

CASCADE CHARTER TOWNSHIP

**Ordinance # 2 of 2005
Amended by Ord #7 of 2007
Amended by Ord #7 of 2017**

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

Cascade Charter Township Ordains:

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

The application received from Riebel Development, or assigns (hereinafter referred to as the "Developer"), for Planned Unit Development designation for the proposed Riebel Development project (herein after referred to as the "Project") was recommended by the Cascade Charter Township Planning Commission for approval on February 7, 2005. The Project is recommended for rezoning from the existing B-2 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 February 23, 2005.

Section II. Legal Description.

The legal description of the Project is as follows:

41-19-17-226-009

S 300 FT OF N 350 FT OF E 115 FT OF E 1/2 NE 1/4 * SEC 17 T6N R10W 0.79 A.

41-19-17-226-008

N 1000 FT OF E 250 FT OF E 1/2 NE 1/4 EX S 300 FT OF N 350 FT OF E 115 FT * SEC 17 T6N R10W 4.94 A.

41-19-17-226-004

E 1/2 OF FOL DESC - N 1000 FT OF E 1/2 E 1/2 NE 1/4 EX E 250 FT * SEC 17 T6N R10W 4.71 A.

41-19-17-226-003

W 1/2 OF FOL DESC - N 1000 FT OF E 1/2 E 1/2 NE 1/4 EX E 250 FT * SEC 17 T6N R10W 4.71 A.

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. Amended by Ord #7 of 2007; 11/7/2007; Ord #7 of 2017

The Project occupies approximately 14.5 acres of land, that formally was is the site of a legal non-conforming industrial operation as well as an existing Pizza Hut restaurant. These existing uses currently occupy a total of 4 buildings on the 14.5 acres. The Project is comprised of two separate areas: “Area A” and “Area B” which may be developed by separate Developers. Area A is located upon land currently comprised of Units 2, 3 and 4 in the Cascade Market Place Condominium (the “Condominium”) identified in the Master Deed of Cascade Market Place recorded June 14, 2005 as Instrument No. 20050614-0069327 and amended by Amendment No. 1 to Master Deed of Cascade Market Place recorded January 2, 2007 as Instrument No. 20070102-0000046 (together, the “Master Deed”), and is proposed to be developed into a mix of different uses involving general retail, restaurant, offices, and a bank. Area B is approximately 9.968 acres in size, located upon land currently comprised of Unit 1 of the Condominium identified in the Master Deed, and is proposed to be developed into a single story 61 unit multi-family residential apartment development. 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 for the Project.

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. Amended by Ord #7 of 2007; Ord #7 of 2017
 For land and buildings, the permitted uses for the Riebel PUD are as follows:

- A. Retail Uses;
- B. Offices/Fitness
- C. One stand alone bank identified as building F.
- D. Restaurants, not to include fast food¹. The non fast food restaurant use is limited to a total of 19,588 sq.ft. This includes the stand-alone restaurants identified as buildings E and G on the approved PUD site plan as well as 11,168 sq.ft of non fast food restaurant within the rest of the development. The 11,168 sq ft should be based on seating capacity of the restaurant.
- E. Drive up window service for the restaurants shall be limited to Buildings E and G. A drive up window may also be included as a part of Building 1D . This use will be reviewed through the Special Land Use procedures of the Township. The use will only be permitted provided that the applicant can demonstrate, to the Township's satisfaction, that the user of the drive up window will be low impact user that will not result in creating any traffic problems with the rest of the development. The Drive up window and any of its infrastructure shall only be constructed after the approval of the Special Use.

For land and buildings, the permitted uses for the Riebel PUD within Area B are as follows:

- F. 61 unit apartment complex with one manager residence

Section VII. Master Development Plan. Amended by Ord #7 of 2007; Ord #7 of 2017

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 November 7, 2007. The intent of the Developers is to develop the Project as 3 buildings within Area A and a 61 unit apartment project within Area B. Each building and its associated parking, landscaping, etc., will be required to submit site plans prior to any site work for each building, or site improvement, provided, however, that the Developer of Area B may submit one site plan for all buildings within Area B. 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 building or site improvement.

All buildings or site improvements 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 building or site improvement shall be considered complete with the issuance of the required occupancy permit granted by the Township. Buildings or site improvements may be constructed concurrently with the approval of the planning commission.

Section VIII. Specific Development Regulations. Amended by Ord #7 of 2007; #7 of 2017

- A. 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.
- B. 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 Township Planning Commission.
- C. Elevation Plan – The elevations for the commercial buildings shall be consistent with the elevation plan dated 10/14/07 within Area A and with the elevation plan dated 7/27/17 within Area B. This will be ensured at the time of site plan approval for each building.
- D. Minimum Parking Requirements – Parking for each of the individual uses shall comply with the requirements of the Cascade Charter Township Zoning Ordinance. Shared parking shall be allowed between all portions of the Project within Area A. Shared parking shall be allowed between all portions of the Project within Area B. There shall be no shared parking permitted between Area A and Area B of the Project.

E. Cross Access

- i. The Developer of Area A shall be responsible to provide and record

irrevocable cross access easements for this Project within Area A. Cross access shall be provided in two locations on the Project within and adjacent to Area A, including common area of the Condominium Project, sufficient to allow the Project within Area B to obtain access to 28th Street. These cross access easement areas must be constructed so they can easily be connected to the adjoining properties (i.e. grade and location). They must also be constructed and must be open and ready for any possible connection before a building permit is issued for the third building in the Project within Area A.

- ii. On the west side of the Project within Area A, the Riebel PUD Project shall allow for an irrevocable cross access to the Cascade Centre parcel (PPN 41-19-8-17-226- 002, 6250 - 28th Street) as shown on the approved site plan.
- iii. On the east side of the Project within Area A, the Riebel PUD Project shall allow for an irrevocable cross access to (PPN 41-19-8-16-101-014, 2845 Thornhills) as shown on the approved site plan.
- iv. Once the irrevocable 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 any portion of the Riebel PUD Project. 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 approval.

F. Sidewalks

The Developer of Area A shall be responsible to design and construct a 7-foot wide, concrete sidewalk along the entire 28th Street frontage of the PUD property. The plans shall be reviewed and approved by the Township engineer prior to commencing any construction. The sidewalk along 28th St. shall be constructed prior to the issuance of the third building permit in the Project within Area A. The location of the sidewalk along 28th St. must be placed so it can easily be extended both east and west of Area A. The sidewalks within Area B shall be as shown on the approved site plan dated 4/17/17.

The interior network of sidewalks will be constructed along with each building. The sidewalks serving an apartment building within Area B must be completed before such apartment building is issued an occupancy permit. The entire interior network of sidewalks within Area B must be completed before the last apartment building within Area B is issued an occupancy permit.

G. 28th Street Access

Limit the number of drives to the site to a total of two. These drives to be reconstructed to meet the KCRC requirements as well as providing a deceleration lane that meets the KCRC standards for both drive entrances.

Section IX. Design Guidelines, Requirements and Limitations.

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.

1. Building A, B, C and D

This portion of the project shall be developed as follows:

- a. Maximum Building Height – 18.5 feet.
- b. Setbacks – No part of the buildings may extend closer to any lot line than shown on the approved and signed site plan dated 4/17/17.
- c. Parking – Each dwelling unit may have a 2-car enclosed garage. There may be a total of 10 guest parking spaces and 2 ADA parking spaces for the leasing office.
- d. Maximum number of dwelling units – 61; Leasing office -1.
- e. Setback Requirements – No part of the building shall extend closer to any lot line than shown on the approved and signed site plan.
- f. 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 per section VIII.F of this ordinance.

2. Building E (Proposed Culvers Restaurant)

- a. Maximum Building Height – 35 feet.
- b. Setbacks – No part of the building shall extend closer to any lot line than shown on the approved and signed site plan
- c. Parking – The total amount of parking for building E shall be a maximum of 68 parking spaces.
- d. Lighting – shall meet Section 19.19 of the Zoning Ordinance as amended.
- 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 per section VIII.F of this ordinance.
- f. No access directly to 28th Street shall be permitted for the site.

3. Building F (Proposed Bank)

- a. Maximum Building Height – 35 feet.
- b. Setbacks – No part of the building shall extend closer to any lot line than shown on the approved and signed site plan
- c. Parking – The total amount of parking for building F shall be a maximum of 23 parking spaces.
- d. Lighting – shall meet Section 19.19 of the Zoning Ordinance as amended..
- 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 per section VIII.F of this ordinance.
- f. No access directly to 28th Street shall be permitted for the site.

4. Building G (Proposed Pizza Hut)

- a. Maximum Building Height – 35 feet.

- b. Setbacks – No part of the building shall extend closer to any lot line than shown on the approved and signed site plan
- c. Parking – The total amount of parking for building G shall be a maximum of 49 parking spaces.
- d. Lighting – shall meet Section 19.19 of the Zoning Ordinance as amended..
- 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 per section VIII.F of this ordinance.
- f. No access directly to 28th Street shall be permitted for the site.

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

Amended by Ord #7 of 2007; #7 of 2017

- 1. One Pylon sign along 28th Street limited to the following:
 - a) This sign shall be limited to 25 feet tall. Measured from the grade to the top of the tallest part of the sign structure
 - b) Setback from the 28th Street right-of-way a minimum of 25 feet
 - c) Sign area shall be no larger than 120 sq.ft. in sign area.
 - d) One directional sign up to 10 sq ft may be used provided that the main sign is reduced by 10 sq ft.

- 2. Pizza Hut, Culvers and Macatawa 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 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. In exchange for not placing a second pylon sign out by 28th St the three buildings closest to 28th St also identified as buildings E, F and G. Shall be permitted one ground sign limited to the following:
 - a) Setback at least 80 feet from the 28th St right-of-way
 - b) No taller than 5 feet high, measured from the grade to the top of the tallest part of the sign structure.
 - c) Sign area limited to a maximum of 40 sq.ft.

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. Amended by Ord #7 of 2007

- 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.
- B. Stormwater Drainage - All proposed stormwater drainage facilities shall be reviewed and approved by the Township Engineer. The Developer shall provide the Township Planning Department with copies of all correspondence and permits received regarding any stormwater disposal and/or wetland issues. Due to the design of the detention basin the developer shall be responsible to place guardrail along the entire perimeter of the basin.
- 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. The Township shall provide an itemized breakdown of the fees if requested by the applicant.

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 mixed use general business complex is viewed as a more compatible use to adjacent land uses.

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. 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.

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

YEAS: Currier, Parrish, Goodyke, Julien, Carpenter, Koessel, Beahan

NAYS: None

ABSENT: None

Ron Goodyke
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 23rd day of February, 2005.

Ron Goodyke
Cascade Charter Township Clerk