

CASCADE CHARTER TOWNSHIP
Ordinance #10 of 2017
AN ORDINANCE TO AMEND THE CASCADE CHARTER TOWNSHIP
ZONING ORDINANCE AND ZONING MAP TO ESTABLISH THE
CASCADE ONE
PLANNED UNIT DEVELOPMENT PROJECT.

Cascade Charter Township (the “Township”) Ordains:

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

The application received from Dave Barker of Cascade One LLC (hereinafter referred to as the “Developer”) for Planned Unit Development designation for the proposed Cascade One Planned Unit Development Project (hereinafter referred to as the “Project”) was recommended by the Cascade Charter Township Planning Commission for approval at the September 11, 2017 Planning Commission meeting. The Project is recommended for rezoning from ARC, Agricultural Rural Conservation to PUD, Planned Unit Development, thus 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 recommendations and the Cascade Charter Township Board of Trustees’ action on the November 1, 2017.

Section II. Legal Description.

The legal description of the Project is made up of the following:

That part of the SW 1/4 of Section 6, T5N, R10W, Cascade Township, Kent County, Michigan, described as: Commencing at the Northwest corner of said SW 1/4; thence S02°51'20" E 646.86 feet along the West line of said SW 1/4; thence N88°38'54"E 500.17 feet along the North line of the South 12.00 feet of the North 1/2 of the North 1/2 of said SW 1/4 to the point of beginning; thence N88°38'54"E 2164.63 feet; thence S01°27'49"E 66.00 feet along the N-S 1/4 of said Section 6; thence S88°38'54"W 300.00 feet along the South line of the North 54.0 feet of the South 1/2 of the North 1/2 of said SW 1/4; thence S01°27'49"E 607.22 feet along the West line of the of the East 300.00 feet of said SW 1/4; thence S88°38'32"W 2,348.43 feet along the South line of the North 1/2 of said SW 1/4; thence N02°51'18"W 273.70 feet along the west line of said SW 1/4; thence N88°38'54"E 500.17 feet; thence N02°51'20"W 400.00 feet to the point of beginning.

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 36 acres of land in the Township. The Project will be a site condominium development containing 31 single-family site condominium units. Approximately 41% of the property is to be preserved as open space. This technique has been chosen by the Developer to give it and the eventual owners of each unit 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 subdivision plats do not.

The regulations contained herein are established to define the procedures necessary to ensure 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/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 his assigns must meet all applicable provisions, ordinance requirements, 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 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 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 and operated, 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 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:**
- “I, Dave Barker, 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 exactly in accordance with the site plan approved and signed by the Township. The site plan shall indicate where each building envelope will be located and shall 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 also 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 only after the review by and written 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 ensure compliance with the Cascade Charter Township Zoning Ordinance, this PUD Ordinance, and any other requirements. 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.

Section VII. Permitted Uses.

The permitted uses for the Cascade One 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 it may be amended.
- C. Signs. All signs for the Project shall conform with Section 6.02 of the Cascade Charter Township Sign Ordinance (Ordinance 14 of 1997, as amended).

Section VIII. Design Guidelines, Requirements and Limitations.

The Project shall be developed in exact accordance with the site plan approved by the Township. No alterations, expansions or additions may occur as to the Project without a formal amendment to this Ordinance, unless expressly otherwise authorized herein.

- A. Maximum Number of Residential Units - The maximum number of single-family detached site condominium units within the Project shall be limited to thirty-one (31) units.
- B. Maximum Building or Structure Height - 35 feet or 2½ stories whichever is the less.
- C. Setback Requirements

All site condominium buildings and structures shall meet the following minimum setback requirements:

1. Front Yard Setback: 25 feet
2. Side Yard Setback: minimum of 10 feet with both sides totaling at least 20 feet
3. Rear Yard Setback: 25 feet.

D. Minimum Floor Area

Each dwelling on a site condominium unit shall contain a minimum of:

1. One Story & Bi-Level – 1,800 square feet on the main floor, top floor of a bi-level, finished livable area above grade level, exclusive of garages, decks, porches and breezeways.
2. Two Story – 2,000 square feet, with a minimum of 800 square feet on the first floor, finished livable area above grade level, exclusive of garages, decks, porches and breezeways.

E. Street Trees. All street trees shall be planted after each home is constructed in compliance with Township regulations

F. Sidewalks. All sidewalk on the site shall be built along with the homes construction for each lot. All sidewalk must be construed to connect Spaulding Ave to Cavalcade Dr (Kentwood) before the 25th building permit is issued or with five years of the start of the project whichever is first. The sidewalk connecting to Cavalcade must be separated from the proposed drive off from Cavalcade Dr.

Section IX. Public Street Development.

- A. The Developer has chosen to construct public roads to serve this development. these plans must be done in accordance with the Kent County Road Commission.
- B. The developer has agreed to construct the access to Spaulding Ave first to allow all construction traffic to use this entrance rather than the connection to Abbeydale Dr.
- C. 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. Water and Sewer – The individual units in the Project will be served by public sewer and public water. Such systems shall be designed, installed, and maintained pursuant to all applicable requirements of the City of Grand Rapids.
- 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, and the Michigan Department of Environmental Quality (if it has jurisdiction) 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 and the Michigan Department of Environmental Quality 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 be provided to each utility provider for their records.
- D. Exterior Lighting. All street lighting shall either be installed prior to the issuance of any certificate of occupancy for the first building in the Project or paid for prior to the issuance of any certificate of occupancy for the project.

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 ensure compliance with this Ordinance and any conditions herein, the 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 Department may require such guarantees at any time they deem reasonably necessary to ensure completion of the improvements. The form (including the bank or surety involved), duration, and amount of the performance guarantee as shall be approved by the Township.

Section XIV. Permanent Common Open Space.

The permanent common open space area is to remain in its present undeveloped state in perpetuity. To ensure 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. All improvements shown on the approved site plan dated 9/25/17, may encroach into this area provided they are consistent with the development plan for this Project.

Section XV. The Gerald R. Ford International Airport.

Within the recorded Master Deed, the Developer shall expressly disclose in writing that the Project is located in the vicinity of the Gerald R. Ford International Airport and that there may be noise, vibration, and property valuation impacts associated with such location.

Section XVI. Consistency of the Master Deed and/or Deed Restrictions/Covenants with the PUD Approval.

If the Project will be a condominium project (in whole or in part), the master deed (and attachments) shall be reviewed and approved by the Township Attorney prior to final recording to ensure consistency with this Ordinance. If some or all of the Project will be governed by deed restrictions/restrictive covenants apart from a condominium master deed, such deed restrictions/restrictive covenants shall be reviewed and approved by the Township Attorney before recording to ensure consistency with this Ordinance.

Section XVII. 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 that offers a low-density land use.

In relation to the underlying zoning (ARC) 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 1999 Comprehensive 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 "Residential" use, which is consistent with the Cascade Township Comprehensive 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 XVIII. Effective Date.

This Ordinance shall become effective seven (7) days after 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 for adoption by Board Member Slater, supported by Board Member McDonald. The roll call vote being as follows:

YEAS: Lewis, Slater, Beahan, Shipley, Peirce, McDonald

NAYS:

ABSENT: Koessel

Sue Slater
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 1st day of November 2017.

Sue Slater
Cascade Charter Township Clerk

“I, Dave Barker, 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.”

Dave Barker

Date