

**CITY OF WALKER**  
**PLANNING COMMISSION**  
**RESOLUTION**

At a regular meeting of the Planning Commission of the City of Walker, Michigan, held in the City Commission Chambers in said City, 4243 Remembrance Road, NW, on Wednesday, the 4<sup>th</sup> day of October, 2006, at 7:00 p.m., there were:

PRESENT: \_\_\_\_\_  
\_\_\_\_\_

ABSENT: \_\_\_\_\_  
\_\_\_\_\_

The following resolution was offered by Commissioner \_\_\_\_\_ and seconded by Commissioner \_\_\_\_\_:

WHEREAS, Trademark Property Co. (“Applicant”) and Walker Orchard Land Partners, LLC (“Owner”) (the Applicant and the Owner are collectively referred to as the “Developer”) have applied for Preliminary Area PUD Site Plan approval and rezoning of approximately 239 acres (excluding right-of-way) described on Exhibit A (the “Property”), from AA Agricultural, ORP Office, Research & Parking and ML – Light Industrial to MPUD pursuant to the City of Walker Zoning Ordinance (“Ordinance”); and

WHEREAS, the City of Walker Planning Commission conducted a public hearing on March 29, 2006, after providing notice as required by law; and

WHEREAS, the Planning Commission held a Preliminary Area Site Plan design review workshop on May 17, 2006, wherein the Planning Commission

recommended changes to the proposed project to better align the proposed site plan with the 2006 Sub-Area #1 Land Use Plan Update; and

WHEREAS, City of Walker staff engaged the Applicant during two day-long site plan review committee workshops on August 31 and September 1, 2006, wherein staff recommended changes to the proposed project based on preliminary-level analyses involving public and private street improvements, public sanitary sewer and water system improvements, stormwater and soil erosion control improvements, and parks and recreation system improvements; and

WHEREAS, based on input from the public hearing, site plan design workshop, the staff site plan review committee workshops and other information, the Planning Commission and City of Walker staff recommended changes to the proposed project; and

WHEREAS, based on these recommendations, Applicant has submitted a revised Preliminary Area Site Plan; and

WHEREAS, the Planning Commission reviewed the revised Preliminary Area Site Plan during a regular Planning Commission meeting on September 20, 2006; and

WHEREAS, the Planning Commission has considered the reports of City Staff including, but not limited to, reports of the Planning Director, City Engineer, and Department of Public Works, in addition to reports by the City's outside traffic engineering consultant and outside planning consultant; and

WHEREAS, based on this review, the Planning Commission is prepared to approve the Preliminary Area Site Plan, subject to conditions, for the mixed commercial/residential uses on the Property (the “Project”) as proposed by the Developer, and to recommend the rezoning of the Property to MPUD to the City Commission.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. Subject to the conditions described in Paragraph 5 below, the Planning Commission hereby approves the Preliminary Area Site Plan booklet dated September 12, 2006, and finds that the Preliminary Area Site Plan meets the standards of Section 94-213(3)g. as follows:

(a) The proposed development conforms to the City’s general development plan, as amended by the 2006 Sub-Area #1 Land Use Plan Amendment, adopted on September 25, 2006 by the Walker City Commission. The 2006 Sub-Area #1 Land Use Plan Amendment proposes a “village center” of complimentary mixed land uses of exceptional design and function within the Property. The Project fulfills this vision. The Developer’s Preliminary Area Site Plan booklet dated 9-12-06 supports this finding, as it proposes a mixed use project subjected to design regulations that exceed many standards currently in the City of Walker Zoning Ordinance.

(b) The proposed development conforms to the intent and to all regulations and standards of this article and this chapter, as applicable. The Orchard Park Preliminary Area Site Plan booklet dated 9-12-06 contains significant and exceptional details related to site design, functionality and sustainability. The Orchard Park Preliminary Area Site Plan booklet dated 9-12-06 sets forth an ambitious integration of residential, office and commercial uses that are enabled by regulatory flexibility and creativity.

(c) The proposed development will be adequately served by public facilities and services such as highways, streets, police and fire protection, drainage courses, water and sanitary sewer

facilities, refuse disposal, and that the persons or agencies responsible for the proposed development will be able to provide in a manner acceptable to the Planning Commission any such facilities and services.

City of Walker department heads have provided the Planning Commission with their professional analyses of estimated Project impacts. These staff reports covered both projected costs and benefits to the City of Walker from financial and operational standpoints. Representatives from the Kenowa Hills School District and The Rapid have also provided their community impact reports to the Planning Commission. Taken as a whole, the Planning Commission finds that these reports suggest that the Project will yield a net benefit for the City of Walker.

The Developer has supplied the Planning Commission with two detailed yet preliminary reports covering public and private infrastructure improvements necessary for the successful construction and sustainable functioning of the Project. These reports are as follows:

1. Community Impact Analysis Narrative – Orchard Park Development by Moore & Bruggink, Inc. dated received 9-12-06.
2. Orchard Park Development Public Infrastructure Improvement Cost Summary by Moore & Bruggink, Inc. dated received 9-12-06.

It is premature to create engineered construction plans for the Project, as the Planning Commission is currently reviewing only the Preliminary Area Site Plan. However, the estimated costs of necessary public and private infrastructure improvements related to the Project are significant.

As such, a development agreement covering funding responsibilities for specific public and private facility improvements between the Developer and the City of Walker (and other municipalities, governments or other agencies) shall be reviewed and approved by the Developer and the Walker City Commission prior to acceptance of any application for Final Area Site Plan approval for the Project, as noted in Condition (d) in Paragraph 5 below.

(d) The common open space, any other common properties, individual properties, and all other elements of the PUD are so planned that they will achieve a unified open and recreation area system with open space and all other elements in appropriate locations, suitably related to each other, the site, and the surrounding land. The Developer has stated on Page 3 of their Preliminary Area Site Plan booklet dated 9-12-06 that site improvements, including common and open spaces, will be planned and designed using an integrated site analysis and landscape architecture approach. The Preliminary Area Site Plan booklet dated 9-12-06 identifies open spaces, public trails and other parks and recreation amenities on Pages 10, 12, 16, 17, 18, 20, 27 and 28. The current City of Walker Parks and Recreation Master Plan has been used to identify a preliminary needs list for open space and recreational amenities within the Project. Significant attention will be given to designing and locating such facilities during the Final Area Site Plan review process.

(e) The location of the proposed uses, layout of the site, and its relation to streets giving access to it will be such that traffic to, from, and within the site and assembly of persons in connection therewith will not be hazardous or inconvenient to the project or the surrounding area. In applying this standard, the planning commission considered, among other things, convenient routes for pedestrian traffic, particularly of children; relationship of the proposed project to main thoroughfares and street intersections; and the general character and intensity of the existing and potential development of the surrounding area.

The developer has supplied a voluminous preliminary traffic analysis report titled, "TRAFFIC IMPACT STUDY – Orchard Park Town Center Development" and dated September 2006. Metro Transportation Group, Inc. from Ann Arbor, Michigan authored the report.

The City of Walker has hired Pete LaMourie, P.E., P.T.O.E. from Progressive AE in Grand Rapids, Michigan to serve as the City's traffic consultant for the Project. Mr. LaMourie has reviewed the preliminary traffic study and has offered both comments and constructive criticism of the report. He has offered several intersection options related to projected street system improvements that balance traffic capacity, traffic safety and pedestrian safety.

The traffic impact study has also been shared with the Kent County Road Commission, Grand Valley Metro Council and MDOT. Implementation efforts are also being discussed and modeled by the 4 Mile Road Study Committee, of which the City of Walker, Alpine Township, Kent County Road Commission, MDOT, Kent County Parks and Recreation and the Grand Valley Metro Council are partners.

The Developer's Preliminary Area Site Plan booklet dated 9-12-06 proposes street system improvements and pedestrian safety design details on Pages 3, 13, 14, 15, 16, 17, 18, 19, 20, 27 and 28.

The Planning Commission finds that, while preliminary in nature, all of the aforementioned reports and plans address street system improvement options and pedestrian safety design details in adequate detail for a Preliminary Area Site Plan.

In addition, MDOT construction activities are currently underway to improve I-96, the Walker Avenue bridge and associated highway access ramps. These improvements will address current traffic congestion and safety concerns while providing future relief via improved capacity capabilities.

(f) The mix of housing unit types and densities and the mix of residential and nonresidential uses will be acceptable in terms of convenience, privacy, compatibility, and similar measures and will serve a market currently under-addressed within the City of Walker. The current and projected housing market for typical subdivision style housing is poor. Orchard Park will provide a niche-market style of housing not currently offered within the City of Walker. Such housing will attract people who will fuel Michigan's economic transformation and recovery.

(g) The Planning Commission has determined that noise, odor, light, or other external effect from any source whatsoever which is connected with the proposed use will not adversely affect adjacent and neighboring lands or uses. The Planning Commission, during public hearings and meetings associated with the 2006 Sub-Area #1 Land Use Plan Amendment and during public hearings and meetings associated with the Project, has acknowledged community concerns relative to potential negative impacts from the Project on neighboring lands and uses. While it is impossible and unreasonable to suggest that the Project will have no impact on neighboring properties or land uses, the Planning Commission finds that the Preliminary Area Site Plan booklet dated 9-12-06

adequately addresses and mitigates offsite impacts in a preliminary manner. More specific offsite impact issues, such as exterior lighting, operational noise, trash removal and others will be addressed in much greater detail during the Final Area Site Plan review process.

(h) Streets will follow existing and proposed site topography, will be properly spaced, and will be located and aligned in accordance with the intended function of each street. The property will have adequate access to public streets. The plans provide for logical extensions of public streets and provide suitable street connections to adjacent parcels. The Developer's Preliminary Area Site Plan booklet dated 9-12-06 projects street system improvements and pedestrian safety design details on Pages 3, 13, 14, 15, 16, 17, 18, 19, 20, 27 and 28. The Planning Commission finds that these street system improvement options and pedestrian safety design details to be adequate in detail for a Preliminary Area Site Plan.

(i) Major pedestrian circulation will be provided for within the site, and will interconnect all residential areas, community areas, and commercial and other services where applicable. The pedestrian system will provide a logical extension of the pedestrian ways from outside the site and will provide pedestrian connections to the edges of the site where appropriate.

The Developer's Preliminary Area Site Plan booklet dated 9-12-06 identifies pedestrian circulation design features on Pages 3, 4, 16, 17, 18, 27 and 28. The Planning Commission, based on the standards of the MPUD zoning district and by applying best site design methodology, finds that the Developer has addressed pedestrian circulation in an adequate level of detail for a Preliminary Area Site Plan. The Planning Commission will focus significant design attention into safe and efficient pedestrian circulation throughout the site during the Final Area Site Plan review process.

(j) The planning, site designing and construction phasing will be such that, upon completion, each phase will be capable of standing on its own in terms of the presence of services, facilities, and open space, and will contain the necessary components to ensure the protection of natural resources and the health, safety and welfare of the users of the planed unit development and the residents of the surrounding area. As noted in the MPUD district regulations and addressed in Condition (f) in Paragraph 5 below, Districts A, B and E as labeled in the Developer's Preliminary Area

Site Plan booklet dated 9-12-06 will be part of Phase I of the Project. The Planning Commission finds that, while each District could stand on its own accord, the synergy between the Districts makes the Project more creative, attractive and sustainable, thereby meeting the intent of the MPUD chapter.

2. The Planning Commission further finds that the Preliminary Area Site Plan and the Project meet the standards of Section 94-218(b) as follows:

(a) Grant of the PUD will result in a recognizable and substantial benefit to the ultimate users of the project and to the community, where such benefit would otherwise be infeasible or unlikely to be achieved within the constraints of the otherwise applicable zoning districts. The Developer's Preliminary Area Site Plan booklet, dated 9-12-06 self-imposes regulations on Pages 21, 22, 23, 24, 25 and 26 that, in many cases, exceed the standards of the City of Walker Zoning Ordinance. These self-imposed regulations will provide an exceptional level of Project design and are enabled by the PUD process.

(b) The residential component(s) of an MPUD will be completed concurrent with any nonresidential construction, or in such a manner so as to minimize disruption to any development component within an MPUD. As noted in the MPUD district regulations and addressed in Condition (f) in Paragraph 5 below, Districts A, B and E as labeled in the Developer's Preliminary Area Site Plan booklet dated 9-12-06 will be part of Phase I of the Project. The Planning Commission finds that, while each District could stand on its own accord, the synergy between the Districts makes the Project more creative, attractive and sustainable, thereby meeting the intent of the MPUD chapter.

3. To the extent that the preliminary area site plan does not conform to the applicable area, height, width, and placement requirements, the Planning Commission hereby determines that a better or more appropriate design has been achieved and adherence to the minimum standards is not required to ensure the health, safety, and welfare of the inhabitants and users of the development and of the adjoining property, as permitted by Section 94-

218(d). The Planning Commission, in making these determinations, relied upon the Developer's Preliminary Area Site Plan booklet dated 9-12-06 and the exceptional level of design detail and self-imposed regulation therein.

4. Pursuant to Section 94-213(3)j, the Planning Commission prohibits the following uses within this MPUD: 1) contractor's yards, and 2) new or used car, truck, RV, boat, trailer, mobile home, farm equipment, or other vehicle sales, unless such sales are permitted under Section 94-523 of the Zoning Ordinance as temporary outdoor uses or if otherwise permitted under the Zoning Ordinance. The Planning Commission finds that the unregulated application of these uses would not be compatible with nearby uses of land, would be injurious to the use or enjoyment of other property in the vicinity, and would impede normal and orderly development and improvement of surrounding property for permitted uses.

5. Pursuant to Section 94-213(3)h, the Planning Commission hereby finds that certain conditions in the approval of the Preliminary Area Site Plan are necessary to ensure that public facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the project, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. These conditions are designed to protect natural resources and the public health, safety, and welfare of those in the project and those immediately

adjacent, and the community as a whole; are necessary to meet the intent and purpose of the Zoning Ordinance; and are related to the objective of ensuring compliance with the standards of the Zoning Ordinance. The conditions are as follows:

(a) The drawings, documents and supporting information submitted by Trademark Properties, Inc., stamped, signed, and dated by the Secretary of the Planning Commission, shall constitute the approved Preliminary Area Site Plan for the Orchard Park PUD. To the extent that such drawings, documents, and supporting information exceed the requirements of the Zoning Ordinance, those higher standards are an integral component of the Preliminary Area Site Plan, and the Final Area Site Plan shall conform to these standards in order to be deemed in substantial compliance with the Preliminary Area PUD Site Plan.

(b) The Project shall comply with all federal, state, Kent County and/or City of Walker laws, rules, regulations, requirements, and ordinances.

(c) These conditions shall be binding on the Developer and all other or successor developers of the Project. Each other or successor developer of the Project shall, as a condition precedent to this approval for the Project taking effect or remaining effective, acknowledge in writing such developer's obligation to comply with all of these conditions.

(d) Provided that a development agreement acceptable to the City of Walker is entered into between the City and the Developer, the proposed development will be adequately served by public facilities and services such as highways, streets, police and fire protection, stormwater management systems, drainage courses, public water and sanitary sewer facilities, parks, recreation and open space facilities, and refuse disposal as shall be determined by the Planning Commission and City Commission and based on recommendations by the persons or agencies responsible for such public facilities and services. A development agreement covering funding responsibilities for specific public and private facility and infrastructure improvements between the Developer and the City of Walker (and other municipalities, governments or other agencies) shall be reviewed and approved by the Developer and the Walker

City Commission prior to acceptance of any application for Final Area Site Plan approval for the Project. Nothing in this Resolution shall be construed to restrict or limit in any way the discretion of the Walker City Commission regarding the terms and conditions of a development agreement acceptable to the Commission.

(e) The Project shall comply with all requirements and conditions established by reviewing agencies regarding disturbances to wetlands, streams, drainage courses, and the construction of ponds, culverts, storm water management facilities and utility crossings of streams and wetlands, access to and from the site and surrounding properties, utility and other types of public services. Proof of compliance shall be required prior to Planning Commission approval of any Final Area Site Plan for the Project.

(f) District A (residential) as shown on the Preliminary Area Site Plan shall be constructed in Phase I of the Project and shall be constructed concurrently with Districts B and E as determined by the Planning Commission upon review of the Final Area Site Plan.

(g) The Project shall comply with all requirements and conditions pertaining to Soil Erosion and Sedimentation Control as established by appropriate reviewing agencies.

(h) Stormwater management ponds in the Project, as shown on the Preliminary Area Site Plan shall be subject to review and approval by the City of Walker Engineer. This determination shall be required prior to Planning Commission approval of any Final Area Site Plan for the Project. The Project shall comply with the City Stormwater Management Ordinance, including the requirement of a stormwater maintenance facility agreement for all stormwater management facilities.

(i) Prior to approval of any Final Area Site Plan, the Developer shall undertake tests and develop an acceptable remediation plan, which is to be reviewed and approved by the City of Walker Brownfield Redevelopment Authority and the Walker City Commission and other appropriate agencies, or their representatives, to address any on-site environmental contamination. The test results and remediation plan must show that neighboring properties and the general public health, safety and welfare will not be adversely affected by this development or related remediation activities.

(j) The Developer shall secure all approvals to cross and/or generally affect any existing on-site easements for private improvements prior to submitting any application for a Final Site Area Plan for the Project. With respect to public rights-of-way to be dedicated to the City, the Developer shall, prior to application for a Final Area Site Plan, demonstrate its ability to convey title acceptable to the City in its sole discretion for any public way proposed in the Preliminary Area Site Plan. The design and construction of all public rights-of-way shall be subject to City Engineer review and approval. To the extent that any public right-of-way is proposed within, or encroaches upon, an existing easement, the Developer shall obtain releases of such existing easements or shall make such other arrangements regarding such easements as are acceptable to the City in its sole discretion. If the Developer is unable to convey title to public rights-of-way acceptable to the City, the City reserves the right to require the Developer to relocate the proposed public rights-of-way. If substantial changes to the approved Preliminary Area Site Plan, as determined by the Planning Commission, result from such relocation of the public right-of-way or from the failure to secure approvals for use of on-site easements for private improvements, the Developer will be required to submit a revised plan meeting the requirements of Section 94-213. As specified in Section 94-213, the Planning Commission shall hold a public hearing on the revised plan.

(k) The Developer shall enter into an agreement acceptable to the City of Walker for the long-term protection of all open space areas prior to Planning Commission approval of any Final Area Site Plan for the Project.

(l) Landscape plans that are submitted for Final Area Site Plan approval shall pay particular attention to screening views of parking lots, the rears of buildings and service areas that may be visible from I-96 and any other public street. The landscape plans shall also address long term care and maintenance and shall be reviewed by a landscape architect designated by the City. Any Final Area Site Plan for the project presented for Planning Commission approval will consider recommendations from this review.

(m) An exterior lighting plan shall be prepared for any Final Area Site Plan review for the Project and shall reflect reasonable light levels, as determined by the Planning Commission and the use of full sharp cut-off and shielded fixtures.

(n) All buildings shall be constructed in substantial compliance with the Developer's Preliminary Area Site Plan booklet dated 9-12-06 and the contained development standards matrix and the architectural drawings submitted to and approved by the Planning Commission as part of the Preliminary and Final Area Site Plan review processes. The development standards matrix and architectural drawings are an integral part of the Preliminary Area Site Plan approval. Significant deviations, as determined by the Planning Director, shall require Planning Commission review and approval.

(o) Except as otherwise required by these conditions, the Project shall comply with all of the notations within the materials submitted by the Applicants as part of the Preliminary Area Site Plan review process.

(p) With respect to portions of the site plan that will be developed as site condominiums, the Developer shall comply with article XI of the Zoning Ordinance with respect to an operation and maintenance agreement for all private streets. For any portion of the site plan with private streets outside of site condominiums, the Developer shall construct the private streets in accordance with the City's public street standards except to the extent otherwise permitted by the City and shall prepare and submit legal instruments acceptable to the Walker City and Planning Commissions that shall contain, at a minimum, the following items with regard to the private streets in the Project:

- (i) Financing improvement and/or ongoing maintenance.
- (ii) Method of apportioning costs.
- (iii) The City's option (but not the obligation) to improve and/or maintain.
- (iv) Non-interference provision.

(q) To ensure compliance with the City of Walker Zoning Ordinance and all conditions established relative to the Project, the Planning Commission may require a performance guarantee acceptable to the City for Final Area Site Plan approval pursuant to Section 94-213(11).

(r) Any violation of these conditions shall constitute a violation of the City of Walker Zoning Ordinance for which the City shall

have the remedies provided in Section 94-213(13), the provisions of the Zoning Ordinance, and applicable law.

6. The Planning Commission hereby recommends that the City Commission rezone the Property to MPUD, finding that the MPUD zoning, as reflected on the Preliminary Area Site Plan, is consistent with the City's Master Plan, as amended by the 2006 Sub Area #1 Land Use Plan Amendment.

Upon vote for the adoption of said resolution, the vote was:

YEAS: \_\_\_\_\_  
\_\_\_\_\_

NAYS: \_\_\_\_\_

The resolution was thereupon declared adopted.

Dated: \_\_\_\_\_, 2006 \_\_\_\_\_

Carol Gornowich, Secretary  
Walker Planning Commission