

CASCADE CHARTER TOWNSHIP

Ordinance 2 of 2015

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

CASCADE CHARTER TOWNSHIP ORDAINS:

SECTION I. AN AMENDMENT TO THE CASCADE CHARTER TOWNSHIP ZONING
ORDINANCE.

The application received from Vaneck Enterprises LLC or its assigns (hereafter referred to as the “Developer”) for Planned Unit Development designation for the proposed Panera Bread Project (hereinafter referred to as the “Project”) was recommended by the Cascade Charter Township Planning Commission for approval on 2/2/15. The Project is recommended by the Planning Commission for rezoning from the existing PUD, Planned Unit Development to a new PUD designation allowing a 4,500 sq ft restaurant with drive through service. Approval of the proposed PUD requires an amendment to the Cascade Charter Township Zoning Ordinance and Zoning Map to incorporate the Planning Commission’s recommendations and the final actions of the Cascade Charter Township Board. On 2/25/15, the Cascade Charter Township Board approved the PUD as specified in this document.

SECTION II. LEGAL DESCRIPTION.

Lot 20 of Foremost Centennial Park No. 2, Cascade Township, Kent County, Michigan, according to the plat thereof, as recorded in Liber 76 of Plats, on Page 13.

AND

Part of the Northwest 1/4 of the Northwest 1/4 of Section 17, Town 6 North, Range 10 West, Cascade Township, Kent County, Michigan, described as commencing at the Northwest corner of said Section 17; thence S01°45'05"E 259.32 feet along the West line of said Section; thence N88°14'15"E 60.00 feet to the Place of Beginning on the East line of Kraft Avenue; thence continuing N88°14'15"E 305.63 feet; thence Southeasterly along the West line of Foremost Drive 37.55 feet on a 374.06 foot radius curve to the left, the long chord of which bears S28°24'24"E 37.53 feet; thence S84°49'39"W 323.09 feet; thence N01°45'05"W 52.80 feet along the East line of Kraft Avenue to the Place of Beginning.

SECTION III. GENERAL PROVISIONS.

The conditions, requirements, and regulations contained in this document shall apply to the Project in addition to those requirements and regulations contained in Chapter XVI of the Cascade Charter Township Zoning Ordinance (Ordinance No. 11 of 1988).

SECTION IV. PURPOSE.

The Project occupies approximately 1.26 acres of land that is proposed to be developed as a restaurant with drive through service. The Planned Unit Development technique has been chosen by the Developer to provide more control over the development's aesthetics and appearance.

The conditions, requirements, and regulations contained in this document are established to ensure high quality development of the Project. Additionally, they are designed to achieve integration of this development with adjacent and area 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 its assigns must meet all applicable provisions, ordinance requirements, and regulations of Cascade Charter Township, as well as federal, county, 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 invalid, 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, operated and maintained, 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 or be made 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:

“Vaneck Enterprises LLC has fully read the above PUD ordinance amendment, understands its provisions and fully agrees with all requirements and conditions contained in the same, on behalf of it and its assigns, successors and transferees in and to the property involved.”

SECTION VI. PERMITTED USES.

The permitted uses for the Panera Bread Project are as follows:

- 1) 4,500 sq ft restaurant with drive though service as shown on the final approved site plan dated 11/14/14.
- 2) Sign for the Centennial Park Business Park as indicated in the Centennial Park Land use study dated March 2008. The sign is allowed to be located in the easement on the SW corner of 28th St and Foremost Dr as shown on the approved site plan dated 11/14/14.

SECTION VII. DESIGN GUIDELINES AND REQUIREMENTS.

The Project shall be developed in exact accordance with the site plan approved by the Township. No alterations, expansions, or additions may occur to the Project without a formal amendment to this Ordinance/Ordinance amendment, unless expressly otherwise authorized herein. The development of all permitted uses within the Project shall conform to the following design standards:

- A. Height – The following heights shall be the maximum allowed for each item:
 - 1. Building 35 feet
 - 2. Parking Lot Lights 30 feet
- B. Setbacks – The following setback requirements shall apply to the Project:
 - 1. The building shall be setback a minimum of:
 - 50 feet from road right-of-way
 - 25 from the south property line
 - 10 from the west property line
- C. Parking – There shall be a total of 52 parking spaces provided for the Project.
- D. Signs – The signs shall be permitted as shown on the approved sign drawings dated 9/19/14:
 - 1. Other signs as permitted by the Centennial Park Overlay Zoning District
- E. Outdoor Lighting – Shall be done as shown on the approved lighting plan dated 11/10/14.
- F. 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 is 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 include, but are not necessarily limited to, the following:

- i. 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:
 1. Sediment removal;
 2. Erosion control;
 3. Ensuring constant structural integrity of the physical systems; and
 4. Designate access to the facilities.
- ii. 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.
- iii. 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.
- iv. 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 therefor.
- v. Should the Facilities not be properly installed, maintained, and/or repaired, in compliance with all of the requirements of the approved site plan, and the Stormwater Ordinance (whether due to the fault or neglect of the developer or owner), and any such noncompliance or deficiency shall not have been fully remedied within 30 days of the date when the Township has given 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 Owner together with reasonable administrative costs and legal fees.

SECTION VIII. LANDSCAPING BUFFERYARD REQUIREMENTS.

- A. All plantings shall be planted according to the approved landscaping plans.
- B. All landscaping shall be hardy plant materials and shall be maintained after planting in a neat and orderly manner. Withered and/or dead plant materials shall be replaced within a reasonable period of time but no longer than one growing season. The Township shall require a landscaping bond or letter of credit (which of these is required shall be at the Township's discretion) for all required landscaping. The amount of the bond or letter of credit (as well as the financial institution, language, and form) shall be determined by the Planning Department.

SECTION IX. TEMPORARY BUILDINGS.

No structure of a temporary nature; trailer, tent or construction shack shall be constructed, placed or maintained within the Project except where approved by the Township and if accessory to and necessary during construction of a permanent building or infrastructure improvement.

SECTION X. SITE PLAN.

A. The Project shall be developed in exact accordance with the site plan approved by the Township Board and signed by the Township Supervisor. The site plan shall provide appropriate measurements demonstrating compliance with Chapter 14 of the Zoning Ordinance. Engineering plans and/or 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 Township ordinance requirements and recognized, acceptable engineering standards and practices.

SECTION XI. UTILITIES.

A. The Project shall be served with public water and public sewer at the Developer's expense. The on-site water and sewer design and the connection to the public water and sewer systems shall be approved by the Township and the City of Grand Rapids prior to installation. Said improvements shall be consistent with the Sewer and Water Master Plan(s) for Cascade Township.

B. The Developer shall provide all necessary recorded easements within the Project for telephone, electricity, gas, and cable television to the Township and the appropriate utility provider(s) without cost. In the event that the Township requires additional sewer and water service easements in the future, the Developer shall provide them at all reasonable locations outside of the athletic fields, building and drives without cost to the Township. Said easements shall be recorded with the Kent County Register of Deeds and provided to each utility provider for their records.

SECTION XII. MISCELLANEOUS DEVELOPMENT REQUIREMENTS.

A. SOIL EROSION

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

B. CROSS ACCESS EASEMENT

The developer shall be responsible to provide and record cross access easements for this project. Cross access shall be provided as shown on the approved site

plan dated 11/14/14. Once they are constructed they shall remain open at all times, including the winter months and shall be free of snow and ice for clear passage. These cross access agreements shall be recorded prior to the occupancy of the project.

C. CENTENNIAL BUSINESS PARK SIGN

The Developer will allow the centennial business park to install an entry sign on the corner of 28th St and Foremost Dr inside the easement as shown on the site plan dated 11/14/14.

SECTION XIII. CONSISTENCY WITH PLANNED UNIT DEVELOPMENT (PUD) STANDARDS.

The approved Planned Unit Development will result in a recognizable benefit to the ultimate users of the Project and to the community. Current and future area residents will recognize the benefits of the development.

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 unreasonable impacts to the stormwater drainage of the surrounding area. All stormwater and soil erosion control plans will be 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 2009 Comprehensive Plan of the Township and with the spirit and intent of the Planned Unit Development Chapter of the Zoning Ordinance.

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.

SECTION XIV. PERFORMANCE GUARANTEE.

To ensure compliance with this Ordinance/Ordinance amendment and any conditions herein, Cascade Charter 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 Director may require such guarantees at any time they deem it necessary to ensure completion of the improvements.

SECTION XV. EFFECTIVE DATE.

This Ordinance/Ordinance amendment shall become effective seven (7) days after publication of this documents (or a summary) in the *Grand Rapids Press*, a newspaper of general circulation within Cascade Charter Township.

The foregoing Ordinance/Ordinance amendment was offered by Board Member Koessel, supported by Board Member Goldberg. The roll call vote being as follows:

YEAS: Goldberg, Goodyke, Beahan, Pierce, Koessel, McDonald

NAYS: None

ABSENT: Lewis

Ron Goodyke
Cascade Charter Township Clerk

CERTIFICATION

I hereby certify the foregoing to be a true copy of an Ordinance/Ordinance amendment adopted at a Regular Meeting of the Cascade Charter Township Board on the 25th day of February, 2015.

Ron Goodyke
Cascade Charter Township Clerk

Applicant Statement:

“Vaneck Enterprises LLC has fully read the above PUD ordinance amendment, understands its provisions and fully agrees with all requirements and conditions contained in the same, on behalf of it and its assigns, successors and transferees in and to the property involved.”

Vaneck Enterprises LLC
Signature _____

Printed Name

Date