

## **PUD Ordinance - Patterson Ice Center #10 of 1994**

CASCADE CHARTER TOWNSHIP

Ordinance 10 of 1994

**AN ORDINANCE TO AMEND THE CASCADE CHARTER TOWNSHIP ZONING ORDINANCE AND ZONING MAP TO ESTABLISH THE PATTERSON AVENUE ICE CENTER PLANNED UNIT DEVELOPMENT PROJECT.**

Cascade Charter Township Ordains:

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

The application received from Continental Development Company or their assigns (hereinafter referred to as the "Developer"), for Planned Unit Development designation for the Patterson Avenue Ice Center Project (hereinafter referred to as the "Project") was recommended by the Cascade Charter Township Planning Commission for approval on March 10, 1994. The Project is recommended for rezoning from R-1, Residential to PUD, Planned Unit Development permitting the development of a recreational ice center and its ancillary uses. 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 March 23, 1994.

### **Section II. Legal Description.**

The legal description of the Project is as follows:

Parcel A:

That part of the SW fractional  $\frac{1}{4}$ , Section 7, T6N, R10W, Cascade Township, Kent County, Michigan, commencing 1715 feet North of the SW corner of Section; thence East parallel with the South Section line 640 feet; thence North 524 feet more or less to the centerline of County Drain; thence Southwesterly along said centerline to the West Section line; thence South 293.6 feet to beginning.

Parcel B:

Part of the southwest fractional  $\frac{1}{4}$ , commencing 1715 feet North of the Southwest corner of the Section, thence East parallel with the South Section line 640 feet, thence South 340 feet to the North line of the South 80 acres of the Southwest fractional quarter, thence West along the North line of said 80 acres, 640 feet to the West Section line, thence North 340 feet to the place of beginning, Section 7, Town 6 North, Range 10 West, Cascade Township, Kent County, Michigan.

Total Acres A + B = 11.0 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 11.0 acres of land that is currently being used and occupied by two (2) single family residential homes and their ancillary uses. The purpose of the PUD designation is to allow for the development of an ice center for amateur use (except as otherwise expressly provided herein), that will provide recreational and organized ice sport opportunities to Cascade Township and the greater Grand Rapids metropolitan area.

#### **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. Development Restrictions.**

No occupancy or use of the Project shall occur until and unless Patterson Avenue is widened to at least four (4) lanes from the Project's driveway entrance all the way south to Starr Avenue.

High school hockey games shall be limited to evenings on Friday and Saturday only, with no games commencing after 9:00 pm. This restriction shall be removed when Patterson Avenue is widened to at least four lanes from the Project all the way north to Burton Street.

The Project shall be limited to a building occupancy of 1,184 persons. Any event with an attendance exceeding 1,184 persons shall be considered a "Special Event". Should the Project choose to host a "Special Event", permission from the Cascade Charter Township Board and the Fire Marshall shall be required. A request for a "Special Event" shall be done in writing and shall be submitted to the office of the Township clerk at least forty-five (45) days prior to the anticipated event. The written request shall include a brief description of the event, the anticipated number of persons attending the event, the anticipated seating arrangement and a map of locations where spill over parking will occur. Should parking be required off site from the Project, written verification shall be provided from the affected property owners stating that permission to use their property has been granted. Any approval from the Township for a "Special Event" can contain reasonable conditions.

## Section VII. Permitted Uses

The permitted uses for the Patterson Avenue Ice Center PUD are as follows:

The Project shall be limited to use as a recreation ice center. The ice arena may have a maximum of two (2) ice surfaces. The dimensions of the ice surfaces shall not exceed the interior main floor plan approved by the Planning Commission.

The Project shall be limited to the following uses by right:

1. All forms of public / private ice skating or in-line skating activities, including games, lessons, coaching and other forms of instruction, but excluding those uses listed in Section VIII below.
2. Volleyball, tennis, and soccer games and practices.
3. School and youth group practices as needed and as a result of foul or unreasonable weather.
4. Professional / Semi-Professional hockey practices, limited to the operating hours before 1:00 pm.
5. Collegiate hockey clubs or intramural teams, limited to local colleges within the Grand Rapids metropolitan area.
6. Food and Drink Concession ancillary to the recreational ice center.
7. Equipment sales and rentals related to the uses permitted above.

## Section VIII. Use Restrictions.

The following uses are prohibited in the Project:

1. Auctions, Automotive Exhibitions, Close-out Sales, Concerts, Conventions, Flea Markets, Motorized Vehicle Racing, Trade Exhibitions, Trade Shows, or Wholesale Warehouse Sales.

2. Uses determined by the Planning Director as being substantially similar to the uses prohibited above.
3. Professional, Semi-professional hockey games or game exhibitions. Exhibitions does not include instructional demonstrations or seminars.
4. Professional, Semi-professional volleyball, tennis and soccer games, practices or game exhibitions. Exhibitions does not include instructional demonstrations or seminars.
5. Professional or semi-professional pageants or ice shows (e.g., Ice Capades, Holiday on Ice or other similar events).
6. Collegiate hockey games or game exhibitions. Exhibitions does not include instructional demonstrations or seminars.

The Project shall be limited to the following uses by right:

7. All forms of public / private ice skating or in-line skating activities, including games, lessons, coaching and other forms of instruction, but excluding those uses listed in Section VIII below.
8. Volleyball, tennis and soccer games and practices.
9. School and youth group practices as needed and as a result of foul or unseasonable weather.
10. Professional / Semi-professional hockey practices, limited to the operating hours before 1:00 pm.
11. Collegiate hockey clubs or intramural teams, limited to local colleges within the Grand Rapids metropolitan area.
12. Food and Drink Concession ancillary to the recreational ice center.
13. Equipment sales and rentals related to the uses permitted above.

#### Section VIII. Use Restrictions

The following uses are prohibited in the Project:

1. Auctions, Automotive Exhibitions, Close-out Sales, Concerts, Conventions, Flea Markets, Motorized Vehicle Racing, Trade Exhibitions, Trade Shows, or Wholesale Warehouse Sales.
2. Uses determined by the Planning Director as being substantially similar to the uses prohibited above.

3. Professional, Semi-professional hockey games, practices or game exhibitions. Exhibitions does not include instructional demonstrations or seminars.
4. Professional, Semi-professional volleyball, tennis and soccer games, practices or game exhibitions. Exhibitions does not include instructional demonstrations or seminars.
5. Professional or semi-professional pageants or ice shows (e.g., Ice Capades, Holiday on Ice or other similar events).
6. Collegiate hockey games or game exhibitions. Exhibitions does not include instructional demonstrations or seminars.
7. Collegiate volleyball, tennis and soccer games or game exhibitions. Exhibitions does not include instructional demonstrations or seminars.
8. Outdoor Sales and Events, unless approved by the Township Board as a "Special Event" (see Section VI.C, above).

#### Additional Use Restrictions

9. The sale or consumption of alcoholic beverages shall be prohibited within the Project.
10. The Project shall be open for public admission as follows:
  - a. Sunday – 6:00 am to 11:00 pm
  - b. Monday through Saturday – 6:00 am – 12:00 midnight.

No permitted use may begin after 11:00 pm on Sunday and 12:00 midnight on all other days. All patrons of the Project shall leave the premises no later than one (1) hour after the closing of public admission.

11. Security guards shall be provided at all high school hockey games and at any other time the attendance is expected to exceed 500 or more persons. Security shall be at the expense of the developer and shall be provided until one (1) hour after the last hockey game or until the closing of the ice center, whichever is the lesser time period.
12. No audio speakers or other sound amplification equipment shall be located, placed or installed outside of the ice center building.

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

The Project shall be developed in accordance with the site plan approved by the Township Planning Commission. No alterations, expansions or additions may take place to the Project without an amendment to this Ordinance.

A. Site Development Standards:

1. Maximum Height – 35 feet or 2 stories whichever is the lesser.

2. Setback Requirements:

Front: 225 feet

Side: 25 feet

Rear: 50 feet

3. Maximum Building Size – 74,975 square feet.

4. Minimum Number of Parking Spaces – The Project shall provide a minimum of 396 on site parking spaces. In the event the Project shall increase in size additional parking shall be installed consistent with Section 19.21 of the Zoning Ordinance.

B. Signs:

1. One (1) monument style sign not to exceed 32 square feet of total sign face area. The sign shall not exceed five (5) feet in height and shall be setback 25 feet from the future right of way line of Patterson Avenue.

2. Directional signs and construction signs consistent with the Cascade Charter Township Sign Ordinance (Ordinance 12 of 1994, as amended).

Landscaping Bufferyard Requirements:

13. The Project shall be required to install a "D" type landscape bufferyard along the east and south property line of the development and a "G" type landscape bufferyard along the west and north property line of the development, in accordance with Chapter 20 of the Cascade Charter Township Zoning Ordinance. Installation of the bufferyard shall be in accordance with the Landscape Plan approved by the Cascade Charter Township Planning Department.

14. Internal landscaping for the Project's parking lots shall be consistent with the requirements set forth in section 20.09 of the Zoning Ordinance.

15. Landscaping shall be installed within ninety (90) days of completion of the Project, unless otherwise permitted in writing by the Planning Director at a later date.

16. Landscaping materials shall be consistent with Section 20.05 of the Zoning Ordinance.

17. All landscaping shall be hardy plant materials and maintained thereafter 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.

#### 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

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 Plans for Cascade Township.

The Developer shall provide all necessary easements within the Project for telephone, electricity, gas and cable television to the appropriate utility provider without cost. In the event the Township requires additional sewer and water service easements in the future, the Developer shall provide them at all reasonable locations. 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

Prior to 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 site. This plan shall be reviewed and approved by the Township Engineer prior to commencing any building on the site.

The Township Planning Department shall receive copies of all correspondence and permits from the Kent County Drain Commissioner regarding storm water disposal.

The Township Planning Department shall receive copies of all correspondence and permits from the Michigan Department of Natural Resources regarding wetlands and wetland mitigation on the Project site.

The Developer shall submit sufficient and reasonable financial and marketing information to the Township Attorney to determine the developer's financial capabilities to fully develop and market the Project. All financial and marketing materials considered private in nature or proprietary shall be confidential between the attorney and the developer.

The Developer has agreed to guarantee the current value of all properties located in the Crickside Plat. This guarantee will be in the form of an irrevocable letter of credit or other similar form of financial guarantee from the developer to the affected property owners of land within the Crickside Plat. The irrevocable letter of credit or other type of financial guarantee hereunder shall be in the amount of \$100,000 and shall be in a form approved by the Township Planning Director and Township Attorney. Current value is considered two (2) times the

1994 SEV plus 12 percent (see attached "Exhibit – A"). It is agreed the developer will pay the difference between the property's current value and the selling price. The guarantee presumes that any sale would be a bona fide sale to an unrelated third party and considered an "arms length" transaction. It also presumes the affected property owner will continue normal repair and maintenance of the property in a manner that will not cause a decrease in the current value. This property value guarantee has been suggested by and agreed to by the developer and will remain in effect for five (5) years after the approval of this PUD. If a property owner proposes to sell his or her property for less than the current value, the property owner shall notify the developer in writing of that fact and the listing price at least ten (10) days before so listing the property for sale such that the developer will have the same opportunity to purchase the property for said amount as any other prospective purchaser. Such notice shall also occur for all re-listings of the property below current value. If a property owner wishes to take advantage of this guarantee and the property owner has not sold his or her property within 4-1/2 years of the date of this approval, the property owner shall list the property for sale during the final six (6) months of the guarantee and shall actively and diligently pursue a sale during said six (6) month time period.

#### 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 Director may require such guarantees at any time they deem necessary to insure completion of the improvements.

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

The Township 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 a recreational ice center will have on their physical well being and participate in activities offered at the facility.

In relation to the underlying zoning (R1, 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. Sewer and water service are readily available to the Project. Concerns about the capacity of the road have been alleviated by the Developer agreeing to contribute funds to the widening of Patterson Avenue. Storm water concerns have also been addressed by the Developer providing a storm water detention basin with capacity that meets or exceeds the requirements of the Kent County Drain Commissioner and Township Engineer.

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 by demonstrating that ice centers have been successfully located in residential areas in other communities without a loss in property values. It is also noted that the Patterson Avenue area is in a state of transition, where residential property use may no longer be viable due to the increased amounts of traffic bisecting the neighborhood. The proposed ice center would provide a reasonable transitional use between the industrially zoned properties to its south and east and the residentially zoned properties to the north and west. The proposed ice center also provides recreational benefits to the community, which the General Development Plan advocates.

The Township finds the Project will not result in an unreasonable negative economic impact upon surrounding properties as the developer has agreed to guarantee the values of the residential properties in the Crick side Plat.

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. It is noted that a residential development could in fact require more impervious surfaces and few expanses of usable open space than the proposed Project.

Finally, the Township recognizes the Project will be under single ownership or control. The Township recognizes that Continental Development or its assigns will retain ownership and shall be responsible for the completion of the Project in compliance with this PUD Ordinance and all other ordinances of Cascade Charter Township.

#### Section XV. 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 VanStrien, supported by Board Member Johnson. The roll call vote being as follows:

YEAS: Boonenberg, Carpenter, Henning, Johnson, Julien 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 23<sup>rd</sup> day of March, 1994.

Brenda J. Henning

Cascade Charter Township Clerk

(see Original PUD Ordinance for attached Exhibit "A".)