

PUD Ordinance - Sports and Recreation #4 of 1995

CASCADE CHARTER TOWNSHIP

Ordinance 4 of 1995

AN ORDINANCE TO AMEND THE CASCADE CHARTER TOWNSHIP ZONING ORDINANCE AND ZONING MAP TO ESTABLISH THE SPORTS AND RECREATION, INC. PLANNED UNIT DEVELOPMENT PROJECT

Cascade Charter Township Ordains:

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

The application received from Sports & Recreation, Inc. on behalf of Riahi & Gharavi Properties and its successors in interest (hereinafter referred to as the "Property Owner(s)", for Planned Unit Development designation for the proposed Grand Rapids Sports / Grady's Restaurant / On The Border Restaurant Project (hereinafter referred to as the "Project" or the "Premises") was recommended by the Cascade Charter Township Planning Commission for approval on March 6, 1995. The Project is recommended for rezoning from B2, General Business to PUD, Planned Unit Development permitting the development of a retail building and two freestanding restaurants. 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 22, 1995.

Section II. Legal Description

The legal description of the Project is as follows:

That part of the SW fractional $\frac{1}{4}$, Section 7, T6N, R10W, Cascade Township, Kent County, Michigan, described as: Beginning at a point on the South line of said SW fractional $\frac{1}{4}$, which is N 90 degrees 00'E 292.34 feet from the SW corner of Section 7; thence N 00 degrees 39'40"W 106.70 feet parallel with the west line of said SW fractional $\frac{1}{4}$; thence N 90 degrees 00'W 31.34 feet; thence N 00 degrees 39'40"W 580.84 feet; thence N 90 degrees 00'E 689.27 feet along the north line of the S $\frac{1}{2}$ of the south 80.00 acres of said SW fractional $\frac{1}{4}$; thence S 00 degrees 04'30"W 687.50 feet along the west line of the east 5.00 acres of the W $\frac{1}{2}$ of the S $\frac{1}{2}$ of the south 80.00 acres of said SW fractional $\frac{1}{4}$; thence N 90 degrees 00'W 649.10 feet along the south line of said SW fractional $\frac{1}{4}$ to the place of beginning. Together with easements as contained in the instrument recorded in Liber 2327, page 1383.

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 through January 26, 1994).

Section IV. Purpose

The Project occupies 9.92 acres of land that is vacant and partially wooded. The Project is proposed to be developed into a 76,991 square foot retail building, and two freestanding restaurants, one 7,457 square feet and the other 7,019 square feet. The PUD technique has been chosen by the Property Owner(s) to provide more control over the Project's aesthetics and appearance. This development technique provides the Property Owner(s) with the ability to develop the Project in a manner to meet market expectations and to develop the project in a unified manner. 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

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 to they in any way relieve the Property Owner(s) 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. In the event of a conflict between the Cascade Charter Township Zoning Ordinance and the approved site plans, the approved site plans shall govern.

B. Except as otherwise provided herein, the Property Owner(s) 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 Property Owner(s) 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 Property Owner(s), as well as its successors, tenants and assigns. The conditions may be modified or

E. This approval document shall be recorded with the Kent County Register of Deeds by the Property Owner(s) 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 Property Owner(s) to the Cascade Charter Township Clerk.

Section VI. Site Plans and Phasing

A. The Project shall be developed in accordance with the overall site plan approved and signed by the Township. The site plan shall indicate where each building will be located and provide appropriate measurements demonstrating compliance with 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 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 Property Owner(s).

B. For each individual phase of the Project the Property Owner(s) shall submit an application and all necessary architectural and planning drawings for consideration to the Planning Department. Site plan approval by the Planning Department shall only be granted in accordance with Chapters 16 and 21 of the Zoning Ordinance (as may be amended). All phases of the Project shall comply with the Permitted Uses listed in

Section VII and the Design Guidelines, Requirements and Limitations contained in Section VIII of this Ordinance.

Section VII. Permitted Uses

The permitted uses for the Sports & Recreation, Inc. PUD are as follows:

A. One (1) sporting goods store (Grand Rapids Sports) or one (1) future retail user subject to the conditions listed in Section VII (C) (1-2) below.

B. Two (2) freestanding restaurants (Grady's American Grill and On The Border). These restaurants have the right to change "themes" or "types" as the Property Owner(s) may determine to adjust to market conditions.

C. One (1) future retail user adjacent to Grand Rapids Sports.

1. In relation to any future retail user, all uses found in Section 8.03 and Section 10.03 of the Zoning Ordinance (as may be amended) would be allowed provided the user is first reviewed by the Planning Commission as a Type I Special Use Permit under the general approval standards found in Section 17.06 of the Zoning Ordinance (as may be amended).

2. The following uses are specifically prohibited from occupying any future retail space within this PUD:

- a) funeral homes
- b) lodge halls and clubs
- c) theaters
- d) wholesale clubs
- e) outdoor sales
- f) automobile service stations and mini food mart stations
- g) auto repair shops and car washes
- h) child or adult day care centers
- i) mineral resource extraction
- j) drive in or drive through services for business, including restaurants
- k) lumber yards and new building materials sales
- l) outdoor recreation centers
- m) adult entertainment establishments

- n) sign painting and service shops
- o) new or used auto or recreation vehicle sales and service
- p) boarding houses, hotels and motels

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. The maximum number of buildings on the Premises shall be limited to three (3). These buildings shall contain a maximum square footage as follows:

- Building 1 – (Grand Rapids Sports) 76,991 total square feet (includes future retail user)
- Building 2 – (Grady's American Grill) 7,019 square feet
- Building 3 - (On The Border) 7,457 square feet

B. Maximum Building Height above finish Floor Elevation:

- Building 1 – 28 feet
- Building 2 – 25 feet
- Building 3 – 25 feet

C. Setback Requirements – All buildings shall comply with the following setback requirements:

- Front Yard Setback - 100 feet minimum from the 28th Street right-of-way line as depicted on the approved site plan dated March 22, 1995.

Side Yard Setback - 25 feet from the side property lines (east and west)

Rear Yard Setback - 50 feet from the rear property line (north)

D. Minimum Parking Requirements – The site shall contain a total of 560 surface parking spaces which will be shared by all of the users of the Project. The Property Owner(s) shall provide the Township with a recorded copy of the shared parking agreement.

E. Signs.

1. The Project shall be permitted the following signs:

Freestanding Signs:

- a. One (1) Main identification sign along the 28th Street frontage with a maximum sign area of 250 square feet and a maximum height of 30 feet.

b. One (1) Entrance identification sign along Patterson Avenue with a maximum sign area of 60 square feet and a maximum height of 5 feet.

c. Directional signs with a maximum sign area of 5 square feet each.

Wall Signs:

a. The retail building shall be permitted the following wall signs:

1) Grand Rapids Sports 200 square feet total (2 wall signs)

2) Future Retail User 75 square feet (one sign)

b. Grady's American Grill shall be permitted two wall signs with the total square footage not to exceed 100 square feet.

c. On The Border shall be permitted two wall signs with the total square footage not to exceed 100 square feet. In addition, this restaurant is permitted to install graphics on the side of the building as approved by the Planning Commission provided the graphics do not contain words that advertise any product that is offered at the site.

2. Unless otherwise specified above, all new signs for the Project shall comply with the height, location, size and all other requirements set forth in the Cascade Charter Township Sign Ordinance, as amended.

F. Landscaping

1. The Project shall be required to install a "D" type bufferyard (as defined in Chapter 20 of the Zoning Ordinance) around the perimeter of the property as well as the internal parking lot landscaping as shown on the approved landscape plan. The landscaping plan dated February 6, 1995 conforms to these requirements and has been approved by the Planning Commission.

2. The installation of these bufferyards shall coincide the Project phasing.

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

4. 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 IX. 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 the proposed buildings herein described, building expansions or infrastructure improvement.

Section X. Utilities

A. Each Project phase shall be served with public water and public sewer at the Property Owner(s) expense. Any new on-site water and sewer design and connection to the public

water and sewer systems shall be approved by Cascade Township and the City of Grand Rapids prior to installation.

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 Property Owner(s) 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 Property Owner(s) 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 XI. Access

Access to this site shall be provided as shown on the site plan approved by the Township dated March 22, 1995. Specifically, the following access points are required:

A connection to the front parking lot to the adjacent property owner to the east (Carlos O'Kelley's Site).

An access point to Patterson Avenue from the northwest corner of the Project via an easement across the north side of the adjacent property (Exel Inn Site).

Two access points to 28th Street as described below:

1. The western access shall be limited to right turn in only movements.
2. The eastern access shall allow all turning movements with the exception of left turn exiting.

The applicant shall provide the Township with copies of driveway permits from the regulating road agencies (Kent County road Commission and Michigan Department of Transportation) prior to the commencement of construction on the site.

Section XII. Wetlands

The Property Owner(s) shall provide the Township with all pertinent correspondence with the Michigan Department of Natural Resources (MDNR) regarding the mitigation of the wetlands on the property. No Building Permits will be issued by Cascade Township until final approval has been received by the MDNR.

Section XIII. Soil Erosion Control Requirements

Prior to construction, the Property Owner(s) 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. The project will offer a unified development that provides shared access, parking, and landscaping improvements.

In relation to the underlying zoning (B2, General Business), 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 property has always been planned for commercial development and is proposed to be utilized in that fashion.

The Project is not anticipated to cause undo impact to the stormwater drainage of the surrounding area. All stormwater plan shave been approved by the Township Engineer and the appropriate County and State agencies. Concerns about fire and emergency vehicle access have been addressed on the site plan and by this PUD Ordinance.

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 United 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 as much green and usable open space as would be required by the Township Zoning Ordinance.

Finally, the Township recognizes the Project will be under single control by means of a Reciprocal Easement Agreement.

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 Henning, supported by Board Member Van Strien. The roll call vote being as follows:

YEAS: Carpenter, Henning, Johnson, Julien, Van Strien

NAYS: None

ABSTAIN: None

ABSENT: Hansen, Timmons

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 22nd day of March, 1995.

Brenda J. Henning

Cascade Charter Township Clerk