

PUD Ordinance - Waterfall Shoppes #8 of 2004

CASCADE CHARTER TOWNSHIP

Ordinance # 8 of 2004

(As amended by Ord. No 3 of 2005; 5/11/05)

(As Amended by Ord No 9 of 2006; 9/27/06)

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

Cascade Charter Township Ordains:

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

The application received from Mark Finkelstein, or assigns (hereinafter referred to as the "Developer"), for Planned Unit Development designation for the proposed Waterfall Shoppes project (herein after referred to as the "Project") was recommended by the Cascade Charter Township Planning Commission for approval on March 15, 2004. The Project is recommended for rezoning from an existing B-2 and I zoning to PUD, Planned Unit Development permitting this mixed use 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 April 14, 2004.

Section II. Legal Description.

The legal description of the Project is as follows:

41-19-18-100-005

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41-19-18-251-002

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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). In the event there is a conflict between the provisions of this Ordinance and those of the Cascade Charter Township Zoning Ordinance, the provisions of this Ordinance shall control and govern.

Section IV. Purpose.

The Project occupies approximately 118 acres of land, divided in five separate phases of development, that presently is the site of the old Showcase movie theatre, the old drive-in theater, wetlands and vacant property. The Project is proposed to be developed into a mix of different uses involving general retail, restaurant, offices and hotels. Due to its size, magnitude, mixture of land uses and the timing of

development over a period of years, in which market conditions may change, special land use regulations are deemed necessary by Cascade Township to establish this Planned Unit Development (PUD) District.

The regulations contained herein are established to define the procedures necessary to insure high quality development on the Premises. Additionally, they are designed to achieve integration of the development with adjacent land uses and the natural environment; to permit flexibility in the regulation of land development; to encourage variety in design, lay-out and type of structures constructed within the development; to achieve economy and efficiency in the use of land; to encourage the provision of useful open space; and to provide improved employment opportunities particularly suited to the needs of the residents of Cascade Township and West Michigan.

This Ordinance is further intended to permit flexibility in the regulation of land development by allowing the Developer to modify the concept and design of the proposed development as the market may dictate in the future over the course of the development of the Premises. The provisions of this Ordinance are not intended as a substitute for the Cascade Township Zoning Ordinance and General Development Plan, nor do they in any way relieve the Developer from obtaining all approvals and permits required by the Township, except as provided herein.

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. Provided, however, that minor or immaterial changes to the site plan shall not require formal amendment of the PUD approval and ordinance amendment if determined, by the Township Planning Director, to be minor site plan changes as defined by section 21.04 of the Zoning Ordinance as amended.

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.

For land and buildings, the permitted uses for the Waterfall Shoppes PUD are as follows:

- A. Retail Uses; (including, without limitation, warehouse membership clubs and fuel filling facilities);
- B. Shopping Center;
- C. Hotels;
- D. Offices
- E. Restaurants;
- F. Movie theatre
- G. Other uses, either within the existing buildings or new buildings, may be permitted if the Planning Commission feels it will meet the design objectives of the Mixed Use category of the comprehensive plan. This may include the land being used for a residential land use component as well.

Section VII. Master Development Plan - Phasing.

The Project shall conform in as much as reasonably possible to the master development plan approved by the Township Board and signed by the Township on May 6, 2004. The intent of the Developer is to develop the project in five separate and distinct phases. Each phase will be required to submit site plans for each phase, building, or site improvement. This will allow the Township to ensure that all required infrastructure is constructed with the appropriate phase and that only those areas needed to be disturbed for each phase, are the areas planned to be disturbed. The Planning Commission shall review and approve all building or site improvement plans prior to the construction of each phase.

All phases of the Project shall comply with the Permitted Uses listed in Section VI and the Specific Development Regulations in Section VIII of this Ordinance. Site plan approval of each phase, building, or site improvement shall only be granted in accordance with Chapters 16 and 21 of the Zoning Ordinance, as may be amended.

Each phase shall be considered complete with the issuance of the required occupancy permit granted by the Township. Phases may be constructed concurrently with the approval of the planning commission.

Section VIII. Specific Development Regulations.

The Project shall be developed in accordance with each 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 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, unless authorized otherwise herein.

It shall be unlawful for any person, firm or corporation to begin the construction of any building or other structure or to begin the alteration or moving of any building or structure within the Premises without receiving site plan review and approval from the Waterfall Shoppes Review Board and The Township Planning Commission.

Composition of the Review Board - All new construction, land use changes, alteration, or moving of buildings and structures shall be reviewed by a five (5) member Review Board. The Developer shall appoint three (3) members, with two (2) being officers of the Developer or their delegates and one (1) being a professional with a background in architecture, engineering, landscape architecture and/or urban planning. The two (2) remaining members shall be representatives of Cascade Township appointed by the Township Supervisor and approved by the Township Board. A simple majority of the membership of this Review Board (hereinafter referred to as the "Board") shall constitute a quorum. An affirmative vote of the majority of the Board members present shall constitute approval, approval with modification, or rejection of a site plan. Developers must request for 5 member Review Board to meet in writing or other

verifiable way. Upon request by Developer for a meeting, the meeting shall take place no later than five (5) business days from the date of request.

Responsibilities of the Review Board - The Board shall receive all site plans for all new construction, land use changes, alteration, or moving of buildings and structures within the Premises. In order to maintain a consistent aesthetic quality, the Review Board shall have sole authority to approve or reject building architectural designs within the Premises. The following is a partial list of items that may be carefully and thoughtfully scrutinized:

- A. Preliminary building plans and specifications;
- B. Exterior surface treatment, including roofs, with color and texture samples or descriptions;
- C. Scale;
- D. Geometry;
- E. Texture;
- F. Harmony with neighboring sites including the landscaping features of the site;
- G. Sun control devices; and
- H. Color.
- I. Landscaping as discussed in this section
- J. Signage as discussed in Section X

The Board's review and findings are subject to review before the Planning Commission. The Board can only grant preliminary approval of a site plan. The Planning Commission shall have the authority to grant final site plan approval. No site plan can be forwarded to the Planning Commission without the express, written approval of the Board.

Review and approval shall be based upon the following considerations:

1. Conformity and harmony of external design with the development and with neighboring structures.
2. Proper siting of buildings and lots as they relate to street frontage and neighboring uses.
3. Conformity of the plans and specifications with the development requirements as well as the purpose and intent of this PUD Ordinance.

The Review Board shall endeavor to review a submitted site plan within a reasonable time period after its submittal. The Board, however, retains the right to request additional information or modifications as it may deem necessary prior to approval or rejection of the plans and specifications. Once the Review Board has made its determination regarding a proposed site plan it shall transmit its findings and recommendations to the Planning Commission. The transmittal shall include the recommendation of the Board, its rationale and the minutes of all meetings in which the site plan was discussed before the Board.

Planning Commission Responsibilities - Following review and approval of a site plan by the Review Board, the Chairman of the Review Board or his authorized representative shall present it to the Planning Commission for final review and approval. The Planning Commission has the right to approve, approve with modifications, or deny site plan approval based upon its own findings of fact.

Limitation - Nothing herein shall require submission to or approval of the Review Board or Planning Commission for plans relating to normal maintenance or alterations to the interior of any structure. When such activities are contemplated, the Township Building Inspector shall be contacted as building permits may be required.

A. Design Guidelines, Requirements and Limitations.

This Ordinance also constitutes Township approval of the Phase I site plan attached hereto as Exhibit B. Respecting the other phases of development, with the exceptions listed below, all of the requirements of the Cascade Township Zoning Ordinance, as may be amended, must be complied with for site plan review for any new construction within the Project. Landscaping shall be provided within each Phase consistent with the approved landscape plans for each site as their individual site plans are considered for approval.

" Phase 1 (Costco Warehouse Building & Gas Station)

a. The Phase one portion of the site shall be developed as shown on the approved site plans signed by the Township. These plans include the following:

- i. Site Plan dated March 22, 2004
- ii. Landscaping Plan dated April 15, 2004
- iii. Photometric Plan dated December 2, 2003
- iv. Elevation Plan dated December 23, 2003
- v. Floor Plan dated January 9, 2004
- vi. Engineering Plan dated March 26, 2004

b. Parking - The total amount of parking for Phase 1 shall be a maximum of 752 parking spaces.

c. Lighting - The lights at the gas station shall be turned off each night no later than 11 p.m.

d. Setback Requirements - No part of the building shall extend closer to any lot line than shown on the approved and signed site plan.

e. Removal of the two existing non-conforming signs at the site.

f. Completion of the irrigated landscape boulevard entrance.

g. Completion of the dual left turn lanes on 28th Street.

h. Access road to 33rd Street via the Consumers Power property shall be provided.

i. Mast arms as shown on approved site plan.

" Phase 2 (Area south of the existing Bob Evans restaurant)

a. Maximum Building Height - 35 feet.

b. Setbacks - Front 100 feet

Side - 25 feet

Rear - 50 feet.

c. Parking - The minimum number of parking spaces and the design of the parking lot shall be done in accordance with Chapter 19 of the Zoning Ordinance as amended.

d. Landscaping - the site shall include a landscape buffer around the perimeter of the site. Landscaping shall be used to ensure that all intersections are free from obstructions and shall not cause traffic vision problems. The Waterfall Shoppes Review Board shall recommend the size of the buffer and the number and type of plantings in the buffer.

e. Lighting - shall meet Section 19.19 of the Zoning Ordinance as amended.

" Phase 3 (Two Building sites along 28th Street)

a. Maximum Building Height - 35 feet

b. Setbacks - Front 100 feet*

Side - 25 feet

Rear - 50 feet.

*The Planning Commission may, at their discretion, approve a smaller front yard setback if they feel the smaller front yard setback will result in a more pedestrian friendly design, better traffic flow and/or parking lot design.

c. Parking - The minimum number of parking spaces and the design of the parking lot shall be done in accordance with Chapter 19 of the Zoning Ordinance as amended. Once the minimum number of parking spaces are established these spaces may be shared provide the property owners provide the Township with a recorded copy of the shared parking agreement.

d. Parking shall be limited to no more than 60% of the required parking spaces between the building and

the road.

e. Pedestrian access shall be provided from the sidewalk along 28th Street into the building and through the site to the south for use in other phases.

f. No access directly to 28th Street shall be permitted for either site.

g. Landscaping - the site shall include a landscape buffer around the perimeter of the site. Landscaping shall be used to ensure that all intersections are free from obstructions and shall not cause traffic vision problems. The Waterfall Shoppes Review Board shall recommend the size of the buffer and the number and type of plantings in the buffer.

h. Lighting - shall meet Section 19.19 of the Zoning Ordinance as amended.

" Phase 4 (Area south of Phase 1)

a. Maximum Building Height - 35 feet

b. Setbacks - Front 100 feet*

Side - 25 feet

Rear - 50 feet.

*The Planning Commission may, at their discretion, modify the setbacks if they feel the modified setback will result in a more pedestrian friendly design, better traffic flow and/or parking lot design.

c. Parking - The minimum number of parking spaces and the design of the parking lot shall be done in accordance with Chapter 19 of the Zoning Ordinance as amended

d. Landscaping - the site shall include a landscape buffer around the perimeter of the site. Landscaping shall be used to ensure that all intersections are free from obstructions and shall not cause traffic vision problems. The Waterfall Shoppes Review Board shall recommend the size of the buffer and the number and type of plantings in the buffer.

e. Review by the ITP (Interurban Transit Partnership) shall be required to evaluate the need or desire to establish a bus stop in the development or along its 28th Street frontage before site plan approval is awarded.

f. Lighting - shall meet Section 19.19 of the Zoning Ordinance as amended.

g. Pedestrian access shall be provided through the site to connect to the pedestrian ways from the other phases.

" Phase 5 (Marked as future phases on the site plan)

a. Maximum Building Height - 40 feet, (amended by Ord. No 3 of 2005; 5/11/05)

b. Setbacks - Front 100 feet*

Side - 25 feet

Rear - 50 feet.

*The Planning Commission may, at their discretion, modify the setbacks if they feel the modified setback will result in a more pedestrian friendly design, better traffic flow and/or parking lot design.

c. Parking - The minimum number of parking spaces and the design of the parking lot shall be done in accordance with Chapter 19 of the Zoning Ordinance as amended

d. Landscaping - the site shall include a landscape buffer around the perimeter of the site. Landscaping shall be used to ensure that all intersections are free from obstructions and shall not cause traffic vision problems. The Waterfall Shoppes Review Board shall recommend the size of the buffer and the number and type of plantings in the buffer.

e. Lighting - shall meet Section 19.19 of the Zoning Ordinance as amended.

f. Pedestrian access - due to the location of these sites pedestrian access shall be evaluated by the The Waterfall Shoppes Review Board. The Board shall provide recommendations to the Planning Commission on the feasibility of providing pedestrian ways to phase 5.

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

(Amended by Ord No 9 Of 2006;9/27/06)

1. All Pylon and Monument signs for the site shall be limited to those signs shown on the approved Site Signage Plan dated September 21, 2006. The monument sign at the service drive and 33rd street shall be treated as a directional sign for placement purposes. The business in Phase 3 of the project shall not be permitted to use these signs. In exchange they will have their own signage as described below.

2. Wall Mounted signs for the Phase 1 building is limited to the signs as shown on the Costco Wholesale Elevation Plan dated 12/23/2003, as signed and approved by the Township.

3. Wall Mounted signs for Phases 2 and 3 shall be limited to the following:

a. One (1) wall sign or marquee per building, not to exceed one-hundred (100) square feet in total sign area, or;

b. Or, one (1) awning/canopy sign per building, not to exceed thirty-two (32) square feet in total sign area, or;

c. In the event the building has multiple commercial establishments, each commercial establishment's space will be permitted a sign area equal to one square foot for each lineal foot of building frontage (i.e., building frontage on the ground for the front of the building) that each respective commercial establishment occupies, not to exceed 100 sq.ft in total per commercial establishment and no sign shall have a length of more than two-thirds of the subject frontage.

d. Window signs and displays, provided permanent window sign(s) shall not cover more than twenty-five (25) percent of the total window surface and temporary window signs shall not cover more than fifteen (15) percent of the total window surface.

e. One (1) directory wall sign per commercial establishment, not to exceed twenty (20) square feet in total sign area.

3. Wall signs in Phase 4 and 5 - Due to the location of these phases the developer shall be permitted the same wall signage as Wall Signs in Phases 2 and 3. Furthermore, the developer may submit a signage package to the Waterfall Shoppes Review Board to offer alternatives to this section. The Waterfall Shoppes Review shall provide a recommendation to the Township Planning Commission on any deviations from the allowed wall signage. In considering any deviation, the Waterfall Shoppes Review Board shall consider the size of the individual sign, square footage of the total sign package, the location of the signs on the building, the impact the deviation may have any future or existing buildings in the project, the benefit to the community, and the purpose for permitting the deviation.

4. No pole signs or ground-mounted signs are permitted for Phase 2.

5. The monument signs in Phase 3 shall be limited to the following:

One (1) freestanding permanent sign per zone lot. Regardless of the number of businesses, commercial establishments, buildings or tenants per lot, only one (1) such sign shall be permitted per lot and such sign shall not exceed a total sign area of 24 square feet unless it is in compliance with the table below.

SETBACK (feet)	SIGN AREA (square feet)	HEIGHT (feet)
5	24	4
10	30	5
15	40	5.5
20	50	6
25+	60	7

Note: F OR SETBACKS DIFFERENT THAN THOSE LISTED ABOVE, SELECT THE SIGN AREA AND HEIGHT THAT CORRESPONDS TO THE NEXT LOWER SETBACK.

6. Also permitted throughout the entire site is a maximum of 6 directional signs up to a maximum of 6 sq.ft each. The location to be approved by the Planning Department prior to placement of each sign. At least one on these directional signs shall include information directing people to the access road for access to 33rd St. Furthermore, the developer may submit a signage package to the Waterfall Shoppes Review Board to offer alternatives to this section. The Waterfall Shoppes Review Board shall provide a recommendation to the Township Planning Commission on any deviations from the allowed directional signage. In considering any deviation, the Waterfall Shoppes Review Board shall consider the location of the signs on the site, the impact the deviation may have any future or existing buildings in the project, the benefit to the community, and the purpose for permitting the deviation.

7. The two existing non-conforming Signs located on the property must be removed before the start of phase two.

Section XI. 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 XII. Land Splits

The entire premises shall be under the control of one owner. Should the developer request smaller lots, permission to perform a Land Division must be granted by the Planning Department. The Planning Department will review the proposed land division under the criteria of the Land Division Act and the Cascade Charter Township Zoning Ordinance.

Section XIII. 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. No building permits will be issued for any construction within the Project until final approval of the public utility system is approved by the City of Grand Rapids and Cascade Township. This does not preclude the applicant from starting on Phase 1. However, no Occupancy permit will be granted for Phase 1 until the utilities are approved.

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 and Michigan Department of Environmental Quality regarding stormwater disposal and wetland 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 XV. Soil Erosion Control Requirements.

Prior to each phase of 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.

Section XVI. 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 XVII. Reimbursement of Review Fees.

The Developer shall re-imburse 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 XVIII. 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 a manufacturing building to a office complex is viewed as a more compatible use to adjacent residential and recreational land uses.

In relation to the underlying zoning (B2, General Business and I, Industrial) 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. All stormwater created by this development will be maintained on site.

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 Township finds the Project will not result in an unreasonable negative economic impact upon surrounding properties.

The Township finds the Project to have more wetlands, 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 some of the buildings may be sold to other parties.

Section XIX. 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 Timmons, supported by Board Member Goodyke. The roll call vote being as follows:

YEAS: Carpenter, Goodyke, Julien, Kleinheksel, Parrish, Timmons

NAYS: None

ABSENT: Jones

Marlene Kleinheksel
Cascade Charter Township Clerk