

PUD Ordinance - Old Elm #24 of 1994

CASCADE CHARTER TOWNSHIP

Ordinance 24 of 1994

AN ORDINANCE TO AMEND THE CASCADE CHARTER TOWNSHIP ZONING ORDINANCE AND ZONING MAP TO ESTABLISH THE OLD ELM 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 TrentonLee Corporation or their assigns (hereinafter referred to as the "Developer"), for Planned Unit Development designation for the proposed Old Elm Project (hereinafter referred to as the "Project" or the "Premises") was recommended by the Cascade Charter Township Planning Commission for approval on November 21, 1994. 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 December 14, 1994.

Section II. Legal Description

The legal description of the Project is as follows:

That part of the NE fractional $\frac{1}{4}$, Section 3, T6N, R10W, Cascade Township, Kent County, Michigan, described as: BEGINNING at the NE corner of Section 3; thence S 01 degrees 25'36"E 1299.41 feet along the East line of said NE fractional $\frac{1}{4}$; thence S 88 degrees 03'00"W 1165.84 feet along the North line of Loral Pines Condominiums and its Westerly extension; thence N 09 degrees 44'03" E 473.77 feet; thence N 48 degrees 00'00" W 55.00 feet; thence N 06 degrees 46'10"W 816.15 feet to the North line of said NE fractional $\frac{1}{4}$; thence N 88 degrees 49'18"E 1190.04 feet along said North line to the place of beginning. Subject to highway R.O.W. for Grand River Drive.

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 32.434 acres of land that is generally vacant and wooded, with steep topography. The Project is proposed to be developed into a site condominium development containing 24 building sites. 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 on 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 twenty – four (24) building sites for single family detached condominium units. The number of building sites within the Project shall not be increased by the Township Board.

Section VII. Permitted Uses

The permitted uses for the Old Elm PUD are as follows:

Single Family Residences

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 Project 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.

Maximum Number of Residential Units – The maximum number of single family detached site condominium units within the Project shall be limited to twenty – four (24) units.

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

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.

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.

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

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:

4. The road grades shall not exceed an 8 percent grade. All grades shall be sufficient to allow safe ingress/egress of emergency vehicles.

5. 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.

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

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

8. 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.

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.

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.

With regards to the development of Condominium Lot Sites 14 – 24 (Phase 2), the following additional specifications shall apply to the development of the private street:

1. The minimum paved cul-de-sac radii shall be 45 feet. This cul-de-sac may have a landscaped island centered on it's center point provided that it does not have a radii exceeding 25 feet.

2. The minimum paved cross – section width shall be twenty – eight (28) feet, with:

- a. Two (2) travel lanes that are each 12 feet wide.

- b. Two (2) valley/rolled curbs that are each 2 feet wide.

E. 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. Fire / Emergency Service

A. Since two (2) means of access to the Project cannot be obtained by the Developer, the Township shall require the developer to install a cistern near the terminus of private street called "Oak Hill Drive". The cistern shall have a minimum capacity of 15,000 U.S. gallons and shall be installed with the appropriate piping and connections to provide service to fire apparatus from Cascade Charter Township. This cistern shall be installed and approved by the Cascade Charter Township Fire Department before any building permit is issued for Condominium Lot Sites 14 – 24.

B. From the engineering specifications submitted by the Developer for the Project, it appears that the private access street for the Project will have a continuous grade of eight (8) percent, with a length exceeding 1000 feet. It is uncertain whether municipal emergency and fire fighting vehicles or conventional vehicles will be able to get up this grade on the access road (Oak Hill drive) at all times, particularly during inclement weather. Therefore, the Developer understands and recognizes that the Township (as well as other assisting municipalities, if any) might not be able to provide emergency and/or fire fighting equipment or services at all times within the proposed Project on the access road mentioned in the paragraph above (Section X.A.).

C. The real estate disclosure statement required in Section IX.B., above (page 6) shall also include the following statement for condominium lot sites 14 – 24 relating to fire protection:

"It is uncertain whether Cascade Charter Township emergency and fire fighting vehicles will be able to get up the grade on Oak Hill Drive at all times, particularly during inclement weather. Therefore, the developer, builder or condominium home owner of each individual condominium lot sites is encouraged to install a fire suppression system consistent with NFPA Part 13D, Standard for the Installation of Sprinkler Systems in One and Two Family Dwellings and Mobile Homes".

Section XI. 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 XII. Utilities

A. 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.

B. 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 XIII. 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 XIV. 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 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 (R-1, Residential), 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 plans have been approved by the Township Engineer and the appropriate County and State agencies. Concerns about fire and emergency vehicle access have been addressed by this PUD Ordinance. The requirements contained herein should provide adequate and safe access provided that the private streets are diligently maintained by the Developer or his assigns.

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 allow 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.

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 may be 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

The foregoing Ordinance was offered by Board Member Henning, supported by Board Member Johnson. The roll call vote being as follows:

YEAS: Carpenter, Henning, Johnson, Julien, Timmons and VanStrien

NAYS: None

ABSTAIN: None

ABSENT: Hansen

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 14th day of December, 1994.

Brenda J. Henning

Cascade Charter Township Clerk

EXHIBIT "A" – BYLAWS

EXHIBIT "B" – MASTER DEED