

## PUD Ordinance -Anderson Woods #9 of 2005

### CASCADE CHARTER TOWNSHIP

Ordinance # 9 of 2005

AN ORDINANCE TO AMEND THE CASCADE CHARTER TOWNSHIP ZONING ORDINANCE AND ZONING MAP TO ESTABLISH THE ANDERSON WOODS PLANNED UNIT DEVELOPMENT PROJECT.

Cascade Charter Township (the "Township") Ordains:

Section I. An Amendment to the Cascade Charter Township Zoning Ordinance.

The application received from John Halland of Laurel Ridge Development (hereinafter referred to as the "Developer") for Planned Unit Development designation for the proposed Anderson Woods Planned Unit Development Project (hereinafter referred to as the "Project") was recommended by the Cascade Charter Township Planning Commission for approval at the August 15, 2005 Planning Commission meeting. The Project is recommended for rezoning from ARC, Agriculture Rural Reserve to PUD, Planned Unit Development, thus permitting a site condominium development. This action requires an amendment to the Cascade Charter Township Zoning Ordinance and Zoning Map to incorporate the Planning Commission's recommendations and the Cascade Charter Township Board of Trustees' action on the 28th day of September, 2005.

Section II. Legal Description.

The legal description of the Project is as follows:

That part of Northeast one-quarter, Section 34, Town 6 North, Range 10 West, Cascade Township, Kent County, Michigan, described as: BEGINNING at Northeast corner of said Section 34; thence South 00 30'47" East 672.71 feet along the East Line of said Northeast one-quarter; thence South 89 12'05" West 2648.59 feet along the South Line of the North 672.70 feet of said Northeast one-quarter; thence North 00 37'49" West 672.70 feet along the West Line of said Northeast one-quarter to the North one-quarter corner of said Section 34; thence North 89 12'05" East 1788.54 feet along the North line of said Northeast one-quarter; thence South 00 47'55" East 350.00 feet; thence North 89 12'05" East 622.29 feet; thence North 00 47'55" West 350.00 feet to the North line of said Northeast one-quarter; thence North 89 12'05" East 239.14 feet along said North line to the place of beginning.

SUBJECT To any easements, restrictions or rights of way of record. ALSO SUBJECT TO a road right of way for Buttrick Ave on the East. 35.91 acres including the Buttrick Ave right of way.

Section III. General Provisions.

The following provisions shall hereby apply to the Project, in addition to those provisions outlined in Chapter 16 of the Cascade Charter Township Zoning Ordinance (Ordinance No. 11 of 1988, as amended).

Section IV. Purpose.

The Project occupies approximately 35.91 acres of land in the Township. The Project will be a site condominium development containing 14 single-family site condominium units. Approximately 57% of the property is to be preserved as open space. This technique has been chosen by the Developer to give it and the eventual owners of each unit more control over the Project's aesthetics and appearance. This development technique provides the Developer with the ability to develop the Project in a manner to meet market expectations where more traditional mechanisms such as creating subdivision plats do not.

The regulations contained herein are established to define the procedures necessary to ensure high quality development in the Project. Additionally, they are designed to achieve integration of this development with adjacent land uses.

#### Section V. Approval Limitations.

A. The provisions of this Ordinance/Ordinance amendment ("this Ordinance") are not intended as a substitute for the Cascade Charter Township Zoning Ordinance and the General Development Plan, nor do they in any way relieve the Developer from obtaining all approvals and permits required by the Township, except as otherwise expressly provided herein. In the event that a development issue or site plan element is not expressly addressed by this Ordinance, the specifications and requirements of the Cascade Charter Township Zoning Ordinance shall apply. Furthermore, all other applicable Cascade Charter Township ordinances shall still govern the Project where applicable.

B. Except as expressly otherwise provided herein, the Developer and his assigns must meet all applicable provisions, ordinance requirements, and regulations of Cascade Charter Township, as well as federal and state law, and must obtain all necessary approvals from state and county governmental agencies that are required for construction, operation, or use.

C. This PUD approval is expressly contingent upon all conditions of approval herein remaining fully effective and valid. If any condition imposed herein is determined to be illegal or contrary to law as a result of a successful legal challenge by the Developer or its assigns, or any other party, the Township reserves the right to review the entire Project under the PUD provisions of the Cascade Charter Township Zoning Ordinance, and further, to withdraw its approval of this PUD if the Township finds that, absent the effect of any condition imposed herein, the PUD no longer meets the standards for PUD approval contained in the Zoning Ordinance.

D. All conditions contained herein and in the final approved site plan shall be binding upon the Developer, as well as its successors, tenants and assigns. The conditions may be modified or amended only pursuant to a formal amendment of the PUD approval, approved site plan, and ordinance amendment. The Project must be constructed and operated, and all properties therein used, in strict compliance with the PUD approval (including this Ordinance and the final approved site plan), and no deviations can occur without prior formal written approval by the Township. So called minor deviations shall not occur unilaterally by the Developer or its successors, tenants, or assigns. Any deviation without prior formal written approval by the Township will constitute a violation of this Ordinance and the Cascade Charter Township Zoning Ordinance.

E. This approval document shall be recorded with the Kent County Register of Deeds by the Developer prior to construction occurring on site and shall run with and bind the lands involved. Copies of this recorded document shall be supplied by the Developer to the Cascade Charter Township Clerk.

F. Failure to comply with the site plan or any condition of approval herein shall be deemed to be both a nuisance per se and a violation of the Cascade Charter Township Zoning Ordinance.

G. Prior to recording a copy of this document as specified in Section V(E) hereof, the Developer shall type the following statement onto the end of this document (or add an additional page to the document) as follows, and shall sign and date the same:

"I, John Halland, have fully read the above PUD ordinance amendment, understand its provisions and fully agree with all requirements and conditions contained in the same, on behalf of myself and my assigns, successors and transferees in and to the property involved."

#### Section VI. Site Condominium Documents and Plans.

A. Specific controls relating to architectural elements, common elements of the site condominium project, construction materials, size and space requirements, improvements and out buildings, specific prohibitions and rules of conduct shall be governed by site condominium bylaws and master deed. These restrictions shall become part of this Ordinance by reference.

B. The Project shall be developed exactly in accordance with the site plan approved and signed by the Township. The site plan shall indicate where each building envelope will be located and shall provide

appropriate measurements demonstrating compliance with Section 16.11(2) of the Zoning Ordinance. Engineering plans and documents relating to utilities, topography, drainage, and the survey of the Project shall be reviewed and approved by the Township Engineer. Approval of these documents shall be based upon their meeting the requirements of Section 16.11(4) of the Zoning Ordinance and also meeting recognized, acceptable engineering standards and practices. Once it has been determined that the plans have met Township requirements, the Township Engineer shall sign and mark these plan documents as "Approved," and forward them to the Developer. Only approved plan documents shall be recorded with the appropriate county and state agencies.

C. The number of building sites may be reduced or consolidated within the Project only after the review by and written approval of the Township Planning Department. The proposed changes to the site/survey plan to reduce or consolidate building sites shall be reviewed by the Planning Department to ensure compliance with the Cascade Charter Township Zoning Ordinance, this PUD Ordinance, and any other requirements. Once approved by the Planning Department, the amended site/survey shall then be recorded with the Kent County Register of Deeds Office and the appropriate state agencies by the Developer at his cost. A copy of the recorded site/survey plan shall be forwarded to the Planning Department, so that accurate files regarding the development can be maintained.

#### Section VII. Permitted Uses.

The permitted uses for the Cascade Pointe PUD are as follows:

A. Single Family Residences.

B. Accessory buildings customarily incidental to a single family residence, subject to the provisions of Section 4.08 and 4.09 of the Cascade Charter Township Zoning Ordinance, as it may be amended.

C. Signs. All signs for the Project shall conform with Section 6.02 of the Cascade Charter Township Sign Ordinance (Ordinance 14 of 1997, as amended).

#### Section VIII. Design Guidelines, Requirements and Limitations.

The Project shall be developed in exact accordance with the site plan approved by the Township. No alterations, expansions or additions may occur as to the Project without a formal amendment to this Ordinance, unless expressly otherwise authorized herein.

A. Maximum Number of Residential Units - The maximum number of single-family detached site condominium units within the Project shall be limited to fourteen (14) units.

B. Maximum Building or Structure Height - 35 feet or 2½ stories whichever is the less.

C. Setback Requirements

All site condominium buildings and structures shall meet the following minimum setback requirements:

1. Front Yard Setback: 35 feet
2. Side Yard Setback: minimum of 10 feet with both sides totaling at least 25 feet
3. Rear Yard Setback: 20 feet.

D. Minimum Floor Area

Each dwelling on a site condominium unit shall contain a minimum of:

1. One Story & Bi-Level - 1,300 square feet on the main floor, top floor of a bi-level, finished livable area above grade level, exclusive of garages, decks, porches and breezeways.
2. Two Story - 1,600 square feet, with a minimum of 800 square feet on the first floor, finished livable area above grade level, exclusive of garages, decks, porches and breezeways

#### Section IX. Private Street Development.

A. The Developer shall submit a street construction, maintenance, and pavement plan consistent with Section 16.11(4)(f) of the Zoning Ordinance. The Developer may establish private streets to serve the Project provided the roads are constructed in accordance with the "Cascade Charter Township Engineering Design Requirements and Standards for Private Streets" and the following specifications:

1. The road grades shall not exceed an eight percent (8%) grade. All grades shall be sufficient to allow safe ingress/egress of emergency vehicles.
2. The private streets shall be posted with signs stating the street names. These signs shall be consistent with Kent County Road Commission standards and requirements and shall be installed at the Developer's cost.
3. Any private street shall intersect any public road at a 90 degree angle.
4. Copies of any permits required by the Kent County Road Commission to connect the private street to any public road shall be provided to the Township Planning Department by the Developer.

B. In accordance with Section G of the "Cascade Charter Township Engineering Design Requirements and Standards for Private Streets," the Developer of the Project shall provide a disclosure statement on all property deeds to all owners of the private street, all those who utilize the private street and all persons securing a building permit to construct a building or structure served by the private street, by applying for and securing a building permit for construction of a building or structure that utilizes the private street, all such persons shall use the private street at their own risk and the Township (and its employees, officials, and agents) shall not be responsible for any aspect of the private street.

C. In accordance with Section I of the "Cascade Charter Township Engineering Design Requirements and Standards for Private Streets," it shall be the responsibility of the Developer and its successors or the individual property owners to fully maintain and keep the private access street in good repair at all times and to ensure that snow and ice is removed in a timely fashion during the winter.

D. No combustible building materials may be erected on the Project until a temporary access road is constructed to within 100 feet of the furthest point of a structure. Such road shall be a minimum 18 feet wide and be able to support 20 tons on a single axle with dual wheels and standard road tires.

#### Section X. Temporary Buildings.

No structure of a temporary nature; trailer, tent or construction shack shall be constructed, placed or maintained within the Project except accessory to and during construction of any building or infrastructure improvement.

#### Section XI. Easements

Prior to any construction occurring, the Anderson Woods PUD shall provide permanent easements for future connections to the adjoining properties to the north and to the south. These connections have been identified on the approved site plan dated October 14th, 2005.

The language for these easements shall effectuate the following:

Beginning at the locations identified as North Gracemoor Court and South Gracemoor Court on its July 15, 2005 Basic P.U.D. Plan (the "Plan"), and continuing to the main entry at Buttrick Ave across the roads depicted on the Plan, the Developer shall provide perpetual, non-exclusive easements for the purposes of pedestrian and vehicular access to Buttrick Ave. The easements shall be granted in favor of, and shall serve, the parcels immediately adjacent to the north and south of the Project, currently identified by tax parcel identification numbers 41-19-27-478-002 and 41-19-34-200-002. The Developer shall prepare, execute and record each easement promptly following the request of the Township.

#### Section XII. Utilities.

A. Water and Septic - The individual units in the Project will be served by individual private wells and individual private septic systems. Such systems shall be designed, installed, and maintained pursuant to

all applicable requirements of the Kent County Health Department and the state of Michigan.

**B. Stormwater Drainage -**

In lieu of requiring that an Act 433 agreement or a drainage district be established with the Kent County Drain Commissioner, Cascade Charter Township has agreed to approve the site plan for the Project so long as the Project (and any and all portions thereof) always complies with the Cascade Charter Township Stormwater Ordinance (as that ordinance may be amended from time to time, as well as any successor ordinance or ordinances). Accordingly, the property owner's association (the "Association") and all landowners within the Project ("Co Owners") are required to ensure the proper installation and permanent maintenance of any and all storm drainage and water retention systems, pipes, ponds, and facilities for the Project (collectively, the "Facilities") shown on the approved site plan or as otherwise required by the Cascade Charter Township Stormwater Ordinance (as that ordinance may be amended from time to time, as well as any successor ordinance or ordinances, all of which shall collectively be referred to hereinafter as the "Stormwater Ordinance"). Such requirements and obligations of the Association and Co-Owners include, but are not necessarily limited to, the following:

1. Maintenance and repair regarding the following items shall be done on a regular basis and in such fashion as to ensure that all components of the Facilities function properly at all times:

- (a) Sediment removal;
- (b) Erosion control;
- (c) Ensuring constant structural integrity of the physical systems; and
- (d) Designate access to the facilities.

2. The Township (including its designated officials, officers, agents, and contractors) shall have the right to physically inspect all aspects of the Facilities at all reasonable times, or any other times if, in the opinion of the Township, there is a threat to the public health, safety, or welfare.

3. Buildings, structures, landscaping, trees, or similar items shall not be installed, planted, or placed over any portion of the Facilities without prior written Township approval.

4. The Association and Co-Owners shall supply the Township with a permanent recordable easement (in a form acceptable to the Township) regarding the following after installation and within 60 days of the date requested by the Township for the following:

- (a) Storm sewer pipes;
- (b) Basins;
- (c) Spillways;
- (d) Waterways; and
- (e) Designated access routes

5. The Township shall be supplied with an engineer's "as-built" certification to certify that the Facilities as constructed and installed matches the approved design. The Township shall also be supplied with a reduced copy of the approved site plan graphically showing the Facilities, together with any and all easements therefore.

6. The Township shall be supplied with a permanent easement or irrevocable license allowing the Township (as well as its designated officials, officers, agents, and contractors) to have access between the public road right-of-way to any and all portions of the Facilities.

7. Should the Facilities not be properly installed, maintained, and/or repaired, in compliance with all of the requirements of this Section XII.B, the approved site plan, and the Stormwater Ordinance (whether due to the fault or neglect of the developer, the Association, and/or the Co-Owners), and any such noncompliance or deficiency shall not have been fully remedied within 30 days of the date when the Township has given the Association written notice of any such noncompliance or deficiencies, the Township, at its sole option and discretion, shall have the right and authority to perform any and all

installations, repairs, and/or maintenance which is reasonably required and charge back the costs thereof to the Association and Co-Owners (together with reasonable administrative costs and legal fees, should any challenge occur regarding the Township's actions) as follows:

(a) Establish a Special Assessment District. The Township may establish a special assessment district for the Project to pay for or reimburse the Township for any and all such costs (as well as to ensure future required repairs and maintenance) pursuant to whichever state statute the Township desires to utilize. In such event, all of the Co-Owners and the Association shall be deemed to have consented to the establishment of such a special assessment district.

(b) Proceeding to Collect Pursuant to the Master Deed and Condominium Documents. Alternately, the Township shall also have the authority to collect or seek reimbursement for any and all such costs from the Association and Co-Owners as if such obligations of the Association and Co-Owners were in the form of a permanent deed restriction or covenant on the Project. Should the Township pursue this remedy, the Township would have any and all rights attributable to the Association when collecting dues or assessments from Co-Owners. Additionally, such costs shall be a lien on each of the Units, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six (6) months or more may be certified annually to the Township Treasurer, who shall enter the lien on the next tax roll against the applicable Unit, and the costs shall be collected in the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll in the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the Township shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

The above alternate remedies (being (a) and (b)) shall be deemed to be in addition to any and all other remedies provided for elsewhere in the Master Deed or condominium documents or at law or equity. The Township shall have the sole authority and discretion to determine whether or not to proceed pursuant to (a) or (b), above.

C. Before construction commences, the Developer shall provide all necessary permanent easements within the Project for telephone, telecommunications, electricity, gas and cable television to the appropriate utility provider without cost. Said easements shall be recorded with the Kent County Register of Deeds and provided to each utility provider for their records.

D. The Developer shall provide all necessary easements within the Project for telephone, electricity, gas and cable television to the appropriate utility provider without cost. Said easements shall be recorded with the Kent County Register of Deeds and be provided to each utility provider for their records.

E. Exterior Lighting. All street lighting shall be consistent with Section 19.19 of the Zoning Ordinance and shall either be installed prior to the issuance of any certificate of occupancy for the first building in the Project or paid for prior to the issuance of any certificate of occupancy for the project.

#### Section XIII. Soil Erosion Control Requirements.

The Developer shall submit a soil erosion control plan showing all temporary and permanent soil erosion control measures to be taken before, during, and after construction on the Project. This plan shall be reviewed and approved by the Township Engineer prior to commencing any excavation on the site.

#### Section XIV. Performance Guarantee.

To ensure compliance with this Ordinance and any conditions herein, the Township may require reasonable performance guarantees to ensure completion of improvements such as, but not limited to, landscaping, drainage, lighting, roads, and utilities. The Township Board, Engineer, or Planning Department may require such guarantees at any time they deem reasonably necessary to ensure completion of the improvements. The form (including the bank or surety involved), duration, and amount of the performance guarantee as shall be approved by the Township.

#### Section XV. Permanent Common Open Space.

The permanent common open space area is to remain in its present undeveloped state in perpetuity. To

ensure this occurs, the following regulations shall apply to the permanent common open space area:

A. No buildings, structures, fences, or driveways shall be erected, constructed or placed within the common open space area. The private streets and their associated infrastructure improvements may encroach into this area provided all plans are approved by the Township and are consistent with the development plan for this Project.

B. There shall be no tree or vegetation cutting or removal within the common open space areas except to remove fallen, dead, diseased or dangerous trees or vegetation. The required detention and mitigation areas may also be constructed according to the approved plans.

C. There shall be no draining, filling or any other improvements of the wetlands within this common open space area other than that already permitted by the Michigan Department of Environmental Quality (MDEQ). The project must stay in full compliance with its MDEQ permit.

#### Section XVI. The Gerald R. Ford International Airport.

Within the recorded Master Deed, the Developer shall expressly disclose in writing that the Project is located in the vicinity of the Gerald R. Ford International Airport and that there may be noise, vibration, and property valuation impacts associated with such location.

#### Section XVII. Consistency of the Master Deed and/or Deed Restrictions/Covenants with the PUD Approval.

If the Project will be a condominium project (in whole or in part), the master deed (and attachments) shall be reviewed and approved by the Township Attorney prior to final recording to ensure consistency with this Ordinance. If some or all of the Project will be governed by deed restrictions/restrictive covenants apart from a condominium master deed, such deed restrictions/restrictive covenants shall be reviewed and approved by the Township Attorney before recording to ensure consistency with this Ordinance.

#### Section XVIII. Consistency With Planned Unit Development (PUD) Standards.

The rezoning to Planned Unit Development will result in a recognizable benefit to the ultimate users of the Project and to the community. Current and future residents will recognize the benefits of a residential development that offers a low-density land use.

In relation to the underlying zoning (ARC) the Township finds the Project will not result in a material increase in the need for public services, facilities and utilities and will not place a material burden upon the subject property and the surrounding properties. The Project is not anticipated to cause undo impact to the stormwater drainage of the surrounding area. All stormwater and soil erosion control plans have been approved by the Township Engineer and the appropriate County and State agencies.

The Project has been determined by the Township to be compatible with the 1999 Comprehensive Plan of the Township and with the spirit and intent of the Planned Unit Development Chapter of the Zoning Ordinance. The Project has been determined to be a "Residential" use, which is consistent with the Cascade Township Comprehensive Plan.

The Township finds the Project will not result in an unreasonable negative economic impact upon surrounding properties.

The Township finds the Project to have at least the same amount of green areas and usable open space than would typically be required by the Township Zoning Ordinance.

Finally, the Township recognizes the Project will be under single ownership or control. The Township recognizes that the Developer or its assigns will retain ownership and control of the Premises until a majority of the site condominium units are purchased for single family residential purposes.

#### Section XIX. Effective Date.

This Ordinance shall become effective seven (7) days after publication of the ordinance, or a summary thereof, in The Grand Rapids Press, a newspaper of general circulation within Cascade Charter

Township.

The foregoing Ordinance was offered for adoption by Board Member Koessel, supported by Board Member Currier. The roll call vote being as follows:

YEAS: Julien, Goodyke, Carpenter, Beahan, Koessel, Parrish, Currier

NAYS: None

ABSENT: None

Ronald Goodyke

Cascade Charter Township Clerk

**CERTIFICATION**

I hereby certify the foregoing to be a true copy of an Ordinance adopted at a Regular Meeting of the Cascade Charter Township Board on the 28th day of September 2005.

Ronald Goodyke

Cascade Charter Township Clerk