

PUD Ordinance - Cascade Lakes Plat #10 of 1995

CASCADE CHARTER TOWNSHIP

Ordinance #10 of 1995

AN ORDINANCE TO AMEND THE CASCADE CHARTER TOWNSHIP ZONING ORDINANCE AND ZONING MAP TO ESTABLISH THE CASCADE LAKES SITE CONDOMINIUM PLANNED UNIT DEVELOPMENT PROJECT

Cascade Charter Township Ordains:

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

The application received from Mark G. Campbell or his assigns (hereinafter referred to as the "Developer"), for Planned Unit Development designation for the proposed Cascade Lakes Project (hereinafter referred to as the "Project") was recommended by the Cascade Charter Township Planning Commission for approval on May 15, 1995. The Project is recommended for rezoning from R-1, Residential to PUD, Planned Unit Development 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 recommendation and the Cascade Charter Township Board of Trustees' action on May 24th, 1995.

Section II. Legal Description

The legal description of the Project is as follows:

Parcel A

Part of the Northwest one-quarter of Section 9, Town 6 North, Range 10 West, Cascade township, Kent County, Michigan, described as: Commencing at the North one-quarter corner of said Section; thence south 87 degrees 35'25" West 155.82 feet along the North line of said section; thence south 02 degrees 50'05" East 1002.53 feet parallel with the North – South one-quarter line to the TRUE PLACE OF BEGINNING of this description; thence South 02 degrees 50'05" East 1271.92 feet; thence South 87 degrees 30'46" West 608.52 feet parallel with the East-West One-quarter line; thence North 65 degrees 44'14" West 185.70 feet; thence North 30 degrees 59'49" West 512.44 feet parallel with and 475.00 feet Northeasterly (perpendicular measurement) of the centerline of Cascade Road; thence South 59 degrees 00'11" West 425.00 feet; thence North 30 degrees 59'49" West 270.00 feet; thence North 59 degrees 00'11" East 425.00 feet; thence North 30 degrees 59'49" West 303.33 feet; thence North 46 degrees 22'00" West 518.24 feet; thence North 59 degrees 38'50" West 742.17 feet; thence North 11 degrees 08'40" East 9.30 feet; thence North 59 degrees 25'40" West 133.77 feet; thence North 42 degrees 48'50" East 542.19 feet along the centerline of Laraway Lake Drive; thence North 87 degrees 35'25" East 465.25 feet along the North section line to a point being 1676.68 feet West of the North one-quarter corner of said section; thence South 47 degrees 24'50" East 397.65 feet; thence South 83 degrees 32'55" East 633.85 feet; thence South 47 degrees 16'35" East 880.00 feet to the place of beginning. (65.10 acres including right of way). (64.65 acres excluding right of way).

Parcel B (Lot 64)

Part of the Northwest one-quarter of Section 9, Town 6 North, Range 10 West, Cascade Township, Kent County, Michigan, described as: Commencing at the North one-quarter corner of said Section; thence south 87 degrees 35'215" West 2141.93 feet along the North line of said Section; thence south 42 degrees 48'50" West 542.19 feet along the centerline of Laraway Lake Drive; thence south 59 degrees

25'40" East 133.77 feet; thence South 11 degrees 08'40" West 9.30 feet; thence south 59 degrees 38'50" East 742.17 feet to the TRUE PLACE OF BEGINNING of this description; thence south 46 degrees 22'00" East 518.24 feet; thence South 30 degrees 59'49" East 303.33 feet; thence South 59 degrees 00'11" West 425.00 feet; thence North 30 degrees 59'49" West 95.43 feet along the Northeasterly right of way line of Cascade Road; thence Northwesterly 512.17 feet along said right of way on a 1482.39 foot radius curve to the left, the chord of which bears North 40 degrees 53'41.4" West 509.624 feet; thence North 30 degrees 17'16" East 427.86 feet to the place of beginning. (6.91 acres).

Parcel C (Lot 65)

Part of the Northwest one-quarter of Section 9, Town 6 North, Range 10 West, Cascade Township, Kent County, Michigan, described as: Commencing at the North one-quarter corner of said Section; thence South 87 degrees 35'25" West 155.82 feet along the North line of said Section; thence South 02 degrees 50'05" East 1002.53 feet parallel with the North-South one-quarter line to the TRUE PLACE OF BEGINNING of this description; thence North 47 degrees 16'35" West 880.00 feet; thence North 83 degrees 32'55" West 633.85 feet; thence North 47 degrees 24'50" West 397.65 feet to the North line of said section; thence North 87 degrees 35'25" East 1520.86 feet along the North section line to the place of beginning. (15.41 acres)

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 87.42 acres of land that is generally vacant and heavily wooded. The project is proposed to be developed into a site condominium development containing 63 single family building sites and two (2) other sites that may be developed at a future date (units 64 and 65). The site condominium technique has been chosen by the Developer and the eventual owners of each condominium unit to provide 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 land subdivision plats do not.

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

Section V. Approval Limitations

The provisions of 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 addressed by this Ordinance, the specifications and requirements of the Cascade Charter Township Zoning Ordinance shall be enforced.

Except as otherwise provided herein, the Developer and his assigns must meet all applicable provisions 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 operation or use.

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 it 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.

All conditions contained herein 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 and ordinance amendment.

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.

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

Section VI. Site Condominium Documents and Plans

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 with the documents labeled and attached in the following manner:

"Exhibit A – Bylaws"

"Exhibit B – Master Deed"

The Project shall be developed in accordance with the site plan approved and signed by the Township. The site plan shall indicate where each condominium unit will be located and 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 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.

The number of building sites may be reduced or consolidated within the Project upon review and 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 insure compliance with the Cascade Charter Township Zoning Ordinance and this PUD Ordinance. 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.

The Project shall be limited to sixty-three (63) building sites for single family detached condominium units. The number of building sites within the Project shall not be increased by the Township Board. Units 64 and 65 may be developed as separate projects at a future date following rezoning of the parcels and consistent with all of the requirements of the Zoning Ordinance and the General Development Plan.

Section VII. Permitted Uses

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

Single Family Residence s.

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 may be amended.

Signs. Provided all signs for the Premises shall conform with Section 6.02 of the Cascade Charter Township Sign Ordinance (Ordinance 12 of 1988, as amended).

Section VIII. Design Guidelines, Requirements and Limitations

The layout of the Project shall be developed in accordance with the site plan approved by the Township. No alterations, expansions or additions may take place to the Project without an amendment to this Ordinance, unless authorized otherwise herein.

A. Maximum Number of Residential Units – The maximum number of single family detached site condominium units within the Project shall be limited to 63 units.

B. Maximum Building or Structure Height – 35 feet or 2-1/2 stories whichever is the lesser.

C. Setback Requirements – All buildings and structures (except signs) shall meet the following minimum setback requirements:

1. Front Yard Setback: 35 feet from the front yard area line.

Front Yard Averaging – Where the average front yard setback of two (2) or more condominium units within two-hundred (200) feet of the site in question and on the same side of the street is greater than the minimum front yard setback prescribed above, then the required front yard setback of such unit shall not be less than the average existing front yard setback of such condominium units.

2. Side Yard Setback: 10 feet minimum from the side yard area line for one and 25 feet minimum with both sides combined.

3. Rear Yard Setback: 25 feet from the rear yard area line.

D. Minimum Floor Area – Each site condominium unit shall contain a minimum of 1,600 square feet of finished livable area above grade level, exclusive of the garage, decks, porches and breezeways.

E. Minimum Parking Requirements – Each site condominium dwelling unit shall have a minimum of two (2) enclosed off-street parking spaces.

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 a private street to serve the Project provided the road is 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 8 percent grade. All grades shall be sufficient to allow safe ingress / egress of emergency vehicles.

2. The private street shall be posted with a sign stating the street name. This sign shall be consistent with Kent County Road Commission standards and requirements and shall be installed at the Developer's cost.

3. A clear vision triangle shall be established by the Developer to insure safe turning movements to and from the Project onto Cascade Road. This "clear vision triangle" shall be developed to the specifications established by the Kent County Road Commission.

4. Any private street shall intersect any public road at a 90 degree angle.

5. 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 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 also 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 building expansions or infrastructure improvement.

Section XI. Utilities

Municipal Sewer and Water Service – All site condominium dwelling units shall be connected and served by municipal sewer and water prior to occupancy.

Stormwater Drainage – All proposed stormwater drainage facilities shall be reviewed and approved by the Township Engineer and the Kent County Drain Commissioner's Office prior to the development of the Project. The Developer shall provide the Township Planning Department with copies of all correspondence and permits received from the Kent County Drain Commissioner and Michigan Department of Natural Resources regarding stormwater disposal.

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 provided to each utility provider for their records.

Section XII. Soil Erosion Control Requirements

Prior to each phase of construction, 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 building on the site.

Section XIII. Performance Guarantee

To insure compliance with this Ordinance and any conditions herein, Cascade Township may require reasonable performance guarantees, as authorized under the Township rural Zoning enabling Act to insure 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 necessary to insure completion of the improvements.

Section XIV. Other Development Requirements

Construction vehicles typically used for the development of the Project's infrastructure (e.g. road, sewer, and water) or any site condominium unit shall not use Cascade Farms Drive or Burton Street to access the Project.

All existing trees with a 30 inch diameter or larger shall not be cut or removed from the property unless the Planning Director or Township Engineer determines any of the following conditions apply:

1. The affected tree lies substantially within the private road right of way or within five (5) feet of the proposed centerline of the sanitary sewer or water line and causes substantial problems in connecting sewer and water lines to condominium units.
2. The affected tree if left standing would cause the development final grade or elevation problems that would make access

hazardous for pedestrians and motor vehicles or cause potential stormwater drainage problems.

3. The affected tree is severely damaged, diseased or dead.

Section XV. 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 which offers a low density land use pattern.

In relation to the underlying zoning (PUD), Planned Unit Development, DSN / LaPravada) 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 will be served by municipal water and sewer. The Project is not anticipated to cause undo impact to the stormwater drainage of the surrounding area. All stormwater 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 General Development 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 "Low Density Residential" use, which is consistent with the Cascade Township General Development Plan.

The Township finds the Project will not result in an unreasonable negative economic impact upon surrounding properties. In fact, it is believed that this project will be more beneficial to the surrounding neighborhood than the previous court approved PUD.

The Township finds the Project to have at least as much green and usable open space as would be required by the Township Zoning Ordinance. Due to the large site condominium unit sizes, the amount of open space is arguably more in this type of development than a more typical subdivision plat.

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 XVI. Effective Date

This Ordinance shall become effective upon 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 by Board Member Hansen, supported by Board Member Timmons. The roll call vote being as follows:

YEAS: Carpenter, Hansen, Henning, Julien, Timmons, Van Strien

NAYS: Johnson

ABSTAIN: None

ABSENT: None

Brenda J. Henning

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 24th day of May, 1995.

Brenda J. Henning

Cascade Charter Township Clerk

EXHIBIT "A" – BYLAWS

EXHIBIT "B" – MASTER DEED