

PUD Ordinance - Tall Pines #16 of 1994

CASCADE CHARTER TOWNSHIP

Ordinance 16 of 1994

AN ORDINANCE TO AMEND THE CASCADE CHARTER TOWNSHIP ZONING ORDINANCE AND ZONING MAP TO ESTABLISH THE TALL PINES SITE CONDOMINIUM PLANNED UNIT DEVELOPMENT PROJECT.

Cascade Charter Township Ordains:

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

The application received from William D. Shurlow and Wanda A. Shurlow or their assigns (hereinafter referred to as the "Developer"), for Planned Unit Development designation for the proposed Tall Pines Project (hereinafter referred to as the "Project") was recommended by the Cascade Charter Township Planning Commission for approval on July 5, 1994. The Project is recommended for rezoning from ARC, Agricultural Rural Conservation and R-1, Residential to PUD, Planned Unit Development 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 recommendation and the Cascade Charter Township Board of Trustees' action on July 27, 1994.

Section II. Legal Description

The legal description of the Project is as follows:

That part of the SW fractional $\frac{1}{4}$, Section 6, and that part of the NW fractional $\frac{1}{4}$, Section 7, T6N, R10W, Cascade Township, Kent County, Michigan, described as: BEGINNING at a point on the East line of said NW fractional $\frac{1}{4}$, which is S01 degrees 55'00"E 481.80 feet from the N $\frac{1}{4}$ corner of Section 7; thence S 01 degrees 55'00"E 194.92 feet along said east line; thence S 88 degrees 27'35"W 2607.82 feet along the South line of the N $\frac{1}{2}$, N $\frac{1}{2}$, NW fractional $\frac{1}{4}$, Section 7; thence N02 degrees 35'42" W 601.40 feet along the West line of said NW $\frac{1}{4}$, Section 7; thence N 02 degrees 51'18"W 83.22 feet along said West line to the NW corner of Section 7; thence N 02 degrees 51'18"W along the West line of Section 6, 580 feet more or less to the centerline of the Martin Beak Drain; thence N 85 degrees 14'14"E 321.13 feet; thence N 57 degrees 48'10"E 469.25 feet; thence N 12 degrees 15'12"W 492.38 feet (the last three calls being approximately along the centerline of Martin Beak Drain); thence N 88 degrees 38'32"E 1077.88 feet along the North line of the S $\frac{1}{2}$, SW fractional $\frac{1}{4}$, Section 6; thence S 01 degrees 27'49"E 1322.59 feet along the Westerly line of Abbeydale Estates; thence S 01 degrees 55'00"E 270.20 feet along said Westerly line; thence N 88 degrees 01'39"E 250.00 feet; thence S 01 degrees 55'00"E 145.00 feet along the Westerly line of proposed Abbeydale Estates No. 2; thence S 88 degrees 01'39"W 274.86 feet; thence S 09 degrees 33'09"W 201.84 feet; thence N 88 degrees 01'39"E 315.00 feet; thence S 01 degrees 55'00"E 4.85 feet; thence N 88 degrees 01'39"E 551.88 feet along the Southerly line of proposed Abbeydale estates No. 2; thence N 40 degrees 47'00"E 175.30 feet along said Southerly line to the place of beginning. Subject to highway R.O.W. for Spaulding Avenue and subject to easements of record. This parcel contains 69.92 Acres including highway R.O.W.

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 69.92 acres of land that is generally vacant and heavily wooded. The project is proposed to be developed into a site condominium development containing 47 building sites. The site condominium technique has been chosen by the Developer and the eventual owners of each condominium unite to provide more control over the Project's aesthetics and appearance. This development technique provides the Developer with the ability to develop the Premises in a manner to meet market expectations where more traditional mechanisms such as creating land subdivision plats do not.

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 this development with adjacent land uses.

Section V. Approval Limitations

A. The provisions of this Ordinance are not intended as a substitute for the Cascade Charter Township Zoning Ordinance and the General Development Plan, nor do they in any way relieve the Developer from obtaining all approvals and permits required by the township, except as otherwise expressly provided herein. In the event that a development issue or site plan element is not addressed by this Ordinance, the specifications and requirements of the Cascade Charter Township Zoning Ordinance shall be enforced.

B. Except as otherwise provided herein, the Developer and his assigns must meet all applicable provisions and regulations of Cascade Charter Township, as well as federal and state law, and must obtain all necessary approvals from state and county governmental agencies that are required for operation or use.

C. This PUD approval is expressly contingent upon all conditions of approval herein remaining fully effective and valid. If any condition imposed herein is determined to be illegal or contrary to law as a result of a successful legal challenge by the developer or its assigns, or any other party, the Township reserves the right to review the entire project under the PUD provisions of the Cascade Charter Township Zoning Ordinance, and further, to withdraw its approval of this PUD if it finds that, absent the effect of any condition imposed herein, the PUD no longer meets the standards for PUD approval contained in the Zoning Ordinance.

D. All conditions contained herein shall be binding upon the Developer, as well as its successors, tenants and assigns. The conditions may be modified or amended only pursuant to a formal amendment of the PUD approval and ordinance amendment.

E. This approval document shall be recorded with the Kent County Register of Deeds by the Developer prior to construction occurring on site and shall run with and bind the lands involved. Copies of this recorded document shall be supplied by the Developer to the Cascade Charter Township Clerk.

F. Failure to comply with the site plan or any condition of approval herein shall be deemed a violation of the Cascade Charter Township Zoning Ordinance.

Section VI. Recognition of Adjoining Properties Right to Farm

The Developer of the Premises hereby recognizes that there are adjoining properties which are currently used and / or zoned for agricultural purposes. The Developer by receiving this rezoning recognizes the

rights of these property owners to continue their agricultural activities without interference or legal action so long as they continue to operate using accepted agricultural standards and practices recognized by State law. The Developer also agrees to inform each initial individual purchaser of a site condominium building unit of the adjoining property owners' right to farm by means of legal documentation contained within each site condominium unit property deed.

Section VII. 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 with the documents labeled and attached in the following manner:

"Exhibit A – Bylaws"

"Exhibit B – Master Deed"

B. The Premises shall be developed in accordance with the site plan approved and signed by the Township. The site plan shall indicate where each condominium unit will be located and 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 Premises 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 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 Premises upon review and 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 insure compliance with the Cascade Charter Township Zoning Ordinance and this PUD Ordinance. 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.

D. The Premises shall be limited to forty-seven (47) building sites for single family detached condominium units. The number of building sites within the Premises shall not be increased by the Township Board.

E. Building sites (lots) 4, 5 and 6 shall be restricted from new home construction until one (1) year after the construction and operation of the Premises' storm water distribution system. The storm water distribution system shall comply with requirements set forth in Section XIII.B (page 7) of this Ordinance.

Section VIII. Permitted Uses.

The permitted uses for the Tall Pines PUD are as follows:

Single Family Residences.

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 may be amended.

Signs. Provided all signs for the Premises shall conform with Section 6.02 of the Cascade Charter Township Sign Ordinance (Ordinance 12 of 1988, as amended).

Section IX. Design Guidelines, Requirements and Limitations.

The layout of the Project shall be developed in accordance with the site plan approved by the Township. No alterations, expansions or additions may take place to the Project without an amendment to this Ordinance, unless authorized otherwise herein.

Maximum Number of Residential Units – The maximum number of single family detached site condominium units within the Premises shall be limited to forty-seven (47) units.

Maximum Building or Structure Height – 35 feet or 2-1/2 stories whichever is the lesser.

Setback Requirements – All buildings and structures (except signs) shall meet the following minimum setback requirements:

1. Front Yard Setback: 40 feet from the front yard area line.

Front Yard Averaging – Where the average front yard setback of two (2) or more condominium units within two-hundred (200) feet of the site in question and on the same side of the street is greater than the minimum front yard setback prescribed above, then the required front yard setback of each unit shall not be less than the average existing front yard setback of such condominium units.

2. Side Yard Setback: 10 feet minimum from the side yard area line for one and 25 feet minimum with both sides combined.

3. Rear Yard Setback: 30 feet from the rear yard area line.

Minimum Floor Area – Each site condominium unit shall contain a minimum of 2,400 square feet of finished livable area above grade level, exclusive of the garage, decks, porches and breezeways.

Minimum Parking Requirements – Each site condominium dwelling unit shall have a minimum of two (2) enclosed off-street parking spaces.

Section X. Required Landscape Bufferyard

The Premises shall be required to maintain a 30 foot wide landscape bufferyard along the south 30 feet of Tall Pines Unit 4 through Unit 11. This landscape bufferyard shall be left in its natural state in perpetuity and shall be free of all buildings or structures. Unless specified herein, there shall be no trees removed within this landscape bufferyard.

Trees which have fallen, have died, are diseased, or have been determined to be a hazard to buildings, structures or human life may be removed upon the Township Planning Department receiving written notice of the proposed removal from the site condominium unit owner.

Any tree that has been removed as a result of the aforementioned conditions, shall be replaced with a new and healthy tree within one growing season after the removal of the previous tree. The new tree shall meet the size requirements contained in Section 20.05(1) of the Zoning Ordinance.

Noxious weeds, as defined by State law (MCL 247.62, et. seq.), may be removed at the will of the site condominium unit owner.

Section XI. Private Street Development

The Developer shall submit a street construction, maintenance and pavement plan consistent with Section 16.11 (4) (f) of the Zoning Ordinance. The Developer may establish a private road to serve the Premises provided the road is built to the following specifications:

1. The road grades shall not exceed more than a 7 percent grade, unless approved otherwise by the Township Engineer and Fire Department. All grades shall be sufficient to allow safe ingress / egress of emergency vehicles.
2. The minimum acceptable curve radii for any cul-de-sac shall be 40 feet (paved).
3. The private road shall have a minimum paved road width of 18 feet and shall be sufficiently drained to prevent stormwater runoff from causing soil erosion or trespass onto adjoining property.
4. The private road shall be posted with a street sign stating the street name. This sign shall be consistent with Kent County Road Commission standards and requirements and shall be installed at the Developer's cost.
5. A clear vision triangle shall be established by the Developer to insure safe turning movements to and from the Premises onto Spaulding Avenue. This "clear vision triangle" shall be developed to the specifications established by the Kent County Road Commission.
6. Complete maintenance of the private road shall be the responsibility of the condominium association.
7. Any private road shall intersect any public road at a 90 degree angle.
8. Copies of any permits required by the Kent County Road Commission to connect private road to any public road shall be provided to the Township Planning Department by the Developer.

No combustible building materials may be erected on the Premises 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 XII. 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 building expansions or infrastructure improvement.

Section XIII. Utilities.

Municipal Sewer and Water Service – All site condominium dwelling units shall be connected and served by municipal sewer and water prior to occupancy.

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 Premises. 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 Natural Resources regarding stormwater disposal.

The Developer shall provide all necessary easements within the Premises 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 XIV. 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 Premises. This plan shall be reviewed and approved by the Township Engineer prior to commencing any building on the site.

Section XV. 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 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 which offers a low density land use pattern.

In relation to the underlying zoning (ARC, Agricultural Rural Conservation and R1, Residential), 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. Sewer and water service are readily available to the Project. The Project is not anticipated to cause undo

impact to the stormwater drainage of the surrounding area. All Stormwater 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 General Development 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 "Low Density Residential" use, which is consistent with the Cascade Township General Development Plan and the Cascade Road – Spaulding Avenue Corridor Study.

The Township finds the Project will not result in an unreasonable negative economic impact upon surrounding properties. The development recognizes that some adjacent properties remain under agricultural use and agree that these uses are appropriate and essential to the well being of the township.

The Township finds the Project to have at least as much green and usable open space as would be required by the Township Zoning Ordinance. Due to the large site condominium unit sizes, the amount of open space is arguably more in this type of development than a more typical subdivision plat.

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 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 Hansen, supported by Board Member Carpenter. The roll call vote being as follows:

YEAS: Carpenter, Hansen, Julien and VanStrien

NAYS: Henning and Johnson

ABSTAIN: None

ABSENT: None

Brenda J. Henning

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 27th day of July, 1994.

Brenda J. Henning

Cascade Charter Township Clerk