

PUD Ordinance - Whitneyville Station #1 of 1999

CASCADE CHARTER TOWNSHIP

Ordinance # 1 of 1999

AN ORDINANCE TO AMEND THE CASCADE CHARTER TOWNSHIP ZONING ORDINANCE AND ZONING MAP TO ESTABLISH THE Whitneyville Station 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 John VanKlompberg or his assigns (hereinafter referred to as the "Developer"), for Planned Unit Development designation for the proposed Whitneyville Station Site Condominium Planned Unit Development Project (herein after referred to as the "Project") was recommended by the Cascade Charter Township Planning Commission for approval on April 19, 1999. The Project is recommended for rezoning from ARC, Agricultural Rural Conservation 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 May 12, 1999.

Section II. Legal Description.

The legal description of the Project is as follows:

Those parts of the SE $\frac{1}{4}$ of Section 26, Town 6 North, Range 10 West, and of the NE $\frac{1}{4}$ of Section 35, Town 6 North, Range 10 West, Cascade Township, Kent County, Michigan, described as: Beginning at the North $\frac{1}{4}$ corner of said Section; thence N01 degrees 04'02"W 214.45 feet; thence S 49 degrees 01'50"E 1560.92 feet along the Southwesterly line of the C&O Railroad Right-of-way; thence Southeasterly along said Southwesterly line along a curve to the left, the chord of which bears S49 degrees 35'43"E 227.05 feet; thence S 01 degrees 13'18"E 449.60 feet along the East line of the West $\frac{1}{2}$ of the NE $\frac{1}{4}$ of said Section; thence S 88 degrees 45'17"W 1325.59 feet along the South line of the North $\frac{1}{4}$ of said Section; thence N01 degrees 16'11"W 1434.84 feet along the N-S $\frac{1}{4}$ line of said Section to the Point of Beginning. Contains 31.91 acres. Subject to Highway Right-of-way for Whitneyville Avenue over the West 33 feet thereof.

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 acres of land that contains significant wetlands a small pond and open areas. The project is proposed to be developed into a site condominium development containing 14

single family building sites, while preserving approximately 9 acres of open space. Site number one is already occupied by the original home. 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 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, John VanKlompengurg, 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 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.

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.

D. The Project shall be limited to fourteen (14) 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 Whitneyville Station 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.

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).

Exterior Lighting. The developer shall provide street lighting within the premises at his expense. All street lighting shall be consistent with Section 19.19 of the Zoning Ordinance.

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 14 units.

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

C. Setback Requirements- All buildings and structures shall meet the following minimum setback requirements:

The placement of the units shall be in the areas depicted as building envelopes on the site plan dated 3/9/99. In no case the setbacks be less than:

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 side and 25 feet minimum with both sides combined.

3. Rear Yard Setback: 25 feet from the rear yard area line.

D. Minimum Floor Area - Each site condominium unit shall contain a minimum of:

Ranch 1,500 square feet,

1.5 or two story 1,900 square feet

finished livable area above grade level, exclusive of the garage, decks, porches and breezeways.

E. 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.

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 Whitneyville Ave. 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.

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. Septic Systems and Wells - Since this site is not served by municipal water or sewer service, each individual condominium unit shall receive approval from the Kent County Health Department for individual well and septic systems prior to the issuance of a Building Permit.

B. 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 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.

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. One Gazebo structure is permitted within Lilly Park subject to a permit from Cascade Township.

B. There shall be no draining or filling of the wetlands within this common open space area other than that already permitted by the Michigan Department of Environmental Quality for the construction of the private streets.

C. There shall be no tree or vegetation cutting or removal within the common open space area except to remove fallen, dead, diseased or dangerous trees or vegetation. No removal of any trees or other vegetation inside the area depicted as conservation easement without written authorization from the State of Michigan.

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.

In relation to the underlying zoning (ARC, Agricultural Rural Conservation) 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 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 a "Rural Estate" 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 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 Timmons, supported by Board Member Goodyke. The roll call vote being as follows:

YEAS: Carpenter, Goodyke, Julien, Kleinheksel, Timmons

NAYS: Johnson, Parrish

ABSENT: None

Marlene Kleinheksel

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 12th day of May, 1999.

Marlene Kleinheksel Cascade Charter Township Clerk