

PUD Ordinance - Betten Automotive #16 of 2002

CASCADE CHARTER TOWNSHIP

Ordinance # 16 of 2002

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

Cascade Charter Township Ordains:

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

The application received from Marion Betten (hereinafter referred to as the "Developer"), for Planned Unit Development designation for the proposed Betten Automotive Development Project (herein after referred to as the "Project") was recommended by the Cascade Charter Township Planning Commission for approval on September 16, 2002. The Project is recommended for rezoning from B-2, General Business, to PUD, Planned Unit Development permitting a new and used car sales business along 28th Street. 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 October 9, 2002.

Section II. Legal Description.

This project involves three parcels; one parcel identified 5911 28th Street (PPN 41-19-8-376-005). The other properties involve portions of the following parcels, 2688 Kraft Ave (PPN 41-19-8-351-005) and a portion of 5703 28th Street (PPN 41-19-8-351-024). The applicant has supplied the following legal description for the project that encompasses the above parcels.

Parcel 1:

That part of the Southwest $\frac{1}{4}$, Section 8, town 6 North, Range 10 West, Cascade Township, Kent County, Michigan, described as: Beginning at a point on the South line of said Southwest $\frac{1}{4}$, which is South 89 degrees 34'15" West 1014.18 feet from the South $\frac{1}{4}$ corner Section 8; thence South 89 degrees 34'15" West 298.90 feet along said South line; thence North 01 degrees 34'02" West 795.16 feet along the West line of the Southeast $\frac{1}{4}$, Southwest $\frac{1}{4}$, Section 8; thence North 89 degrees 34'15" East 363.77 feet along the North line of the South 795 feet of said Southwest $\frac{1}{4}$; thence South 00 degrees 25'45" East 278.59 feet; thence South 89 degrees 34'15" West 21.00 feet; thence south 00 degrees 25'45" East 173.28 feet; thence South 89 degrees 34'15" West 28.08 feet; thence South; thence South 00 degrees 25'45" East 343.13 feet to the place of the beginning. Subject to easements of record and to highway R.O.W. for 28th Street. This parcel contains 6.023 Acres, including 28th Street R.O.W. (5.638 acres, excluding 28th Street R.O.W.)

Parcel 2:

The East 267.13 feet of the North 360 feet of the South 795 feet of the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$, Section 8, Town 6 North, Range 10 West, Cascade Township, Kent County, Michigan. This parcel contains approximately 2.2 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 8.2 acres of land that presently is vacant property. The Project is proposed to be developed to allow a new and used car sale business. The Planned Unit Development technique has been chosen by the Developer 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 and develop the project in a unified manner.

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 a violation of the Cascade Charter Township Zoning Ordinance.

Section VI. Permitted Uses.

The permitted uses for the Betten Automotive PUD include the following uses:

New and Used Car sales.

One (1) 55,570 square foot building. This building will be constructed as shown on the approved site plan dated 9/25/02 as drawn by Craig Architects (the approved site plan)

This site will also be able to utilize the following uses associated with the new and used car sale business on site:

Normal repair and servicing associated with car sales

Display of vehicles outside the building.

The display of vehicles for sale or lease outside the building for periods in excess of 72 hrs.

Washing of vehicles both inside and outside the building as requested by the applicants letter dated August 16, 2002.

Section VII. Site Plans & Design Guidelines, Requirements and Limitations.

The Project shall be developed in accordance with the site plans approved and signed by the Township. The site plan shall indicate where the building will be located and provide appropriate measurements demonstrating compliance with this 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 recognized, acceptable engineering standards and practices. No alterations, expansions or additions may take place to the Project without an amendment to this Ordinance, other than those changes allowed to be review by staff as stated in Section 21.04 of the Zoning Ordinance or unless authorized otherwise herein.

A. Maximum Building Height

1. Commercial retail building – 35 feet.

B. Parking

A total of 569 parking spaces are provided on the site. A minimum of 40 spaces must be reserved for customer parking with the rest of the parking allowed to be used for display of vehicles for sale. No vehicles are allowed to be displayed anywhere on the site except for an approved parking space as shown on the approved site plan.

C. Building Setback Requirements

These measurements include the following minimum setbacks:

- a. Minimum of 155 feet from the 28th Street right-of-way line.
- b. Minimum of 173 feet from the proposed North boundary line.

c. Minimum of 65 feet from the East property line.

d. Minimum of 86 feet from the West property line.

D. Bufferyards

Parking setbacks shall be provided as indicated on the approved site plan.

Section VIII. Cross Access

The developer shall be responsible to provide and record cross access easements for this project. Cross access shall be provided in two locations on the site. On the south side of the project the Betten Automotive project shall allow for cross access to the Boston Market parcel (PPN 41-19-8-376-006 – 5931 28th Street) as shown on the approved site plan. This access shall be provided consistent with the Wal-Mart site plan agreement, which included the Betten parcel (Liber 3801 Page 504).

On the north side of the project a cross access agreement shall be granted to the Township continuing along the west property line connecting this project to the Esplanade Center parcel (41-19-8-352-006 – 5755 28th Street) as shown on the approved site plan. This cross access easement will require that the current owner of PPN 41-19-08-351-024 be a party to the easement as well. Upon completion of the south cross access easements and the recording of the north cross access easements, the easement recorded on Liber 3801 Page 529 will be released by the Township.

Once the access drives 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 Betten project. The north access drive will also eventually connect to a future access drive for an eventual connection to Kraft Ave. This developer, or any future owner of the project, will allow any other future connection to the north side cross easement that the Township deems appropriate in order to make the connection to Kraft Ave. This PUD Ordinance will provide the legal means to allow cross-access with these other parcels if and when the adjoining parcels are ever required to obtain township planning commission approval.

Section IX. Landscaping

The project shall provide landscaping according to the approved landscape plans as drawn by Craig Architects dated September 25, 2002. The developer shall be required to deposit a Performance guarantee for landscaping in the amount of \$40,000 prior to obtaining a building permit.

Section X. Signs. The following signs shall be permitted for the project:

One (1) freestanding sign, with a maximum height of 30 feet and a maximum sign area of one hundred twenty (120) square feet in sign area. Up to fifty (50) percent of such a sign

may be a changeable copy sign. The nearest edge of the sign shall be no closer than 25 feet to the road right-of-way.

The building is allowed to have no more than Three (3) wall signs identifying the make of cars for sale. Added together these signs are limited to no more than 90 square feet. These wall signs are limited to the locations as shown on the approved Elevation Plan as drawn by Craig Architects dated September 13, 2002 ("the Elevation Plan").

Two (2) directory wall signs on the building as shown on the approved site Elevation Plan. This allows one sign at 12 sq ft and the other at 8 sq ft as shown on the plans but in no case can the two signs together be more than (20) square feet in total sign area.

Two (2) directional signs as shown on the approved site plans. This allows one directional sign up to two (2) square feet in sign area and another directional sign of no more than six (6) square feet.

The developer agrees to comply with all other provisions of the Cascade Charter Township Sign Ordinance as amended.

SECTION XI. Fencing

Fencing shall be permitted as shown on the approved site plan. This fencing is limited to 8 feet high and shall be vinyl coated with no barbed wire.

SECTION XII. Loudspeakers

No outside loudspeaker shall be permitted with this project.

Section XIII. Land Splits

This project involves a portion of two larger parcels; these parcels are currently identified as 41-19-08-351-024 and 41-19-08-351-005. Per the approval of the project these land divisions are already considered approved by Cascade Township provided they are completed as shown on the approved site plan.

Section XIV. 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/ renovation of buildings or infrastructure improvements.

Section XV. Sidewalks

The developer shall be responsible to pay to the Township an amount equal to the total cost of design and construction of a 7-foot wide, concrete sidewalk along the entire 28th Street frontage of the PUD property. The total cost shall be estimated by the developer and reviewed by the Township. This amount shall be paid by the developer to the Township prior to the issuance of any occupancy permit. At such times as the Township Board deems it appropriate to construct the sidewalk, the Township shall do so with the funds and interest earnings thereon and the Developer shall have no responsibility with respect to the construction of the sidewalk. The location of the sidewalk must be consistent with the Wal-Mart sidewalk easement agreement (a copy of which was recorded at the Kent County Register of Deeds on November 20, 1996), which includes the property for this project.

Section XVI. Utilities .

A. Public Water and Sanitary Sewer - All buildings within the Project shall be served by public sanitary sewer and water at the developer's expense.

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 issues.

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 XVII. Lighting

The required lighting section of the Zoning Ordinance as amended shall regulate lighting for the project. The lighting at this project is limited to only those lights and those types of lights as indicated on the approved photometric lighting plan as drawn by Craig Architects dated September 13, 2002. Furthermore, the total height of individual light poles is limited to the height indicated on the plan as well. All lights on the site are to be downcast or "shielded" type lights.

Section XVIII. Soil Erosion Control 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 Project. This plan shall be reviewed and approved by the Township Engineer prior to commencing any building on the site. The developer shall also be responsible for obtaining a soil erosion permit posting a performance guarantee prior to issuance of any building permit.

Section XIX. 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 XX. Reimbursement of Review Fees.

The Developer shall reimburse the Township for all fees associated with the review of the Project. These fees may include, but not be limited to, legal, engineering, publishing, and planning review fees.

Section XXI. 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 conversion of the vacant property to a commercial use along 28th Street is consistent with the Township Goals.

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. Utility extensions and construction will be the

responsibility of the Developer and will not place a material burden upon the subject property or 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 1999 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 a similar 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 project until this PUD Ordinance is recorded and all provisions that the developer and his assigns are responsible for are complied with. After that time, the property may be sold to other parties.

Section XXII. 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. All prior Planned Unit Development ordinances that were previously approved for this property shall become null and void.

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

YEAS: Goodyke, Julien, Parrish, Jones

NAYS: Carpenter

ABSENT: Timmons, Kleinheksel

Jeanie Neve

Cascade Charter Township Deputy 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 9th day of October 2002.

Jeanie Neve

Cascade Charter Township Deputy Clerk