determined by the directors at the meeting at which any new directors were elected. Notice of this meeting is not required to be delivered to any newly elected directors if a majority of the entire board of directors was present at the meeting where any new directors were elected.

(e) Regular meetings of the board of directors will be held at times and locations to be determined from time to time by a majority of the directors, but the board of directors must conduct at least two regular meetings during each fiscal year of the Association.

(f) Special meetings of the board of directors may be called upon request of the president or upon the written request of any two directors.

(g) The secretary of the Association will deliver to each director a notice of each regular or special meeting of the board of directors. This notice will state the purpose of the meeting and the time of the meeting. Meetings of the board of directors will be held at the principal office of the Association or at any other location that is convenient to all of the directors and that is specified in this notice. This notice must be delivered to each director not less than 10 days and not more than 60 days prior to any regular meeting described in that notice and not less than three days prior to any special meeting described in that notice. If the notice is addressed to each director at the address of that director that has been identified to the Association pursuant to Paragraph 8(b), above, and if that notice is deposited with the United States Postal Service, with postage prepaid, for delivery by first class mail, that notice will be deemed to have been properly delivered to the recipient of that notice. Prior to or at any meeting of the board of directors, any director may waive notice of that meeting in writing. Any director attending a meeting of the board of directors will be deemed to have waived notice of that meeting. If all of the directors are present at any meeting of the board of directors, no notice of that meeting is required.

(h) A meeting of the board of directors may not be conducted if a quorum is not present at that meeting. A quorum is present at any meeting of the board of directors if at that particular meeting at least a majority of the number of directors is present in person at that meeting. If a quorum is not present at any particular meeting, the directors that are present in person at that meeting will adjourn that meeting and may reschedule that meeting to any time that is at least 24 hours later than the adjourned meeting.

(i) At any regular or special meeting of the Association that has been duly called and convened (including without limitation delivery of proper notice of the action proposed to be taken at that meeting), any one or more of the directors may be removed (with or without cause) by a majority of the value of the votes of the Owners; provided, however, that the Owners may not elect to remove a director from the board of directors unless that director has had the opportunity to speak at that meeting.

(j) If any director resigns from the board of directors, that director will be replaced by a director who will be elected by the majority vote of the remaining directors (even if the number of remaining directors does not constitute a quorum). The term of that new director will be the unexpired portion of the term of the director replaced by that new director. Notwithstanding the foregoing, Developer will have the sole and exclusive authority to appoint a new director to replace any director who was appointed to the board of directors by Developer and the non-Developer Owners will elect a director to replace any director who resigns and who was elected to the Board of Directors by the non-Developer Owners pursuant to subparagraph (d), above.

## 11. Officers.

(a) The officers of the Association will be elected annually by the board of directors. The term of each officer will be one year; except that each officer will remain in office until the successor to that officer has been elected. The principal officers of the Association are:

(i) The president, who will be the chief executive officer of the Association. One of the directors will be elected by the board of directors to be the president of the Association. The president will preside at all of the meetings of the Association and of the board of directors of the Association. The president will have all of the general powers and duties which are typically vested in the office of the president of a nonprofit association of co-owners, including without limitation the discretionary power to appoint committees of Owners to assist the president with the administration of the Association.

(ii) The vice president, who will perform all of duties which are typically vested in the vice president of a nonprofit association of co-owners and who will also perform any other duties that are from time to time and at any time imposed upon the vice president by the board of directors. If the president is absent or is otherwise not able to perform the duties of the president, the vice president will also perform those duties. If both the president and the vice president are absent or are otherwise unable to perform their respective duties, the board of directors will appoint a member of the board of directors to perform those duties on an interim basis.

(iii) The secretary, who will maintain minutes of all of the meetings of the board of directors and of all of the meetings of the Association. If the Association has a seal, the secretary will keep that seal. The secretary will also maintain any other books and papers that the board of directors may require and will also perform any other duties which are typically vested in the secretary of a nonprofit association of co-owners.

(iv) The treasurer, who will be responsible for the funds and any securities of the Association. The treasurer will maintain full and accurate records of all of the expenditures and receipts of the Association. The treasurer will be responsible to deposit all of the monies and other valuable possessions of the Association in the name of and to the credit of the Association, with banks and savings associations that are from time to time designated by the board of directors.

(b) The board of directors may also appoint an assistant treasurer, an assistant secretary, and any other officers deemed necessary by the board of directors. Any person other than the president or the vice president may be elected to hold two offices. The officers of the Association will also have any other duties, powers, and responsibilities that are from time to time and at any time authorized by the board of directors.

(c) Anything herein contained to the contrary notwithstanding, upon the affirmative vote by a majority of the board of directors, the term of any officer may be terminated, with or without cause; provided, however, that the board of directors may not vote to terminate the term of any officer at any particular meeting unless notice thereof was included in the notice of that meeting; and provided further, that before any vote to terminate the term of any officer, the board of directors must permit that officer to appear before and be heard by the board of directors. The board of directors may elect a successor to that officer at that same meeting or at any regular meeting of the board of directors or at any special meeting of the board of directors, called for that purpose.

12. Finance.

(a) The Association will maintain detailed records describing all of the expenditures and receipts of the Association to administer the Condominium. These records will specify the maintenance and repair expenses in respect of the General Common Elements and will also specify any other expenses incurred by or on behalf of the Association. These records (and any other records maintained by the Association) may be inspected by any Owners or by any mortgagee of any Unit during reasonable business hours.

(b) At least once each year the Association will prepare and will distribute to each Owner a financial statement of the Association. The Association will determine the content of this statement. At least once each year the financial records of the Association will be audited by qualified, independent auditors. These auditors are not required to be certified public accountants and this audit is not required to be a certified audit. If the first mortgagee of any Unit is an institutional lender, then upon the written request of that lender the Association will deliver a copy of the financial statement of the Association to that lender, not later than 90 days after the expiration of the fiscal year of the Association. All of the costs incurred hereunder by the Association are expenses to administer the Condominium.

(c) The fiscal year of the Association will be an annual period that will begin on a date determined by the Association and that is subject to change by the Association. The initial fiscal year of the Association is the calendar year.

(d) All of the funds of the Association will be deposited into a bank or savings association determined by the board of directors of the Association. The funds of the Association may only be withdrawn by officers, employees, or agents of the Association who are permitted to withdraw funds of the Association by resolution of board of directors. The funds of the Association may be invested from time to time in accounts or deposit certificates of banks or savings associations which are insured by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation, respectively. The funds of the Association may also be invested in interest bearing obligations of the United States of America.

(e) The board of directors will require that any officer or other employee of the Association who is responsible for funds of the Association will obtain and maintain an adequate fidelity bond. The premium for this bond will be paid by the Association and will be an expense in respect of the administration of the Condominium.

13. Indemnification of Officers and Directors. Except to the extent prohibited by law, the Association will indemnify and hold each director and officer of the Association harmless from and against all expenses and liabilities (including without limitation reasonable attorney's fees) incurred by or imposed against any director or officer in respect of any threatened, pending, or completed (including without limitation completion by settlement) action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, if that person is a party to or is involved in any of the foregoing by reason of the present or former status of that person as a director or officer of the Association (and regardless of whether that person is a director or an officer of the Association at the time that any of the foregoing expenses are incurred by or imposed against that person); provided, however, that in no event will the Association indemnify any person or hold any person harmless from and against

any willful or wanton misconduct or gross negligence by that person; and provided further, that any indemnification hereunder is subject to approval by the board of directors (not including any director seeking indemnification under this Paragraph 17, which director may not vote in respect of that indemnification). The Association may not make any payment under this Paragraph 17 unless the Association has delivered to every Owner written notice of that payment at least 10 days prior to the date of that payment. This indemnification is in addition to and is not exclusive of any other rights of any officer or director.

14. Seal. The Association is not required to have a seal. If the board of directors determines that the Association will have a seal, the seal of the Association will have inscribed upon it the name of the Association, the words "corporate seal", and the word "Michigan".

15. Mortgages.

(a) If any Owner mortgages the Unit owned by that Owner, that Owner will notify the Association of the name and address of that mortgagee. The names and addresses of all of these mortgagees will be maintained by the Association in a book entitled "Mortgages of Units".

(b) Upon receiving written request therefor from any first mortgagee of any Unit, the Association will deliver to that mortgagee (i) a notice describing any assessments in respect of that Unit that are not paid and (ii) a notice of any meetings of the Association (and that mortgagee may designate a representative to attend that meeting).

(c) The Association will deliver to the holder of any first mortgage of any Unit written notice (i) of any default under the Condominium Documents by the Owner of that Unit, if that default is not cured within 60 days after notice thereof was delivered to that Owner, and (ii) of the name of each insurance company from which the Association has obtained a policy of insurance pursuant to Paragraph 4, above, and the amounts of these insurance policies.

16. Amendment.

(a) Unless otherwise herein provided, Amendments to these Bylaws may only be proposed (i) by the Association, upon the vote of a majority of the members of the Board of Directors, or (ii) by one-third or more in number of all of the Owners, pursuant to a written instrument signed by those Owners. If an amendment to these Bylaws is proposed as herein provided, a meeting of the Association will be scheduled to consider that proposed amendment.

(b) These Bylaws may only be amended:

(i) by the affirmative vote of not less than two-thirds of the value of all of the votes of all of the Owners, at any regular meeting of the Association or at any special meeting of the Association that has been scheduled for the purpose of amending these Bylaws; provided, however, that if the proposed amendment would materially change the rights of any first mortgagee of any Unit, the affirmative vote of not less than two-thirds of all of these mortgagees is also required (each first mortgagee may cast one vote in respect of each first mortgage held by that mortgagee); or

(ii) by Developer without the approval or consent of any other Person, if that amendment does not materially change the right of any Owner or mortgagee of any Unit.

(c) An amendment to these Bylaws will be effective as of the date that a written instrument describing the amendment to these Bylaws is recorded with the Charlevoix County Register of Deeds which contains all of the essential elements of the amendment and which otherwise contains all of the terms and conditions required by law. A copy of any amendment to these Bylaws will be delivered to each Owner; provided, however, that any particular amendment to these Bylaws pursuant to the terms and conditions of these Bylaws is binding upon every Owner and every other Person having an interest in

and to the Condominium, regardless of whether any particular Owner or Person has actually received a copy of the amendment.

(d) These Bylaws may not be amended without the prior written approval of Developer.

17. Compliance with the Act and the Condominium Documents.

(a) The Association and every Owner and every other Person having any interest in and to the Condominium are each subject to and will comply with the all of the terms and conditions of Act. If the terms and conditions of the Condominium Documents are not consistent with the terms and conditions of the Act, the terms and conditions of the Act will control.

(b) Any Person that acquires any interest whatsoever in and to the Condominium (including by leasing any Unit) or that occupies any Unit or enters upon any portion of the Condominium is thereby deemed to have accepted and ratified all of the terms and conditions of the Condominium Documents.

18. Remedies.

(a) If any Owner violates the terms and conditions of the Condominium Documents, that Owner is in default. Upon any default by an Owner:

(i) The Association may commence an action to recover damages or for injunctive relief or to foreclose any lien of the Association, pursuant to the terms and conditions of the Condominium Documents.

(ii) The Association or its authorized agents or designees may enter upon any Unit or any Common Element (where reasonably necessary) to remove and to abate any condition thereon or thereof that violates the terms and conditions of the Condominium Documents, including without limitation removing trash, debris, structures, fixtures, furnishings, or other items that in the sole discretion of the Association detract from the beauty of the Condominium or creates a dangerous or hazardous condition or are not safe or sanitary or are a nuisance; and in this event the Owner of that Unit will pay to the Association all of the costs, fees, and expenses thereby incurred by the Association, not later than 10 days after written request therefor by the Association. Any action hereunder by the Association (including without limitation any entry upon a Unit) will not be a trespass or waste and the Association will not be liable to any Owner by exercising the rights under this subparagraph (ii) of the Association.

(iii) The Association may levy fines, as more particularly described under Paragraph 19, below.

(b) If the Association prevails against an Owner in respect of any action brought by the Association against that Owner, that Owner will pay to the Association the costs, fees (including reasonably attorney's fees), and expenses incurred by the Association in respect of that action. This amount will be paid to the Association not later than 30 days after written request therefor is delivered to that Owner. The payment of this amount will be secured by a lien against the Unit owned by that Owner, pursuant to the terms and conditions of Paragraph 2(c)(ii), above. If any Owner fails to pay any fine levied against that Owner, the Association will have the rights and remedies described under this Paragraph.

(c) Any Owner may commence an action against the Association and its officers and directors to compel the Association and its officers and directors to enforce the terms and conditions of the Condominium Documents. Any Owner may commence an action against any other Owner for injunctive relief or for damages or for any combination thereof, if that other Owner has violated the terms and conditions of the Condominium Documents or of the Act.

(d) All of the rights and remedies hereunder of the Association and of each Owner are cumulative and are in addition to any other rights and remedies of the Association or any Owner at law or in equity. The exercise by the Association or by any Owner of any one or more rights or remedies will not constitute an election of remedies by the Association or by that Owner and will not preclude the Association or that Owner from simultaneously or later exercising any other rights or remedies. The failure of the Association or of any Owner to enforce any right, provision, covenant, or condition under any of the Condominium Documents is not a waiver by the Association or by any Owner, as the case may be, to enforce that same right, provision, covenant, or condition in the future.

19. Fines.

(a) Upon any violation of the terms and conditions of the Condominium Documents, the Association may levy a \$25.00 fine for the first violation, a \$50.00 fine for the second violation, a \$100.00 fine for the third violation, and a \$200.00 fine for the fourth violation, and a \$500.00 fine for the fifth and each subsequent violation. The Association may change the amount of these fines. Each Owner is responsible to pay any fines in respect of violations of the terms and conditions of the Condominium Documents by that Owner or by any members of the family of that Owner or by any guests or tenants or any other Persons admitted to or invited upon the Condominium by that Owner.

(b) (i) If the Association intends to collect a fine in respect of a particular violation of the terms and conditions of the Condominium Documents, the Association will deliver to the Owner that is responsible to pay that fine a written notice of that particular violation. This notice will include a factual description thereof that is reasonably sufficient in order that the Owner will have notice of the violation. This notice will be sent by first class mail, postage prepaid, or will be personally delivered to that Owner at the address of that Owner that has been filed with the Association pursuant to Paragraph 12(b), above.

(ii) Every Owner receiving a notice under subparagraph (i), above, will have an opportunity to appear before the Association at the next scheduled meeting of the Association, but in no event will that Owner be required to appear before the Association upon less than ten days prior notice.

(iii) Upon hearing any Owner appearing before the Association, the Association will (by majority vote of the board of directors) determine whether a violation has occurred. The decision of the board of directors is final. Any Owner that fails to appear before the Association upon any date specified in any notice thereof will be deemed to have acknowledged that the events described in the notice of the violation of the terms and conditions of the Condominium Documents did occur.

(iv) Any fines hereunder will be due and payable to the Association together with the next payment to the Association of any general assessment. The payment of any fine hereunder will be secured by a lien against the Unit owned by that Owner, pursuant to the terms and conditions of Paragraph 2(c)(ii), above. If any Owner fails to pay any fine levied against that Owner, the Association will have the rights and remedies described under Paragraph 22, above.

20. Limitation of Liability. In no event is Developer (or any assignee of Developer) or any members, agents, employees or consultants thereof or any member of the board of directors of the Association or any committees established by the board of directors (including without limitation any committee established for architectural review) liable to any Person whatsoever in respect of any act or omission under the Condominium Documents, including without limitation any liability in respect of any approval or disapproval of any plans, specifications, or other submissions under these Bylaws, whether any alleged liability is based on negligence, tort, express or implied contract, breach of fiduciary duty, or otherwise.

21. Unenforceable Provisions. If any of the terms, provisions or covenants of the Condominium Documents are determined by a court to be partially or wholly invalid or unenforceable for

any reason whatsoever, that determination will not affect, alter, modify, or impair in any manner whatsoever any of the other terms, provisions, or covenants of the Condominium Documents or the remaining portion of any term, provision, or covenant that is determined to be partially invalid or unenforceable.

# Bagley Township Planning Commission

## Bagley Township, Michigan

*Established 1868*

*November 21, 2011*

*Subject: Meeting Minutes and record of decisions for Scheduled Meeting November, 2011 (from notes and tape)*

*Agenda: Case Z 11-240, A & G Vacation Properties, LLC  
Change of Planning Commission Meeting Day*

*Members Present:*

*Ken Arndt  
Jim Schwandt  
Dave Parsell  
Larry Beckett  
Frank Trigger*

*Members Absent:*

*None*

*Attending:*

*Dave Drews for the Petitioner A & G Properties, LLC*

### ***Agenda Item 1.***

This case comes as a result of Petitioner's request to subdivide parcel 010-029-200-010-06, a 3.86 acre parent parcel, into 3 sub parcels of 1.06 to 1.27 acres, suitable for single family dwellings.

Discussion: The issue of **adequate septic and well capacity** and standoff was discussed, given the potential plan of a consolidated well with 3 separate disposal fields and tanks. The standoff from the road was labeled and appeared adequate and the commission believes that final permitting will be based on an adequate standoff of the well or wells from the septic systems and be enforced by District 3

The site sizes and frontages meet the zoning requirements based on the offered plan.

Access was offered based on a proposed, shared common easement planned on the south side of the southernmost lot. This would be a new access from West Otsego Lake Drive to Kokozen Avenue, east of the sites. Discussion followed. Member Schwandt indicated that this access would not be permitted by OCRC based on current zoning, pointing out that multiple dwellings may not have private road access to a public road in the current zoning document. Members reviewed the section and subchapter.

Current access to Kokozen Avenue in this immediate area is by an easement from West Otsego Lake Drive to Kokozen Avenue immediately south of the southern most lot. Drews suggested that this may be the approved access in the final plan.

Finding of facts:

1. The well and septic plan offered appears to meet District 3 requirements.
2. Sites meet size and frontage requirements of the OCZO.
3. A road maintenance agreement was not noted in place for the plat of Kokozen (public access, not required) or for the proposed or existing easement.
4. The proposed access plan includes a new private easement access which may be used by the 3 new sites for access to West Otsego Lake Drive. Our analysis indicates that such an access will not be approved as proposed. Member Schwandt pointed out that such plans have not been approved in the past and pointed the commissioners to the zoning citation of authority. Commissioners agreed with his observation after review. Two other possibilities for access exist.
5. The commission reviewed the suggested finding of fact provided by the County B/Z Director. Item 27 notes that, at application, no wells or water lines were proposed. We did note the well located and standoff from WOLD. Other checklist items were studied and are not applicable, as reflected.

Mr. Drews indicated that he will provide appropriate additional documentation at final approval. Discussion now focused on the approval and conditions to be levied for approval recommendation.

**Condition 1.** Our recommended approval is conditioned on acceptance of a well and septic plan by District 3 Health.

**Condition 2.** Our recommended approval is conditioned on an enforceable access maintenance plan binding the three sites if the *established* private easement or a new easement (if approved) is to be the primary access to the three proposed lots from West Otsego Lake Drive.

**Condition 3.** Final approval is conditioned on acceptable access defined by OCRC whether via Kokozen Avenue, the established easement (private) or another approved easement access (as proposed).

*Discussion terminated at 6:35PM.*

*Now member James Schwandt presented a motion for recommendation of approval as requested with the conditions specified above.*

*Member Frank Trigger seconded the motion.*

*Roll call vote showed unanimous approval of the recommendation. No members opposed or abstaining.*

***Agenda Item 2. Movement of Bagley Township Planning Commission from its current day and time to the last Monday of the Month at 6:00PM.***

The planning commission, having discussed the possible change of the monthly meeting from its current time and day ***to the last Monday of the month at 6:00PM at the Bagley Township Hall*** came to a consensus to recommend to the Bagley Township Board that the monthly meeting be changed to the last Monday of the month in which a meeting is to be held at a normal time of 6:00PM at the Bagley Township Hall.

The matter being set before the commissioners, there was unanimous consent to the recommendation.

*Respectfully Submitted for the Planning Commission,*

*/S/ 4772 K1352*

*Kenneth R. Arndt  
Chairman*

*Approval for the Township Trustees*

*/S/*

*Bill Giles, Supervisor*

**OTSEGO COUNTY  
PLANNING COMMISSION**

GENERAL FINDINGS OF FACT PZ11-240  
010-029-200-010-06

1. This is a proposal to create three single family building sites each site will be a minimum of 1.06 acre. Ex. 1
2. The property is located in an RR Zoning District. Ex. 2
3. The minimum lot size allowed in the RR zoning district is .46 acre. Ex. 3
4. The proposed use is a principal use permitted (single family dwellings) in the RR zoning district. Ex. 3
5. The property is currently under the ownership of Maitland – A&G Vacation properties LLC. Ex. 4
6. The Applicant David Drews of Northern Michigan Engineering has permission to represent the land owners for the proposed development of this Site Condominium project. Ex. 5
7. The Public hearing Notice was published in the paper. Ex. # 6
8. The requirements of Article 24 of the Otsego County Zoning Ordinance have been met. Ex. 7 & 10
9. All property owners within 300' were properly notified of the public hearing. Ex. 8
10. The Planning Commission has the authority to approve Site plans after review and compliance with the Otsego County Zoning Ordinance. (Section 20.5) Ex. #3
11. The required fees have been collected by Otsego County Land Use Services. Ex. # 9
- 12.
- 13.
- 14.
- 15.

**OTSEGO COUNTY  
PLANNING COMMISSION**  
Case No. PZ11-240

Exhibit list

Exhibit # 1 Application and site plan submitted by Applicant

Exhibit #2 Otsego County Zoning Map

Exhibit #3 Otsego County Zoning Ordinance

Exhibit #4 Otsego County Equalization property search detail report

Exhibit #5 Letter signed by Edward Maitland stamped received 11-1-2011

Exhibit #6 Public Hearing Notice

Exhibit #7 Letter to Bagley Township Planning Commission dated November 9, 2011

Exhibit #8 Map and list of parties notified

Exhibit #9 Receipt # 01101722 dated 10-10-2011

Exhibit #10 Letter dated November 21, 2011 from Bagley Township Planning Commission.

Exhibit #11

Exhibit #12

Exhibit #13

Exhibit #14

Exhibit #15

Exhibit #16

January 23, 2012

MEMORANDUM

TO: Randy Stults, Planning Commission Chairman and Planning Commission Members

FROM: Joe Ferrigan, Director of Land Use Services

SUBJ: Maitland – A&G Vacation Properties, LLC  
Parcel # 010-029-200-010-06

The purpose of this memo is to provide the County Planning Commission with a staff report from the County Land Use Services Department that will detail a review of the Otsego County Zoning Ordinance and current County Master Plan.

GENERAL INFORMATION

The above referenced request is for the development of 3 single family residential lots on an existing 3.86 acre parcel. The property in question is a heavily wooded undeveloped parcel with Otsego Lake located approximately 300' to the east.

Under the State Land Division Act a for the first ten acres or fraction thereof the parent parcel (this is not a parent parcel and has no available divisions) is permitted to create 4 lots. As stated this request is for authorization to create 3 lots, therefore the land divisions must either comply with the State Subdivision Control Act or the State Site Condominium Act. Because there are less regulations for development in the Site Condominium Act this applicant has chosen to develop the property as a Site Condominium development.

ZONING ORDINANCE REVIEW & FINDINGS OF FACT

SECTION 18.8 DEVELOPMENT REGULATIONS

18.8.1 Definition

For purposes of this section and as used in the Otsego County Zoning Ordinance a Development shall be defined as Platted Subdivisions, Condominium Developments or any division of land that creates more lots or parcels on a parent parcel than is permitted under the Land Division Act.

18.8.2 Regulations

A development shall be reviewed pursuant to the Special Land Use regulations of Article 16 and shall conform to the following provisions in addition to all other applicable district provisions, except that the Planning Commission may waive the requirements of this Section for developments with fewer than ten (10) lots, parcels or units provided the Planning Commission makes a finding that doing so will not cause any significant public harm or harm to adjacent properties.

**This request is to create 3 single family lots. Staff recommends that the Planning Commission make a finding to waive the Special Land Use regulations of Article 16, because creating three single lots that exceed the minimum lot size for the RR zoning district will not create any significant public harm or harm to adjacent properties.**

18.8.3 A development, shall comply with the applicable site development standards contained in Article 14 "Schedule of Dimensions, unless developed as a Planned Unit Development (PUD) subject to all regulations of Article 21.

The property in question is Zoned RR "Recreation Residential". The minimum lot size for a new parcel in the RR zoning district is 20,000sf or .46 acres. The minimum width for a new parcel in the RR zoning district is 100'. Under definitions "Lot Width" is measured at the building set back which in the RR zoning district is 25' from the road right of way.

The lots indicated on the site plan provided equal or exceed 1.06 acres and all have lot widths that exceed 100'. The proposed lots exceed the requirements of Article 14.

- 18.8.4 Developments shall comply with all federal, state and county regulations regarding the provision of a potable water supply and waste disposal facilities.
- The Land Use Services staff has contacted the District Health Department and the Health Department has been conducting soil tests on this site.**
- A condition of approval for this Special Use should require all Health Department permits prior to the issuance of any residential building permits.**
- 18.8.5 Developments shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including Conveyance of sewage, potable water and Storm water runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.
- The proposed parcels all front on a public road public utilities are located along the existing public road**
- 18.8.6 In addition to the materials required by Article 16 and Article 20 or Article 21 for PUDs if applicable, an application for a development shall include a development plan containing the following information:
- 18.8.6.1 Proposed use and occupancy restrictions as will be contained in the Deed Restrictions or the Master Deed.
- No documentation has been provided, such as draft of the Master Deed.**
- 18.8.6.2 All proposed deed restrictions which are conditions of the special use permit.
- No documentation has been provided, such as draft of the Master Deed.**
- 18.8.7 All provisions of the approved development plan shall be incorporated in the Deed Restrictions or in the Master Deed for the development, unless exceptions are permitted by the Planning Commission. Any proposed changes to the approved development plan shall be subject to review and approval by the County Planning Commission as a major amendment to a permit, subject to the procedures of Article 16 and Article 20 or article 21 for PUDs if applicable.
- No documentation has been provided, such as draft of the Master Deed.**
- A condition for approval of the Special Use should be that before any construction may begin on this site a copy of the Master Deed containing all documentation and restrictions as required shall be provided to Otsego county Land Use for review and following review a copy of the Recorded Master Deed with appropriate stamps from the Register of Deeds shall be provided to the County for filing with this application.**
- 18.8.8 All lots, parcels or units within a development project shall be marked with monuments as provided by State and County regulations.
- The site plan survey that was provided does not have any indication that lot lines are marked with monuments.**
- As a condition for approval of this Special Use prior to authorization of any construction on this site a certificate by a licensed professional surveyor shall be provided stating that the monuments and markers have been placed as required or the property owner shall be required to comply with the following section**
- 18.8.8.1**
- 18.8.8.1 The County Board of Commissioners may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition that the proprietor deposits with the County Clerk cash or a certified check, or irrevocable bank letter of credit naming to the municipality, whichever the proprietor selects, in an amount not less than \$100.00 per monument and not less than \$500.00 in total, except that lot corner markers shall be at the rate of not less than \$50.00 per marker. The performance guarantee shall be returned to the proprietor pursuant to the provisions of Section 22.6 upon receipt of a certificate by a licensed professional surveyor that the monuments and markers have been placed as required within the time specified.

Article 21 PUD

SECTION 21.1 GENERAL STANDARDS

21.1.1 To be eligible for Planned Unit Development approval, the applicant must demonstrate that the following criteria will be met, in addition to the other requirements of this Section:

21.1.1.1 Recognizable and Substantial Benefit. The Planned Unit Development shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community.

**This is subjective; the developer will argue that the site as proposed on the site plan provides a large lot that will be enjoyable and a benefit to the ultimate users. Just on paper without documentation in a Master Deed that documents preserved open space and restricts further development on any of the parcels in the development. The benefit to the community is questionable.**

**As a condition for approval of this Special Use a draft of the Master Deed must be provided to Otsego County Land Use for review. The Master Deed shall document all conditions of the Special Use and shall include a site plan diagram showing the “footprint” of allowable building areas on each lot and shall contain restrictions on future development of each lot.**

21.1.1.1.1 The long-term protection and/or preservation of natural resources and natural features;

**No documentation has been provided to document restrictions within the development that would insure the long term protection and or preservation of natural resources and natural features.**

**As a condition for approval of this Special Use a draft of the Master Deed must be provided to Otsego County Land Use for review. The Master Deed shall document all conditions of the Special Use and shall include restrictions on development that will protect the natural environment and special natural resources and ensure that landscaping shall be preserved in its natural state, by restricting tree and soil removal and by restricting topographic modifications so that the project will be developed in harmony with adjacent areas.**

21.1.1.1.2 Reducing to a significant extent the non-conformity of a non-conforming use or structure.

**There are no nonconforming uses or structures on this property.**

21.1.1.2 Availability and Capacity of Public Services. The proposed type and density of use shall not result in an unreasonable increase in the use of public services, facilities, and utilities.

**Public water and sewer are not available in this area. All home sites will be serviced by on site water and sanitary waste disposal systems. The development is located on a public road in close proximity to fire, police and emergency services.**

**It does not appear that this development will result in an unreasonable increase in the use of public services, facilities or utilities.**

21.1.1.3 Compatibility with the Comprehensive Plan.

**The Otsego County Master Plan and Future Land Use Map indicates that the property in question is anticipated as “Recreation Residential”. Which list one – family dwellings as a principal use**

**The proposed development is in compliance with the Master Plan and Future Land Use Map.**

21.1.1.4 Compatibility with the Planned Unit Development Intent.

**The Intent of Article 21 for PUDs is stated as:**

**The planned unit development (PUD) is intended to be a development option for land use changes in specified districts that contain multi-functional land use elements under single ownership or single management control. It is specifically intended to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout,**

and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the providing of public services and utilities; encourage the maintaining of open space in its natural state; and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the County.

As indicated on the site plan survey alone this proposed development is not innovative in variety of design or layout nor does it achieve economy in the use of the land or natural resources. However, documentation of land use restrictions in the Master Deed restricting future development and restricting construction or disruption of existing natural landscape would insure compatibility with the PUD intent.

As a condition for approval of this Special Use the Master deed should document restrictions on development and committed common areas of the development and provide construction 'footprints' for each lot and documentation that would restrict construction or disruption of existing natural landscape outside of that 'footprint'

- 21.1.1.5 Economic Impact. The proposed development shall not unreasonably impede the continued use or development of surrounding properties for uses that are permitted in the zoning district.

**This proposed development will not impede the continued use or development of surrounding properties.**

- 21.1.1.6 Unified Control of Property. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with the Planned Unit Development regulations.

**All of the parcels identified for use in this development are currently under single ownership. The Applicant is proposing to create three (3) lots to be sold for development as single family dwellings**

**As a condition for approval of this Special Use a draft of the Master Deed must be provided to Otsego County Land Use for review. The Master Deed shall document all conditions of the Special Use and shall include a site plan diagram showing the "footprint" of allowable building areas on each lot and shall contain restrictions on future development of each lot.**

- 21.1.1.7 Permitted Uses. The proposed uses in the planned unit development project shall be limited to the following:

- 21.1.1.7.1 Single family dwellings.

**The proposed use for this development is for single family residential dwellings.**

- 21.1.3 Exterior boundary setback No uses in a PUD shall be nearer than fifty (50) feet from the boundary line of any zoning district.

**The site plan survey shows the required setbacks for the proposed home sites.**

**As a condition for approval of this Special Use the Master Deed must include a site plan survey that provides construction 'footprints' for each lot and documentation that would restrict construction or disruption of existing natural landscape outside of that 'footprint'. The 'footprint' for each lot shall be as determined by the Planning Commission; however, no 'footprint' shall be nearer than 50' from the rear lot line of any proposed lot.**

- 21.1.5 Yards and setbacks The intent of the PUD is to encourage planned unit development and/or cluster housing to increase the interrelationship between open space resource areas and developed areas.

**The site plan survey shows the required setbacks for the proposed home sites.**

**As a condition for approval of this Special Use the Master Deed must include a site plan survey that provides construction 'footprints' for each lot and documentation that would restrict construction or disruption of existing natural landscape outside of that 'footprint'. The 'footprint' for each lot shall be as determined by the Planning Commission; however, no 'footprint' shall be nearer than 50' from the rear lot line of any proposed lot.**

- 21.1.7 Floor area The minimum floor area requirements shall be in accordance with the minimum required for one family dwellings and/or multiple family dwellings as prescribed in the applicable zoning district (e.g. R1, R2).

No documentation or draft Master Deed has been provided that would document the living area of the proposed single family homes. In the AR zoning district the minimum ground floor living area is 720sf.

As a condition of approval for this Special Use a copy of the Master Deed shall be provided for review by Otsego County Land Use and following review a copy of the Recorded Master Deed including all stamps showing recording by the Register of Deeds shall be provided to the County. The Master Deed shall include documentation regarding restrictions including the minimum floor area for houses proposed within the development. At the discretion of the Planning Commission minimum floor area for dwellings in this development may be greater than 720sf however, no living area shall be less than 720sf.

- 21.1.8 Site location Any planned unit development shall be located only where it can meet the service requirements of the district in which it is located.

As stated above in response to section "21.1.1.2 Availability and Capacity of Public Services." Public water and sewer are not available in this area. All home sites will be serviced by on site water and sanitary waste disposal systems. The development is located on a main County Road in close proximity to fire, police and emergency services.

It appears that this development will be able to meet the service requirements of the district; such as electrical power. Additionally, the service needs of the district with regard to the use of public services, appears to be adequate.

- 21.1.9 Parking, loading, traffic and access Planned unit development projects shall be subject to the regulations for parking, loading, traffic and access of this Zoning Ordinance.

The proposed development is for single family residential dwellings. Parking regulations in section 18.27.10 require two parking spaces per dwelling unit. No documentation or draft Master Deed has been provided that would document the parking or garages for the proposed single family homes.

As a condition of approval for this Special Use a copy of the Master Deed shall be provided for review by the Otsego County Land Use and following review a copy of the Recorded Master Deed including all stamps showing recording by the Register of Deeds shall be provided to the County. The Master Deed shall include documentation regarding restrictions including the number of parking spaces provided for houses proposed within the development. At the discretion of the Planning Commission parking may be required in two stall attached garages.

Article 16 Standards for approval of Special Uses

#### SECTION 16.1 PURPOSE

It is the purpose of this Article to specify the procedure and requirements for the review of special land uses, as specified in this Ordinance. Uses classified as special land uses are recognized as possessing unique characteristics (relative to location, design, size, public infrastructure needs, and other similar characteristics) which require individual review and approval standards in order to safeguard the general health, safety, and welfare of the County.

#### SECTION 16.6 – REVIEW AND APPROVAL AUTHORITY

Following the public hearing the Planning Commission shall review the special land use request and shall approve, deny, or approve with conditions the special use permit based on the standards for special land use approval specified in Section 16.8 of this Ordinance. The Planning Commission's decision shall be in writing and shall include findings of fact, based on the evidence represented at the public hearing, on each standard.

#### SECTION 16.7- STANDARDS FOR SPECIAL LAND USE APPROVAL

The Planning Commission shall approve, or approve with conditions, an application for a special land use permit only upon a finding that the proposed special land use complies with all of the following standards:

16.7.1 The property subject to the application is located in a zoning district in which the proposed special land use is allowed.

**The subject parcel is located in the Recreation Residential Zoning District: Single Family Dwellings are a principal use permitted in this zoning district.**

16.7.2 The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.

**The proposed special land use will be developed consistent with surrounding development and will create no substantially negative impacts on the natural resources of the county or the natural environment as a whole.**

16.7.3 The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.

**The application submitted shows no development activities that would be inconsistent with the adjoining properties.**

**A condition could be placed upon the development that there shall be no outside storage of any kind.**

16.7.4 The proposed special land use will be designed, constructed, operated, and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.

**The proposed development is designed to be developed in a manner consistent with the permitted uses allowed by the Otsego County Zoning Ordinance.**

16.7.5 The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

**Each of the sites created by the approval of this request is located on an existing public road (Kokozen Ave.) with direct connection to West Otsego Lake Drive. The development will not place any demands in excess of current capacity.**

16.7.6 The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

**Each of the sites created by the approval of this request is located on an existing public road (Kokozen Ave.) with direct connection to West Otsego Lake Drive.**

**The sites will be served by private water and septic systems that will require Otsego County Health Department approval.**

**Private refuse collection is available to the proposed development.**

16.7.7 If the proposed special land use includes more than 15,000 square feet of impervious surface, then the storm water management system employed by the use shall (i) preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible, (ii) employ storm water disposal through evaporation and infiltration when reasonably possible, (iii) shall not discharge storm water directly to wetlands or surface waters unless there is no other prudent or reasonably feasible means of discharge, (iv) shall not serve to increase the quantity or rate of discharge leaving the property based on 25-year storm criteria, (v) shall be designed using Best Management Practices identified by the DNR or its successor agency, and (vi) shall identify the party responsible for maintenance of the storm water management system.

**The site plan submitted does not indicate more than 15,000 square feet of impervious surface.**

16.7.8 The proposed special land use complies with all specific standards required under this Ordinance applicable to it.

**The development shall comply with all ordinance requirements.**

16.3.2 **Conditions:** The County Planning Commission may impose conditions with the approval of a special land use application and site plan which are necessary to insure compliance with the standards for approval stated in this section and any other applicable standards contained in this or other applicable County Ordinances and regulations. Such conditions shall be considered an integral part of the special land use permit and approved site plan and shall be enforced by the Zoning Administrator.

The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

16.3.3 **Performance Guarantee:** In authorizing a special land use permit, the County Planning Commission may require a performance guarantee pursuant to the requirements of Article 22.6.

#### Article 17 Access Management

##### 17.3 Location and Spacing:

17.3.5 Driveway profile shall be designed and constructed according to Michigan Department of Transportation (MDOT) and Otsego County Road Commission (OCRC) standards.

17.3.6 Land access is permitted based on driveway spacing, stopping distance, and land use type.

Driveway Spacing and corner clearance requirements shall be PER MDOT MANUAL

**All three sites will be required to secure a driveway permit from Otsego County Road Commission prior to any construction.**

#### SECTION 18.9 DISCRETIONARY APPROVAL CONDITIONS

Whenever the Planning Commission, Zoning Board of Appeals, Zoning Administrator, or other official or body with authority to make a discretionary decision as provided for in the Michigan Zoning Enabling Act (PA 110 of 2006 as amended) determines that a fence, greenbelt, berm, landscaping or other buffering or screening device or land use arrangement shall be necessary, said body or official may require such condition per the requirements of the applicable section of this Ordinance. This includes the lighting requirements of Section 18.19 and the fencing requirements of Section 18.10.

**The proposed development is consistent with the surrounding properties, the parcel borders the same zoning district on three sides with the north westerly side bordering an R2 zoning district so there would be no buffer yard or screening required.**

**As a condition for approval of this Special Use the Master Deed must include a site plan survey that provides construction 'footprints' for each lot and documentation that would restrict construction or disruption of existing natural landscape outside of that 'footprint'. The 'footprint' for each lot shall be as determined by the Planning Commission; however, no 'footprint' shall be nearer than 50' from the rear lot line of any proposed lot.**

#### SECTION 18.10 FENCES

18.10.1 Fences designed to enclose property in any district shall be subject to the following conditions:

18.10.1.1 Fences in R1, R2, R3 or RR Districts, or any platted subdivision, site condo or PUD shall not contain barbed wire or be electrified.

**See comments below following section 18.10.5**

18.10.1.2 No fence shall exceed six (6) feet in height in the side or rear yard. No fence in the front yard setback shall exceed four (4) feet in height and shall be of a design and material that does not obscure the vision of drivers of vehicles at any driveway entrance or exit, street intersection or other pedestrian or vehicle property access point.

**See comments below following section 18.10.5**

- 18.10.3 Protective and adequate fencing shall be required around all outdoor swimming pools, and shall not be less than four (4) feet, six (6) inches above the established grade.  
See comments below following section 18.10.5
- 18.10.4 All plans for fences or walls must be approved by the Zoning Administrator for construction specifications designed to fulfill the primary function of protection and/or screening. All fences shall be maintained in a pleasing appearance.  
See comments below following section 18.10.5
- 18.10.5 The Planning Commission shall be empowered to modify fence and wall requirements as deemed necessary by conditions affecting a particular development, or to waive requirements where general welfare concerns are not served by compliance with these standards, such as the existence of permanent natural features, where there is sufficient visual or protective separation, or where there is nothing to separate. Waivers shall not be granted where such characteristics are of a temporary nature or because the adjacent area is not yet developed.  
**A condition could be:**  
**Fences shall be limited to the "footprint" area as determined for each lot by the Planning Commission to preserve the open space character of the existing natural surroundings. No fence shall exceed four (4) feet in height.**

## SECTION 18.18 LANDSCAPING

### 18.18.1 PURPOSE

The purpose of this section is: to protect and enhance property values, economic welfare and community attractiveness; to provide beneficial climatic impacts by cleaning the air and providing shade; to protect health, safety and welfare by reducing air and water borne pollutants, flooding and noise; to mitigate adverse effects of sighting different uses near one another through buffering; to facilitate preservation of existing valuable trees and other vegetative cover; to provide wildlife habitat and environmental standards within developed areas; to protect privacy.

### 18.18.2 General Performance Standards:

This Section 18.18 Landscaping requirements shall not apply to single family residences located on individual lots. The Section shall apply to residential plats and site condominiums.

All areas not covered by buildings, parking or other structures shall be treated with landscape materials including street trees, shrubs and groundcovers consistent with these provisions. The selected combination of plant materials shall be a harmonious combination of deciduous and evergreen trees, shrubs, vines and/or ground covers so arranged to present an aesthetically pleasing whole.

#### 18.18.2.1 Landscape Materials:

All landscape materials planted pursuant to the provisions of this section shall be healthy and compatible with the local climate, site soil characteristics, drainage, and available water supply.

Trees and shrubs should be at least, at the time of planting, the sizes as outlined in this section and shall be consistent with the current American Standard for Nursery Stock as set forth from time to time by the American Association of Nurserymen.

Deciduous trees shall be not less than one and one-half (1 ½) inches in diameter for single family residential uses and two and one-half (2 ½) inches in diameter for other uses.

Coniferous trees should be at least six (6) feet in height. Shrubs shall be of a size generally known in the nursery industry as requiring at least a five gallon container.

All planting beds constructed pursuant to Sections 18.18.2, 18.18.5 and 18.18.6 shall be mulched with mulch cover at least three (3) inches deep to retain moisture around roots.

Trees shall be planted on the project sites so as to allow for their desired mature growth.

Access to or view of fire hydrants shall not be obstructed from any side.

Plantings shall be designed so as to not conflict with power lines or impede fire safety services.

As a condition of approval of this Special Use the Master Deed and the Landscape Plan shall provide documentation corresponding to all of the criteria noted above in Section 18.18.2.1

#### 18.18.2.2 Irrigation & Maintenance Performance Standards

All uses with the exception of single family residential which are landscaped with live plants pursuant to this Section shall be equipped with a watering system which will provide sufficient water to maintain plants in a healthy condition.

**The proposed development of this parcel is for single family residential, as stated above a watering system is not required for single family residential.**

18.18.2.2.1 Whenever the landscaped area required by Sections 18.18.3, 18.18.5 and 18.18.6 is 2,000 square feet or more of living plants whether or not the plants are contiguous, the site shall have a permanent irrigation system capable of meeting the typical watering requirements of all the plant materials on site.

**This section has been addressed above in Section 18.18.2.2**

18.18.2.2.2 Whenever there is less than 2,000 square feet of landscaped area required by Sections 18.18.3, 18.18.5 and 18.18.6 on a site, there should be at least one reliable water source available during the growing season. The hose bib or other water source shall be within fifty (50) feet from a border of the plants.

**This section has been addressed above in Section 18.18.2.2**

18.18.2.2.3 All irrigation systems shall be maintained in good working condition.

**This section has been addressed above in Section 18.18.2.2**

As a requirement for approval of this Special Use the following shall be documented in the Master Deed: "All plants used for landscaping as required along Kokozen Ave on Lots 1 thru 3 shall be maintained in a live and healthy state. Dead or unsalvageable unhealthy plants shall be replaced with the size and type of plants required on the site development plan and by this Section. Plant materials including grasses and herbaceous plants uses on berms, along road sides shall be routinely maintained during growing seasons. When growing in close proximity to residential land uses, grasses and common weeds shall be maintained at a height of ten (10") inches or less.

Landscaping as required along Kokozen Ave on Lots 1 thru 3 shall be landscaped with a minimum of one (1) tree, not less than one and one-half (1½ inches in diameter) for each one hundred feet or major portion thereof, of abutting a road right-of-way. The remainder of the greenbelt shall be landscaped provided however, rock or other inorganic ground cover shall not exceed twenty (20) percent of the yard area.

Access ways from public rights-of-way through required landscaped strips shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required.

All fences, walls and similar structures shall be maintained in good condition. Chipped paint, missing fence pieces, leaning or fallen portions of a fence or other forms of deterioration shall immediately be replaced or repaired.

Dead or salvageable plants shall be replaced within nine (9) months of the time the plants are clearly dead.

**Berms** constructed on Lots 1 thru 3 to facilitate any screening or landscaping along Kokozen Ave shall be constructed with slopes not to exceed 1:3 gradient with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm. Berm slopes shall be protected with sod, seed, shrubs or other form of natural ground cover.

18.18.2.3 **Existing Vegetation:** If there is no practical alternative in terms of sighting buildings and other development, trees and other plants may be removed.

Significant shrubs, grasses and trees are to be preserved within areas not required for development.

Healthy, younger mature plants shall be preserved which would normally succeed older plants.

Natural vegetation shall be preserved within areas below an ordinary high water mark of a lake, stream or other water body.

Existing vegetation to be preserved shall be protected during construction with barriers as required and approved by the Zoning Administrator.

#### 18.18.3 Buffer Yards

**Based on a review of the Zoning Ordinance and Tables I and II found in Article 18 no Buffer Yard is required for a site condo development or single family residential use.**

#### 18.18.5 Screening of Unsightly Areas:

**This section is not applicable to this development**

#### 18.18.6 Parking Lot Screening:

**This section is not applicable to this development**

### SECTION 18.19 LIGHTING, OUTDOOR

Outdoor light fixtures are electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. Such devices shall include search, spot and flood lights for buildings and structures, recreation areas, parking lot lighting, landscape lighting, billboards and other signs (advertising or other), street lighting, product display area lighting, building overhangs and open canopies.

All outdoor lighting fixtures including pole mounted or building mounted yard lights, dock lights, and shoreline lights other than decorative residential lighting such as low level lawn lights, shall be subject to the following regulations:

#### 18.19.1 Lighting shall be designed and constructed in such a manner:

18.19.1.1 To insure that direct or directly reflected light is confined to the area needing it and that it is not directed off the property.

18.19.1.2 That all light sources and light lenses are shielded.

18.19.1.3 That any light sources or light lenses are not directly visible from beyond the boundary of the site.

18.19.1.4 That light from any illuminated source shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.

**As a condition of approval of this Special Use the Master Deed shall provide documentation corresponding to all of the criteria noted above in Section 18.19.1**

### SECTION 18.27 PARKING

**This is a repeat of Section 21.1.9 above**

**Based on the conditions required for Section 21.1.9 this section has been complied with.**

### SECTION 18.38 SIGNS AND BILLBOARDS

**No sign is indicated for this development therefore this section is not applicable.**

### SECTION 18.40 SOIL EROSION AND SEDIMENTATION CONTROL, STORM WATER MANAGEMENT

**No zoning permit shall be issued until any required Soil Erosion and Sedimentation Control permits and/or Storm water management permits have been obtained.**

### SECTION 18.43 UNDERGROUND UTILITY WIRE

Within the area of a plat or site plan, all distribution lines for electric, communication, or similar associated services shall be placed underground. Those electric and communication facilities placed in dedicated public ways shall be installed so as not to conflict with other underground utilities. All communication and electric facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. All underground utility installations which traverse privately-owned property shall be protected by easements granted by the owner of such property.

The Planning Commission may, by resolution, waive or modify any of the above requirements for underground line installations with respect to a particular plat or site plan when the strict application of the above requirements would result in

unnecessary hardship. Prior to any such waiver or modification, a public hearing regarding the proposal shall be held by the Planning Commission.

**Impact on public utilities and schools note: On the site plan submitted indicates all utilities will be underground. This section has been complied with.**

#### STAFF RECOMMENDATION

I recommend Planning Commission approval of the requested Site Condo Development with the following conditions:

**A condition of approval for this Special Use should require all Health Department permits prior to the issuance of any residential building permits.**

**A condition for approval of the Special Use should be that before any construction may begin on this site a copy of the Master Deed containing all documentation and restrictions as required shall be provided to Otsego County Land Use for review and following review a copy of the Recorded Master Deed with appropriate stamps from the Register of Deeds shall be provided to the County for filing with this application.**

**As a condition for approval of this Special Use prior to authorization of any construction on this site a certificate by a licensed professional surveyor shall be provided stating that the monuments and markers have been placed as required or the property owner shall be required to comply with section 18.8.8.1**

**As a condition for approval of this Special Use a draft of the Master Deed must be provided to Otsego County Land Use for review. The Master Deed shall document all conditions of the Special Use and shall include a site plan diagram showing the "footprint" of allowable building areas on each lot and shall contain restrictions on future development of each lot.**

**As a condition for approval of this Special Use a draft of the Master Deed must be provided to Otsego County Land Use for review. The Master Deed shall document all conditions of the Special Use and shall include restrictions on development that will protect the natural environment and special natural resources and ensure that landscaping shall be preserved in its natural state, by restricting tree and soil removal and by restricting topographic modifications so that the project will be developed in harmony with adjacent areas.**

**As a condition for approval of this Special Use the Master Deed must include a site plan survey that provides construction 'footprints' for each lot and documentation that would restrict construction or disruption of existing natural landscape outside of that 'footprint'. The 'footprint' for each lot shall be as determined by the Planning Commission; however, no 'footprint' shall be nearer than 50' from the rear lot line of any proposed lot.**

**As a condition of approval for this Special Use a copy of the Master Deed shall be provided for review by Otsego County Land Use and following review a copy of the Recorded Master Deed including all stamps showing recording by the Register of Deeds shall be provided to the County. The Master Deed shall include documentation regarding restrictions including the minimum floor area for houses proposed within the development. At the discretion of the Planning Commission minimum floor area for dwellings in this development may be greater than 720sf however, no living area shall be less than 720sf.**

**As a condition of approval for this Special Use a copy of the Master Deed shall be provided for review by Otsego County Land Use and following review a copy of the Recorded Master Deed including all stamps showing recording by the Register of Deeds shall be provided to the County. The Master Deed shall include documentation regarding restrictions including the number of parking spaces provided for houses proposed within the development. At the discretion of the Planning Commission parking may be required in two stall attached garages.**

**As a condition of approval for this Special Use the Master Deed shall provide the following restriction: Exterior lighting shall be so arranged that it is deflected away from adjacent properties. Flashing or intermittent lights shall not be permitted. (Except for lights used as decoration for limited duration throughout the year).**

**As a condition for approval of this Special Use the Master Deed shall state that no noise, fumes, pollution, vibration, or light shall be permitted to an extent exceeding what would be expected of any residential single family use in that same district.**

**As a condition for approval of this Special Use the Master Deed shall state that all necessary state and federal permits must be received and copies provided to the County before any construction is started on the development.**

As a condition for approval of this Special Use the Master Deed shall state that District Health Department approval is required prior to construction on any lot.

As a condition of this Special Use the following criteria shall be documented in the Master Deed: Fences shall be limited to the "footprint" area as determined for each lot by the Planning Commission to preserve the open space character of the existing natural surroundings. No fence shall exceed four (4) feet in height.

The Master Deed and the corresponding Landscape Plan shall document that trees and plant material used in the Landscape plan shall be harmonious with the existing natural landscape and shall consist of a combination of deciduous and evergreen trees and shrubs.

As a condition of approval of this Special Use the Master Deed and the Landscape Plan shall provide documentation corresponding to all of the criteria noted in Section 18.18.2.1 "Landscape Materials"

All landscape materials planted pursuant to the provisions of this section shall be healthy and compatible with the local climate, site soil characteristics, drainage, and available water supply.

Trees and shrubs should be at least, at the time of planting, the sizes as outlined in this section and shall be consistent with the current American Standard for Nursery Stock as set forth from time to time by the American Association of Nurserymen.

Deciduous trees shall be not less than one and one-half (1 ½) inches in diameter for single family residential uses and two and one-half (2 ½) inches in diameter for other uses.

Coniferous trees should be at least six (6) feet in height. Shrubs shall be of a size generally known in the nursery industry as requiring at least a five gallon container.

All planting beds constructed pursuant to Sections 18.18.2, 18.18.5 and 18.18.6 shall be mulched with mulch cover at least three (3) inches deep to retain moisture around roots.

Trees shall be planted on the project sites so as to allow for their desired mature growth.

Access to or view of fire hydrants shall not be obstructed from any side.

Plantings shall be designed so as to not conflict with power lines or impede fire safety services.

All fences, walls and similar structures shall be maintained in good condition. Chipped paint, missing fence pieces, leaning or fallen portions of a fence or other forms of deterioration shall immediately be replaced or repaired.

Dead or salvageable plants shall be replaced within nine (9) months of the time the plants are clearly dead.

Berms constructed on Lots 1 thru 3 to facilitate any screening or landscaping along Kokozen Ave shall be constructed with slopes not to exceed 1:3 gradient with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm. Berm slopes shall be protected with sod, seed, shrubs or other form of natural ground cover.

As a requirement for approval of this Special Use the following shall be documented in the Master Deed: No zoning permit shall be issued until any required Soil Erosion and Sedimentation Control permits and/or Storm water management permits have been obtained.

# Otsego County Planning Commission Executive Committee

PROPOSED Minutes for January 5, 2012

**Call to Order:** 1:00 pm by Chairperson Stults

Pledge of Allegiance

**Roll Call:**

Present: Chairperson Stults, Vice-Chairperson Arndt, Secretary Borton

Staff Present: County Commissioner Erma Backenstose, County Administrator John Burt, Land Use Director Joe Ferrigan

Others Present: Tim Baker Otsego Lake Township, Frances Nowak, Chuck Klee

**Discussion Items:**

**1. Limiting the length of meetings to two (2) hours:**

Mr. Klee stated he felt the Planning Commission was spending too much time on items and not accomplishing a lot. He is not opposed to meetings lasting longer than two (2) hours if the Planning Commission is moving items forward.

Ms. Nowak stated she felt a lot of "nit-picking" was going on and in the end, the same decision is made. She wants the Chairperson, Vice Chairperson and the Land Use Director to guide the other members of the Planning Commission to a decision.

John Burt suggested the Chairperson ask all members at once if they would like to add or delete items from an agenda instead of asking each member separately.

Mr. Ferrigan stated there was no need to read over each item of a site plan application or finding of fact during the meeting, if staff recommendations and general finding of fact are included in the meeting packets. A motion to approve is all that needs to be done.

Chairperson Stults requested Mr. Ferrigan relocate his position to the center of the table next to the Chairperson to assist in keeping the meeting on track.

Secretary Borton agreed too much time was being spent on little things, like where a period or comma is or isn't located. He feels more attention should be spent making sure the important points are covered and moved to a vote.

**2. Rearranging the meeting agenda (order of business):**

There was discussion among those present. After which, a motion was made by Vice Chairperson Arndt with Support by Secretary Borton to recommend to the full Planning Commission a review of the by-laws to change the order of business on the Agenda and any other changes that may be necessary. The vote was Unanimous.

# Otsego County Planning Commission

## Executive Committee

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PROPOSED Minutes for January 5, 2012

### 3. What additional information is needed in packets to make decisions easier at meetings?

Mr. Ferrigan presented to the Committee what will be included with the next meeting packet: a general finding of fact, an exhibit sheet and a staff recommendation document. These items should be reviewed by each member beforehand so the Chairperson need only ask for a motion to approve. He should not have to read each item individually. If a member has questions about an item, that item and only that item will be discussed so a vote can be taken.

Secretary Borton agreed that this would make cases flow better.

Vice Chairperson Arndt agreed with this approach but also had questions about presenting the Assisted Living Document to the full Planning Commission. Chairperson Stults gave some direction on what is expected when the document is presented.

Chairperson Stults added that if each member completes their review of the information contained in the packets, we should be able to reduce the discussion time and move each case to a decision in a more timely fashion.

Secretary Borton suggested the Chairperson, Secretary and Land Use Director meet prior to a meeting where a case is to be heard and review the information to be sent in the packets. Hopefully this would facilitate more efficient meetings.

John Burt will attend a meeting or two and give guidance if necessary to the Planning Commission and Land Use Director.

### 4. Objectives for 2012 prioritizing the list of items currently being worked on:

There was discussion among the Committee members regarding the Objective list provided (attached). The intent is to limit the number of items placed on the Planning Commission agenda at one time. As one (1) project is completed, another item will be added.

The Executive Committee also decided that all required business should be completed within the two (2) hour time limit. Then, time permitting the Objective list could be worked on.

John Burt stated he was exploring the possibility of securing funds for additional meetings to give the Planning Commission an opportunity to work on the Objective list.

The Objective list was prioritized by the Committee members and the new list is attached to these minutes.

### 5. Other Items:

Vice Chairperson Arndt presented his suggestions for smoother movements at the Planning Commission (attached).

**Meeting Adjourned: 2:55p.m.**

# **Otsego County**

## **Land Use Services department**

1068 Cross Street  
Gaylord, Michigan 49735  
989-731-7420 \*Fax 989-731-7429

January 5, 2012

Objectives for 2012 (original list given to executive committee)

1. ASSISTED LIVING FACILITIES
2. MINING
3. RECREATIONAL EQUIPMENT
4. DUMPSTERS
5. ACCESSORY BUILDINGS
6. LOTS NEAR WATER
7. B -2 & B-3
8. PRIVATE ROADS
9. RENTAL HOMES
10. HIGHWAY INTERCHANGE
11. PLANTING BUFFER YARD
12. ARTICLE 14
13. PARKING REQUIREMENTS
14. UPDATE PLANNING COMMISSION BY-LAWS
15. MICHAYWE BOUNDRY AND UNDERLYING ZONING
16. MUZ
17. MINIMUM SIZE OF DWELLING
18. NON-CONFORMING STRUCTURES
19. ENFORCEMENT PROCEDURES

# **Otsego County**

## **Land Use Services department**

1068 Cross Street  
Gaylord, Michigan 49735  
989-731-7420 \*Fax 989-731-7429

January 6, 2012

Objectives for 2012 (executive committee revised list)

1. ASSISTED LIVING FACILITIES
2. MINING
3. DUMPSTERS
4. PLANTING BUFFER YARD
5. ARTICLE 14
6. PARKING REQUIREMENTS
7. UPDATE PLANNING COMMISSION BY-LAWS
8. MICHAYWE BOUNDRY AND UNDERLYING ZONING
9. MINIMUM SIZE OF DWELLING
10. ACCESSORY BUILDINGS
11. LOTS NEAR WATER
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