

PUD Ordinance - Cascade Pointe #4 of 2004

CASCADE CHARTER TOWNSHIP

Ordinance # 4 of 2004

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

Cascade Charter Township Ordain:

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

The application received from Egypt Valley View LLC, who has since sold the project to Pulte Land Co. LLC (hereinafter referred to as the "Developer"), for Planned Unit Development designation for the proposed Cascade Pointe Planned Unit Development Project (herein after referred to as the "Project") was recommended by the Cascade Charter Township Planning Commission for approval on December 15, 2003. The Project is recommended for rezoning from R1, 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 January 28, 2004.

Section II. Legal Description.

The legal description of the Project is as follows:

41-19-08-276-005

THAT PART OF SE 1/4 NE 1/4 LYING SLY OF CL OF A CREEK EX S 433 FT ALSO S 433 FT OF W 66 FT OF E 770 FT OF NE 1/4 ALSO N 150 FT OF S 433 FT OF W 440 FT OF E 704 FT OF NE 1/4 ALSO N 70 FT OF S 433 FT OF E 264 FT OF NE 1/4 * SEC 8 T6N R10W 16.71 A.

41-19-09-151-014

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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 31 acres of land. The project is proposed to be developed into a site condominium development containing 27 single-family site condominium units. This technique has been chosen by the Developer and the eventual owners of each 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 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.

A. 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.

B. 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.

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 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.

D. 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.

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:

"I, Pulte land Co. LLC , 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 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 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.

C. 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.

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 may be amended.

C. Signs. Provided 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 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 twenty-seven (27) units.

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

C. Setback Requirements

a. Site Condominium Units

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

1. Front Yard Setback: 25 feet, for lots 9, 10 and 11. 35 feet for the remaining lots.
2. Side Yard Setback: 10 feet.
3. Rear Yard Setback: 20 feet.

D. Minimum Floor Area

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

i One Story & Bi-Level - 2,000 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.

ii Two Story - 2,500 square feet, finished livable area above grade level, exclusive of garages, decks, porches and breezeways

E. Minimum Basement Elevations - Each dwelling shall not be below the elevation as indicated on the approved plans dated 11/03/03 as drawn by Dreisenga Associates.

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 8 percent 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. A clear vision triangle shall be established by the Developer to insure safe turning movements to and from the Project onto Burton St. 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.
6. A Privacy Gate may be constructed at the entrance to the development as shown on the approved plans. This gate shall be approved in writing by the Cascade Charter Township Fire Chief prior to it being installed

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 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. Utilities.

A. Public Water and Sanitary Sewer - All buildings within the Project shall be served by public sanitary

sewer and water at the developer's expense. No building permits will be issued for any construction within the Project until final plan approval of the public utility system is approved by the City of Grand Rapids and Cascade Township.

B. Stormwater Drainage - All proposed stormwater drainage facilities shall be reviewed and approved by the Township Engineer, the Michigan Department of Environmental Quality (MDEQ) and the Kent County Drain Commissioner's (KCDC) 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 (MDEQ) and the (KCDC) regarding stormwater disposal.

C. 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.

D. Sidewalk Connection - The developer has agreed to \$13,200 for the design and construction for sidewalk along their Burton street frontage. This amount would be due to the Township prior to the first building permit being issued. The Township Board would use the money to construct the sidewalk when a connection can be made to Cascade Rd.

E. Exterior Lighting. The developer shall provide street lighting within the premise consistent with the lighting plan as drawn by Dreisenga Associates. The type and style shall be consistent with the type and style that was represented to the Township and stamped approved lighting type. The developer may arrange for such street lighting to be provided and installed by the local public electric utility company. 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 project or paid for prior to the issuance of any certificate of occupancy for the project.

Section XII. 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 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. Permanent Common Open Space.

It is the intent of this Project that this permanent common open space area is to remain in its present undeveloped state in perpetuity. To insure 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 Cascade 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.

D. A portion of the property designated on the approved site plan for the Project as permanent open space is legally described as follows:

The above mentioned property is approximately 5.66 acres in size and shall be referred to hereinafter "Special Open Space." The following shall be applicable to the Special Open Space:

a. Prior to any construction commencing on the Project or any further permits or approvals being given for the Project or any dwelling or buildings to be built therein, the Developer shall fully execute and record with the Kent County Register of Deeds Records a permanent restriction/covenant/deed restrictions document which will ensure that the Special Open Space shall forever remain undeveloped and in a natural state, and at a minimum, such document shall have the following provisions:

(i) The land shall remain as permanent open space and in an undeveloped condition. No dwellings or buildings shall be built or maintained thereupon.

(ii) The document may be enforced by the Developer (and its designated successors), Cascade Charter Township or any property owner located within 300 feet of the Special Open Space. There shall also be a provision that Cascade Charter Township can recover its reasonable attorney fees and costs if it prevails in court, but no attorney fees and costs shall be assessed against it if it does not prevail in court.

(iii) The document shall not be amended or become extinguished or altered in any fashion without the prior written consent of Cascade Charter Township (or its successor municipality).

(iv) No improvements shall be installed or utilized upon the Special Open Space without the prior written consent of Cascade Charter Township.

(v) There shall be language which makes it clear that the restrictions are permanent, touch and concern the land and shall run with the land, and shall bind all owners, transferees, successors, etc. regarding the land.

(vi) No tree with a trunk diameter exceeding four inches shall be cut down or destroyed (unless it is dying or dead) without the prior written consent of Cascade Charter Township.

b. The Special Open Space may be sold or transferred to Forest Hills Public Schools, a municipality or governmental unit or a private nature conservancy (or the equivalent), so long as the entire Special Open Space property is sold or transferred in its entirety and shall not be parceled off or divided. Any and all future owners and transferees of the property shall take the property fully subject to the permanent covenant/restrictions mentioned above.

c. Prior to execution or recording of such covenant/ restrictions/ permanent restrictions document, it shall be approved as to form and content by Cascade Charter Township. Such permanent covenant/ restrictions shall be contained in a document entirely apart from and separate from the Condominium Document (i.e. the master deed, condominium bylaws, etc.).

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 that offers a low-density land use.

In relation to the underlying zoning (R1) 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 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 Parrish, supported by Board Member Jones. The roll call vote being as follows:

YEAS: Timmons, Goodyke, Julien, Jones, Parrish
NAYS: None
ABSENT: Carpenter, Kleinheksel

Jean Neve
Cascade Charter Township Deputy 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 January, 2004.

Jean Neve
Cascade Charter Township Deputy Clerk