

## PUD Ordinance - Sturbridge Valley #4 of 2007

### CASCADE CHARTER TOWNSHIP

Ordinance # 4 of 2007

AN ORDINANCE TO AMEND THE CASCADE CHARTER TOWNSHIP ZONING ORDINANCE AND ZONING MAP TO ESTABLISH THE STURBRIDGE VALLEY 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 John L Koetje (hereinafter referred to as the "Developer") for Planned Unit Development designation for the proposed Sturbridge Valley Planned Unit Development Project (hereinafter referred to as the "Project") was recommended by the Cascade Charter Township Planning Commission for approval at the March 5th, 2007 Planning Commission meeting. The Project is recommended for rezoning from ARC, Agricultural Rural Conservation to P.U.D., 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 11th day of July, 2007.

#### Section II. Legal Description.

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

PART OF N 1/2 N 1/2 SW 1/4 COM AT W 1/4 COR TH S 88D 29M 00S E ALONG E&W 1/4 LINE 1144.14 FT TH S 0D 17M 00S W PAR WITH N&S 1/4 LINE 349.39 FT TH S 88D 42M 00S E 110.99 FT PAR WITH S LINE OF N 1/2 N 1/2 SW 1/4 TH S 0D 18M 00S W PAR WITH W SEC LINE 91.67 FT TO N LINE OF S 220.0 FT OF N 1/2 N 1/2 SW 1/4 TH N 88D 42M 00S W ALONG SD N LINE 792.0 FT TH N 0D 18M 00S E 33.0 FT TH N 88D 42M 00S W 103.50 FT TH SWLY 100.95 FT ALONG A 161.62 FT RAD CURVE TO LT /LONG CHORD BEARS S 73D 24M 24S W 99.31 FT/ TH NWLY 164.93 FT ALONG A 105.0 FT RAD CURVE TO RT /LONG CHORD BEARS N 79D 29M 09S W 148.49 FT/ TH N 34D 29M 09S W 90.61 FT TH NWLY 83.02 FT ALONG A 116.59 FT RAD CURVE TO LT /LONG CHORD BEARS N 54D 53M 12S W 81.28 FT/ TO W SEC LINE TH N 0D 18M 00S E ALONG W SEC LINE 300.35 FT TO BEG \* SEC 11 T6N R10W 11.50 A.

N 1/2 N 1/2 SW 1/4 EX COM AT W 1/4 COR TH S 88D 29M 00S E ALONG E&W 1/4 LINE 1144.14 FT TH S 0D 17M 00S W PAR WITH N&S 1/4 LINE 349.39 FT TH S 88D 42M 00S E 110.99 FT PAR WITH S LINE OF N 1/2 N 1/2 SW 1/4 TH S 0D 18M 00S W PAR WITH W SEC LINE 311.67 FT TO S LINE OF N 1/2 N 1/2 SW 1/4 TH N 88D 42M 00S W ALONG SD S LINE 1255.0 FT TO W SEC LINE TH N 0D 18M 00S E ALONG W SEC LINE 665.25 FT TO BEG \* SEC 11 T6N R10W 22.02 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).

#### Section IV. Purpose.

The Project occupies approximately 33 acres of land in the Township. The Project will be a site condominium development containing 13 single-family site condominium units. 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 by 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, which includes, but is not limited to, all Co Owners and the property owners association. 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. A copy of this document as recorded shall be supplied by the Developer to the Cascade Charter Township Clerk before any construction occurs on site.

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. This PUD Ordinance shall not be effective until and unless the Developer has executed and signed a copy of this Ordinance at the end of the document (in the specified place) and has returned the signed copy to the Township.

#### 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 Sturbridge Valley 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 thirteen (13) units.

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

C. Landscaping around the front of the project to protect the existing home at 2300 Buttrick Ave shall be consistent with the approved site plan dated 7/12/07. Before the landscaping is installed the owner of 2300 Buttrick Ave., the developer and Township shall meet to determine the exact location of the landscaping.

D. The Developer has agreed to provide a permanent nonexclusive easement across the property comprising the Project which will connect Sturbridge Valley with the adjoining property owned by the Forest Hills Public Schools. Such easement shall be generally located as shown on the site plan dated 6/13/07. The Developer shall execute and record the easement document/agreement creating such easement (which document and its language shall be approved by the Township) and such document shall be executed and recorded with the Kent County Register of Deeds (and proof of the recording of the same returned by the Developer to the Township) prior to any building permits being issued for any building or construction work within the Project. The easement shall be 10 feet wide and shall run between units 5 and 6 from Ashwood Dr (PVT) to the property North property line.

#### E. Setback Requirements

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

1. Front Yard Setback: 35 feet
2. Side Yard Setback: minimum of 10 feet with both sides totaling at least 25 feet
3. Rear Yard Setback: 25 feet.

#### F. Minimum Floor Area

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

1. One Story & Bi-Level - 2,000 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 - 2,800 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

#### Section IX. Private Street Development.

A. The Developer shall submit to the Township a street construction, maintenance, and pavement plan consistent with Section 16.11(4)(f) of the Zoning Ordinance. The Developer may establish private streets to serve the Project provided the roads are constructed in accordance with the "Cascade Charter Township Engineering Design Requirements and Standards for Private Streets" and the following specifications:

1. The road grades shall not exceed a six percent (6%) grade. All grades shall be sufficient to allow safe ingress/egress of emergency vehicles.
2. The private streets shall be posted with signs stating the street names. These signs shall be consistent with Kent County Road Commission standards and requirements and shall be installed at the Developer's cost.
3. Any private street shall intersect any public road at a 90 degree angle.
4. Copies of any permits required by the Kent County Road Commission to connect the private street to any public road shall be provided to the Township Planning Department by the Developer.

B. In accordance with Section G of the "Cascade Charter Township Engineering Design Requirements and Standards for Private Streets," the Developer of the Project shall provide a disclosure statement on all property deeds to all owners of the private street, all those who utilize the private street and all persons securing a building permit to construct a building or structure served by the private street, stating that by applying for and securing a building permit for construction of a building or structure that utilizes the private street, all such persons shall use the private street at their own risk and the Township (and its employees, officials, and agents) shall not be responsible for any aspect of the private street.

C. In accordance with Section I of the "Cascade Charter Township Engineering Design Requirements and Standards for Private Streets," it shall be the responsibility of the Developer and its successors or the individual property owners to fully maintain and keep the private streets in good repair at all times and to ensure that snow and ice is removed in a timely fashion during the winter.

D. No building may be erected within 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, including, but not limited to, any trailer, tent or construction shack shall be constructed, placed or maintained within the Project except lawfully accessory to and during construction of any building or infrastructure improvement.

#### Section XI. Utilities.

A. Water and Septic - The individual units in the Project will be served by Public Water and initially by individual private septic systems. Such systems shall be designed, installed, and maintained pursuant to all applicable requirements of the City of Grand Rapids, the Kent County Health Department and the state of Michigan.

B. Due to the location of the Project inside the utility boundary system and the close proximity of the Project to the existing public sewer at Buttrick Avenue, the Developer has agreed to participate in a special assessment district in order to extend public sewer along the frontage of the Project and into the Project when and if public sewer is determined by the Township Board (at its sole and absolute discretion) to be reasonably necessary for the Project. In such event, the Developer, all of the Co Owners, and the property owners association for the development shall be deemed to have consented to the establishment of such a special assessment district.

Prior to any building permit being issued for any building or structure within the Project, the Developer and the Township shall enter into a written agreement to provide for such eventual extension of the public sewer to and within the development constituting the Project, the consented-to special assessment district, and similar matters. Such agreement shall be in recordable form and when executed, shall be recorded with the Kent County Register of Deeds records. Such agreement shall bind not only the Developer and the Township, but also the Developer's successors, assigns, creditors, and assignees, as well as all Co Owners within the Project and the property owners association.

### C. Stormwater Drainage -

In lieu of requiring that an Act 433 agreement or a drainage district be established with the Kent County Drain Commissioner, Cascade Charter Township has agreed to approve the site plan for the Project so long as the Project (and any and all portions thereof) always complies with the Cascade Charter Township Stormwater Ordinance (as that ordinance may be amended from time to time, as well as any successor ordinance or ordinances). Accordingly, the property owner's association (the "Association") and all landowners within the Project ("Co Owners") are required to ensure the proper installation and permanent maintenance of any and all storm drainage and water retention systems, pipes, ponds, and facilities for the Project (collectively, the "Facilities") shown on the approved site plan or as otherwise required by the Cascade Charter Township Stormwater Ordinance (as that ordinance may be amended from time to time, as well as any successor ordinance or ordinances, all of which shall collectively be referred to hereinafter as the "Stormwater Ordinance"). Such requirements and obligations of the Association and Co-Owners include, but are not necessarily limited to, the following:

1. Maintenance and repair regarding the following items shall be done on a regular basis and in such fashion as to ensure that all components of the Facilities function properly at all times:

- (a) Sediment removal;
- (b) Erosion control;
- (c) Ensuring constant structural integrity of the physical systems; and
- (d) Designate access to the facilities.

2. The Township (including its designated officials, officers, agents, and contractors) shall have the right to physically inspect all aspects of the Facilities at all reasonable times, or any other times if, in the opinion of the Township, there is a threat to the public health, safety, or welfare.

3. Buildings, structures, landscaping, trees, or similar items shall not be installed, planted, or placed over any portion of the Facilities without prior written Township approval.

4. The Association and Co-Owners shall supply the Township with a permanent recordable easement (in a form acceptable to the Township) regarding the following after installation and within 60 days of the date requested by the Township for the following:

- (a) Storm sewer pipes;
- (b) Basins;
- (c) Spillways;
- (d) Waterways; and
- (e) Designated access routes

5. The Township shall be supplied with an engineer's "as-built" certification to certify that the Facilities as

constructed and installed matches the approved design. The Township shall also be supplied with a reduced copy of the approved site plan graphically showing the Facilities, together with any and all easements therefore.

6. The Township shall be supplied with a permanent easement or irrevocable license allowing the Township (as well as its designated officials, officers, agents, and contractors) to have access between the public road right-of-way to any and all portions of the Facilities.

7. Should the Facilities not be properly installed, maintained, and/or repaired, in compliance with all of the requirements of this Section XII.B, the approved site plan, and the Stormwater Ordinance (whether due to the fault or neglect of the developer, the Association, and/or the Co-Owners), and any such noncompliance or deficiency shall not have been fully remedied within 30 days of the date when the Township has given the Association written notice of any such noncompliance or deficiencies, the Township, at its sole option and discretion, shall have the right and authority to perform any and all installations, repairs, and/or maintenance which is reasonably required and charge back the costs thereof to the Association and Co-Owners (together with reasonable administrative costs and legal fees. Should any challenge occur regarding the Township's actions, the following shall be applicable:

(a) Establishment of a Special Assessment District. The Township may establish a special assessment district for the Project to pay for or reimburse the Township for any and all such costs (as well as to ensure future required repairs and maintenance) pursuant to whichever state statute the Township desires to utilize. In such event, all of the Co-Owners and the Association shall be deemed to have consented to the establishment of such a special assessment district.

(b) Proceeding to Collect Pursuant to the Master Deed and Condominium Documents. Alternately, the Township shall also have the authority to collect or seek reimbursement for any and all such costs from the Association and Co-Owners as if such obligations of the Association and Co-Owners were in the form of a permanent deed restriction or covenant on the Project. Should the Township pursue this remedy, the Township would have any and all rights attributable to the Association when collecting dues or assessments from Co-Owners. Additionally, such costs shall be a lien on each of the Units, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six (6) months or more may be certified annually to the Township Treasurer, who shall enter the lien on the next tax roll against the applicable Unit, and the costs shall be collected in the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll in the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the Township shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

The above alternate remedies (being (a) and (b)) shall be deemed to be in addition to any and all other remedies provided for elsewhere in the Master Deed or condominium documents or at law or equity. The Township shall have the sole authority and discretion to determine whether or not to proceed pursuant to (a) or (b), above.

D. Before construction commences, the Developer shall provide to the Township (and any other applicable governmental units and utilities) all necessary permanent easements within the Project for telephone, telecommunications, electricity, gas and cable television to the appropriate utility provider without cost. Said easements shall be recorded with the Kent County Register of Deeds and provided to each utility provider for their records.

#### Section XII. Soil Erosion Control Requirements.

The Developer shall submit a soil erosion control plan showing all temporary and permanent soil erosion control measures to be taken before, during, and after construction on the Project. This plan shall be reviewed and approved by the Township Engineer prior to commencing any excavation on the site. Developer shall comply with any and all licenses, approvals, or permits issued regarding soil erosion control requirements and measures.

#### Section XIII. Performance Guarantee.

To ensure compliance with this Ordinance, the Cascade Township Zoning Ordinance, and any conditions and requirements 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. 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 XV. 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 also be reviewed and approved by the Township Attorney before recording to ensure consistency with this Ordinance.

#### Section XVI. 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 XVII. Effective Date.

This Ordinance shall become effective thirty (30) days after publication of the ordinance, or a summary thereof, in The Grand Rapids Press, a newspaper of general circulation within Cascade Charter Township, but this Ordinance shall become effective only if the Developer signs and dates a copy of this document on the last page and returns such copy of this document signed and dated to the Township within such thirty (30) day time period after publication in the newspaper.

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

YEAS: Carpenter, Koessel, Julien, Goodyke, Goldberg, Beahan  
NAYS: None  
ABSENT: Fox

Ronald 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 11th day of July, 2007.

Ronald Goodyke  
Cascade Charter Township Clerk

I, John L. Koetje, have fully read the above PUD ordinance/ordinance amendment, understand its provisions, and fully agree with all requirements and conditions contained in the same, on behalf of myself (as well as all Co-Owners and the property owners association) and my assigns, successors, and transferees in and to the Project and the property involved.

Dated: \_\_\_\_\_, 2007

John L. Koetje