

**ORDINANCE NO: 2007-21**

**AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO ESTABLISH A PLANNED UNIT DEVELOPMENT (PUD) TO BE KNOWN AS "PUD 4" ON PROPERTY DESCRIBED AS TAX MAP 50A, GROUP R, PARCEL 1.0, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 4; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING LISTS OF PERMITTED USES AND PROHIBITED USES; ESTABLISHING A DEVELOPMENT PLAN AND PROCESS AND RELATED REQUIREMENTS; ESTABLISHING VARIOUS DEVELOPMENT STANDARDS; STATING RESPONSIBILITY FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; REQUIRING A PUD DEVELOPMENT ORDER; PROVIDING FOR TIME LIMITS AND POSSIBLE REVERSION TO THE FORMER ZONING CLASSIFICATION; PROVIDING FOR ERRORS AND OMISSIONS AND POSSIBLE FUTURE REVISIONS TO THE PUD; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE**

**WHEREAS** the City of Cleveland, Tennessee, hereinafter "City", desires orderly land development in furtherance of the public welfare and has adopted the Planned Unit Development, hereinafter "PUD", process as an alternative development standard whereby to accomplish such development; and whereas it is intended that the developers of the property described herein Spring Brook Community Developers, Inc., hereinafter "Developers", would enter into an agreement with City to be encompassed in a PUD development plan and development order for Developers to construct or cause to be constructed a planned development of residential and non-residential uses; and whereas City desires to establish a unique zoning district with special use restrictions and development standards for the property described herein through the adoption of this PUD, NOW THEREFORE BE IT ORDAINED:

**Section 1. ZONING PLAN AND MAP AMENDMENT.**

The zoning plan and map are hereby amended so as to zone the property described in Section 2 herein as "PUD4" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD4 zoning district are those uses outlined in this ordinance. The location of particular residential and non-residential uses within the PUD4 Spring Creek development will comport with the descriptions of the constituent parts of the development (Spring Creek Town Center, Spring Creek Business Park, Spring Creek Commons, and Spring Creek Highlands) as more particularly described herein and in the Development Plan (Exhibit A). There are no conditional uses within the PUD4 district. The development standards for the PUD4 district are those outlined in this ordinance, including requirements for plan approval, the development order, and compliance with applicable permitting requirements.

## **Section 2. VIOLATIONS UNLAWFUL AND SUBJECT TO PENALTIES.**

Any development or use of the property described herein in manner contrary to the terms of this ordinance is a zoning violation and is unlawful, subject to the penalties prescribed by the Cleveland Municipal Code and the laws of Tennessee.

## **Section 3. PROPERTY DESCRIPTION.**

### **3.A. OVERALL**

PUD 4, Spring Creek, includes property generally identified as Tax Map 50B, Group A, Parcels 1.0, 1.1, and part of 13.1. PUD4 encompasses, in four distinct development areas shown in the Development Plan's Master Site Plan (Exhibit A) and individually described below. The overall Spring Creek Community, i.e. the entire PUD4, has boundaries as described in the following legal description from Cleveland Surveying:

Legal Description  
Spring Creek Community  
Tax Map 50-A, Group "R", Parcel 1.00

ALL THAT TRACT OR PARCEL OF LAND lying and being in the 4<sup>th</sup> Civil District of Bradley County, Tennessee and being more particularly described as follows:

BEGINNING ON a point in the center of Fillaur Branch on the right-of-way of A.P.D.40 (25<sup>th</sup> Street) thence with side Branch the next three calls: N 17°47'36" E a distance of 84.83' to a point; thence N 30°20'08" E a distance of 27.26' to a point; thence N 31°51'12" E a distance of 121.43' to a point; thence leaving said branch and running with Sullivan Estates the next two calls: S 66°57'50" E a distance of 1172.39' to a point; thence N 22°47'34" E a distance of 1320.00' to a point in the line of East Hills Subdivision; thence with a severance line the next three calls: S 65°20'26" E a distance of 642.71' to a point; thence S 67°17'56" E a distance of 99.54' to a point; thence S 68°40'01" E a distance of 558.58' to a point corner to K. Davis; thence with said Davis, City of Cleveland, and Blankenship the next four calls: S 22°47'27" W a distance of 487.44' to a point; thence S 22°50'30" W a distance of 554.54' to a point; thence S 22°50'30" W a distance of 302.50' to a point; thence S 21°02'26" W a distance of 533.84' to a point on the right-of-way of A.P.D.40 (25<sup>th</sup> Street); thence with said road the next five calls: N 61°44'47" W a distance of 206.97' to a point; thence N 56°45'22" W a distance of 782.01' to a point; thence S 33°09'16" W a distance of 107.70' to a point; thence N 56°49'07" W a distance of 1398.87' to a point; thence with a curve, turning to the right with an arc length of 136.70', with a radius of 1118.92', with a chord bearing of N 54°23'48" W, with a chord length of 136.61', to the POINT OF BEGINNING.

THIS PROPERTY CONTAINS 63.00 acres more or less.

THIS PROPERTY SUBJECT TO any and all right-of-way, easements, and/or restrictions that may exist, either written or not written, recorded or not recorded. Easements, restrictions, and other uses that may exist or that are not clearly defined by the latest deed are therefore not shown herein. NO TITLE ABSTRACT WAS PERFORMED OR OBTAINED BY THIS FIRM.

ALL AS PER survey of Cleveland Surveying Company, John T. Kinder, RLS Number 1519, 1523 South Lee Highway, Cleveland, Tennessee 37311, Telephone Number (423) 479-1829, being Project Number: 050796.

### **3.B. SPRING CREEK TOWN CENTER**

Spring Creek Town Center has boundaries as described in the following legal description from Cleveland Surveying:

Legal Description  
Spring Creek Town Center  
Part Tax Map 50-A, Group "R", Parcel 1.00

ALL THAT TRACT OR PARCEL OF LAND lying and being in the 4<sup>th</sup> Civil District of Bradley County, Tennessee and being more particularly described as follows:

BEGINNING ON a point located S 55°13'16" E-207.08' from the center of Fillaur Branch to a point on the right-of-way of A.P.D.40 (25<sup>th</sup> Street) BEING THE TRUE POINT OF BEGINNING; thence with severance lines, N 33°10'59" E a distance of 84.85' to a point; thence N 08°30'01" W a distance of 73.32' to a point; thence N 22°25'07" E a distance of 97.65' to a point; thence S 66°57'50" E a distance of 1038.55' to a point; thence S 66°57'50" E a distance of 65.20' to a point; thence S 78°44'39" E a distance of 151.32' to a point; thence N 83°14'50" E a distance of 114.02' to a point; thence with a curve, turning to the right with an arc length of 76.81', with a radius of 946.48', with a chord bearing of S 04°13'47" W, with a chord length of 76.78', to a point; thence with a curve, turning to the left with an arc length of 24.21', with a radius of 109.00', with a chord bearing of S 00°11'28" W, with a chord length of 24.16', to a point; thence with a curve, turning to the left with an arc length of 29.28', with a radius of 190.39', with a chord bearing of S 10°34'43" E, with a chord length of 29.25', to a point; thence with a curve, turning to the right with an arc length of 14.83', with a radius of 16.00', with a chord bearing of S 11°33'48" W, with a chord length of 14.30', to a point; thence with a curve, turning to the left with an arc length of 16.25', with a radius of 59.00', with a chord bearing of S 30°13'09" W, with a chord length of 16.20', to a point; thence with a curve, turning to the right with an arc length of 22.94', with a radius of 66.00', with a chord bearing of S 32°17'08" W, with a chord length of 22.83', to a point; thence with a curve, turning to the right with an arc length of 30.36', with a radius of 202.08', with a chord bearing of S 46°32'55" W, with a chord length of 30.33', to a point; thence with a curve, turning to the left with an arc length of 73.64', with a radius of 275.40', with a chord bearing of S 44°43'09" W, with a chord length of 73.42', to a point; thence S 33°40'37" W a distance of 23.49' to a point; thence S 56°49'01" E a distance of 101.04' to a point; thence S 13°18'28" W a distance of 176.80' to a point; thence N 56°45'22" W a distance of 135.25' to a point; thence S 33°09'16" W a distance of 107.70' to a point; thence N 56°49'07" W a distance of 1328.37' to THE POINT OF BEGINNING.

THIS PROPERTY CONTAINS 11.88 acres more or less.

THIS PROPERTY SUBJECT TO any and all right-of-way, easements, and/or restrictions that may exist, either written or not written, recorded or not recorded. Easements, restrictions, and other uses that may exist or that are not clearly defined by the latest deed are therefore not shown herein. NO TITLE ABSTRACT WAS PERFORMED OR OBTAINED BY THIS FIRM.

ALL AS PER survey of Cleveland Surveying Company, John T. Kinder, RLS Number 1519, 1523 South Lee Highway, Cleveland, Tennessee 37311, Telephone Number (423) 479-1829, being Project Number: 050796.

### **3.C. SPRING CREEK BUSINESS PARK**

Spring Creek Business Park has boundaries as described in the following legal description from Cleveland Surveying:

Legal Description  
Spring Creek Business Park  
Part Tax Map 50-A, Group "R", Parcel 1.00

ALL THAT TRACT OR PARCEL OF LAND lying and being in the 4<sup>th</sup> Civil District of Bradley County, Tennessee and being more particularly described as follows:

BEGINNING ON AN EXISTING iron pin at the right-of-way of A.P.D.40 (25<sup>th</sup> Street) and the southwest corner of Blankenship, thence with side right-of-way N 61°44'47" W a distance of 206.97' to a point; thence N 56°45'22" W a distance of 646.76' to a point; thence leaving side right-of-way and with severance lines, thence N 13°18'28" E a distance of 176.80' to a point; thence N 56°49'01" W a distance of 53.63' to a point; thence N 36°24'12" E a distance of 17.25' to a point; thence with a curve, turning to the right with an arc length of 62.96', with a radius of 129.56', with a chord bearing of N 50°19'33" E, with a chord length of 62.35', to a point; thence with a curve, turning to the right with an arc length of 17.50', with a radius of 175.62', with a chord bearing of N 67°03'22" E, with a chord length of 17.49', to a point; thence with a curve, turning to the right with an arc length of 18.67', with a radius of 26.00', with a chord bearing of S 89°31'05" E, with a chord length of 18.27', to a point; thence with a curve, turning to the left with an arc length of 101.82', with a radius of 59.00', with a chord bearing of N 61°36'42" E, with a chord length of 89.65', to a point; thence N 43°10'02" E a distance of 63.21'; thence with a curve, turning to the left with an arc length of 41.30', with a radius of 191.39', with a chord bearing of N 36°59'06" E, with a chord length of 41.22', to a point; thence S 56°44'51" E a distance of 772.99' to a point in the line of Blankenship; thence S 21°02'26" W a distance of 441.53' to THE POINT OF BEGINNING.

THIS PROPERTY CONTAINS 8.75 acres.

THIS PROPERTY SUBJECT TO any and all right-of-way, easements, and/or restrictions that may exist, either written or not written, recorded or not recorded. Easements, restrictions, and other uses that may exist or that are not clearly defined by the latest deed are therefore not shown herein. NO TITLE ABSTRACT WAS PERFORMED OR OBTAINED BY THIS FIRM.

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### **3.D. SPRING CREEK COMMONS**

Spring Creek Commons has boundaries as described in the following legal description from Cleveland Surveying:

Legal Description  
Spring Creek Commons  
Part Tax Map 50-A, Group "R", Parcel 1.00

ALL THAT TRACT OR PARCEL OF LAND lying and being in the 4<sup>th</sup> Civil District of Bradley County, Tennessee and being more particularly described as follows:

BEGINNING ON a point located N 21°02'26" E a distance of 441.53' from the right-of-way of A.P.D.40 (25<sup>th</sup> Street) and on the line of Blankenship being THE TRUE POINT OF BEGINNING; thence with severance lines N 56°44'51" W a distance of 814.24' to a point; thence with a curve, turning to the left with an arc length of 197.82', with a radius of 654.21', with a chord bearing of N 22°38'15" E, with a chord length of 197.06', to a point; thence N 13°58'30" E a distance of 21.57' to a point; thence with a curve, turning to the left with an arc length of 183.81', with a radius of 751.92', with a chord bearing of N 06°58'20" E, with a chord length of 183.35', to a point; thence N 00°01'51" W a distance of 136.64' to a point; thence with a curve, turning to the right with an arc length of 162.31', with a radius of 580.19', with a chord bearing of N 07°59'00" E, with a chord length of 161.78', to a point; thence with a curve, turning to the left with an arc length of 69.35', with a radius of 985.00', with a chord bearing of N 13°58'50" E, with a chord length of 69.34', to a point; thence with a curve, turning to the left with an arc length of 80.96', with a radius of 1767.80', with a chord bearing of N 10°39'05" E, with a chord length of 80.95', to a point; thence with a curve, turning to the right with an arc length of 32.99', with a radius of 195.76', with a chord bearing

of N 14°09'56" E, with a chord length of 32.96', to a point; thence with a curve, turning to the right with an arc length of 49.42', with a radius of 195.76', with a chord bearing of N 26°13'34" E, with a chord length of 49.29', to a point; thence N 33°27'29" E a distance of 19.52' to a point; thence with a curve, turning to the right with an arc length of 107.59', with a radius of 150.00', with a chord bearing of N 54°00'22" E, with a chord length of 105.30', to a point; thence with a curve, turning to the left with an arc length of 15.20', with a radius of 15.00', with a chord bearing of N 45°31'52" E, with a chord length of 14.55', to a point; thence with a curve, turning to the right with an arc length of 25.07', with a radius of 96.00', with a chord bearing of N 23°59'22" E, with a chord length of 25.00', to a point; thence N 32°17'46" W a distance of 110.36' to a point; thence with a curve, turning to the right with an arc length of 16.44', with a radius of 200.94', with a chord bearing of N 47°51'55" E, with a chord length of 16.44', to a point; thence with a curve, turning to the right with an arc length of 413.93', with a radius of 242.43', with a chord bearing of S 80°30'14" E, with a chord length of 365.45', to a point; thence N 21°19'59" E a distance of 58.27' to a point; thence S 67°17'56" E a distance of 83.05' to a point; thence S 68°40'01" E a distance of 558.58' to a point; thence S 22°47'27" W a distance of 487.44' to a point; thence S 22°50'30" W a distance of 554.54' to a point; thence S 22°50'30" W a distance of 302.50' to a point; thence S 21°02'26" W a distance of 92.31' to the POINT OF BEGINNING.

THIS PROPERTY CONTAINS 27.57 acres more or less.

THIS PROPERTY SUBJECT TO any and all right-of-way, easements, and/or restrictions that may exist, either written or not written, recorded or not recorded. Easements, restrictions, and other uses that may exist or that are not clearly defined by the latest deed are therefore not shown herein. NO TITLE ABSTRACT WAS PERFORMED OR OBTAINED BY THIS FIRM.

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### 3.E. SPRING CREEK HIGHLANDS

Spring Creek Highlands has boundaries as described in the following legal description from Cleveland Surveying:

Legal Description  
Spring Creek Highlands  
Part Tax Map 50-A, Group "R", Parcel 1.00

ALL THAT TRACT OR PARCEL OF LAND lying and being in the 4<sup>th</sup> Civil District of Bradley County, Tennessee and being more particularly described as follows:

BEGINNING ON a point located S 22°47'34" W a distance of 405.48' from the southern line of Lot 49, East Hills Subdivision and in the line of Block "One" of Sullivan Estates being THE TRUE POINT OF BEGINNING; thence S 67°12'26" E a distance of 205.00' to a point; thence S 22°47'34" W a distance of 549.14' to a point; thence with a curve turning to the left, with an arc length of 95.11', with a radius of 89.45', with a chord bearing of S 09°24'49" E, with a chord length of 90.69', to a point; thence with a curve, turning to the right with an arc length of 165.97', with a radius of 262.98', with a chord bearing of S 21°48'08" E, with a chord length of 163.23', to a point; thence with a curve, turning to the right with an arc length of 89.18', with a radius of 1016.48', with a chord bearing of S 01°12'31" E, with a chord length of 89.15', to a point; thence S 83°14'50" W a distance of 184.77' to a point; thence N 78°44'39" W a distance of 151.32' to a point; thence N 66°57'50" W a distance of 65.20' to a point; thence N 22°47'34" E a distance of 233.85' to a point; thence N 34°01'26" W a distance of 35.84' to a point; thence N 22°47'32" E a distance of 691.19' to the POINT OF BEGINNING.

THIS PROPERTY CONTAINS 5.18 acres more or less.

THIS PROPERTY SUBJECT TO any and all right-of-way, easements, and/or restrictions that may exist, either written or not written, recorded or not recorded. Easements, restrictions, and other uses that may exist or that are not clearly defined by the latest deed are therefore not shown herein. NO TITLE ABSTRACT WAS PERFORMED OR OBTAINED BY THIS FIRM.

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## **Section 4. GENERAL PROJECT DESCRIPTION.**

This section is intended to provide a general description of the Spring Creek project and not a detailed or exhaustive description.

### **4.A. OVERALL DESCRIPTION**

PUD4, Spring Creek, is a planned unit development (PUD) project that includes residential and non-residential land uses. There are four distinct parts of the Spring Brook development which are Spring Creek Town Center, Spring Creek Business Park, Spring Creek Commons, and Spring Creek Highlands. These four parts are related through complementary architecture and amenities and infrastructure such as monumental round-about on the main entry road, Spring Creek Drive. Elements like a clock tower, the round about, and parks and public spaces and greenspace, traffic calming features and bicycle/pedestrian friendliness, and varying residential densities, and neighborhood serving commercial uses, will combine to create a village effect in Spring Creek that will welcome outside visitors in its perimeter commercial areas while creating security, comfort, and convenience for its residents.

### **4.B. SPRING CREEK TOWN CENTER**

Spring Creek Town Center is located adjacent to 25<sup>th</sup> Street on the west side of the proposed Spring Creek Drive and features a pedestrian scale development of retail shops with upper story residential condominiums near its border with Sullivan Estates subdivision, and more traditional retail sites and live/work space fronting on 25<sup>th</sup> Street, and a proposed Veterans' Park at the extreme western end, with all of these features connected by a shared drive and parking. A cluster of residential development will be located at the eastern end of Spring Creek Town Center near the round-about. Specific planned uses have been identified for some sites within the development such as banks, restaurants, a food store, and a hardware. A "Main Street" effect will be created by the private drive that runs north-south dividing the site and connecting with two proposed 25<sup>th</sup> Street entrances

#### **4.C. SPRING CREEK BUSINESS PARK**

Spring Creek Business Park is located on the east side of Spring Creek Drive near 25<sup>th</sup> Street. It will provide space for professional offices and some limited retail uses, including the possibility of live/work space with upper story residential development.

#### **4.D. SPRING CREEK COMMONS**

Spring Creek Commons is the larger of two residential areas within Spring Creek and it occupies the north-east part of the property. It is accessed by a partial loop road, the continuation of the proposed Spring Creek Drive past the round-about. The western boundary along the first one-third of Spring Creek Drive inside Spring Creek Commons is an expansive common greenspace centered around a creek forming the border with Spring Creek Highlands. Single-family lots line the rest of the exterior of the loop street forming its boundary with adjoining property outside of Spring Creek. The street loop inside Spring Creek Commons is closed by the proposed Parkside Drive (north-south) and Spring Creek Way (east-west) which cross in the interior of the development. The interior lots of Spring Creek Commons will feature attached and detached housing at varying density served by private lanes with rear-load parking. Residents will also have access directly into Spring Creek Business Park, thus enhancing the live/work relationship in the overall development. Street trees, landscaped islands, sidewalks, street lighting, and on-street guest parking will add to the development of Spring Creek Commons which will be accomplished in two or more phases generally following the master site plan as shown. Amendments to the master site plan and a corresponding platting of property in future phases can be anticipated as the Developer responds to the market.

#### **4.E. SPRING CREEK HIGHLANDS**

Spring Creek Highlands is the smaller of the two residential areas and it is located in the northwestern portion of the property. It is accessed by a single cul-de-sac, the proposed Cross Creek Court, which borders the aforementioned common greenspace on the east side of the street and terminates in a large wooded area in the northwest corner of the property. As one enters Cross Creek Court from the round-about, the first residential development to be encountered will be a cluster of cottages or attached units to the left behind the proposed food store site in Spring Creek Village. A small park, Overbrook Park, will be in the corner of this residential cluster. Further along Cross Creek Court to its terminus, lots with attached or detached housing line the western side of the street. A wooded buffer of existing trees will separate Spring Creek Highlands from the adjacent Sullivan Estates.

#### **Section 5. PERMITTED USES AND PROHIBITED USES.**

## **5.A. PERMITTED USES.**

Spring Creek allows both residential and non-residential uses within the development as a whole. However, different uses are allowed or prohibited in the various constituent parts of Spring Creek (Spring Creek Commons, Spring Creek Highlands, Spring Creek Town Center, and Spring Creek Business Park). Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of Spring Creek that would further restrict the allowable uses within a particular part of the development or from excluding a particular use from the development altogether through the operation of private restrictions or covenants.

### **5.A.1. Spring Creek Town Center and Spring Creek Business Park**

This paragraph describes the uses that are allowed in the Spring Creek Town Center and the Spring Creek Business Park. The Developer may further refine the master site plan to designate from the range of uses below a particular use or uses that are to occupy a given site within the commercial areas of Spring Creek.

#### **5.A.1.a. Residential and Miscellaneous Uses**

Residential dwellings located in upper floors above commercial establishments or similar arrangements of live/work space that comply with applicable building codes and multi-unit residential structures. Miscellaneous uses such as roads, utilities, sidewalks, bike paths, transit stops or shelters, swimming pools, tennis courts, club houses, pool houses, residential garages, storage sheds, gatehouses, and other ancillary structures and uses typically associated with residential development. Also, similar miscellaneous uses that may be associated with commercial or mixed residential/commercial development including architectural focal points such as a clock tower, gazebo, bandstand, public gardens, parks, planting areas, fountains and other water features, vending (carts, booths, or machines), information kiosks, and the like.

#### **5.A.1.b. Commercial Uses**

The following uses, described by the North American Industrial Classification System (NAICS) code numbers, are permitted with exceptions as noted and to the extent that they are not otherwise included in the prohibited uses:

- 4413 Automotive Parts, Accessories, and tire stores
- 442 Furniture and home furnishings stores
- 443 Electronics and appliance stores
- 444 Building material and garden equipment and supplies dealers
- 445 Food and beverage stores
- 446 Health and personal care stores
- 448 Clothing and accessories stores
- 451 Sporting goods, hobby, book, and music stores except adult bookstores or "sex outlets" as described in City of Cleveland zoning regulations.
- 452 General merchandise stores
- 453 Miscellaneous store retailers
- 491 Postal service

- 492 Couriers and messengers
- 51 Information (excluding manufacturing)
- 52 Finance and Insurance
- 53 Real estate and Rental and Leasing
- 54 Professional, scientific, and technical services
- 55 Management of companies and enterprises
- 561 Administrative support services
- 61 Educational services
- 62 Health care and social assistance
- 71 Arts, Entertainment, and Recreation (excluding racetracks, shooting ranges, go-kart tracks, and other outdoor recreation likely to impact surrounding property with noise, etc., and casinos and other gambling establishments, and adult/sex entertainment establishments referred to as "sex outlets" in City of Cleveland zoning regulations)
- 72 Accommodation and food services (except casinos, RV parks, camps, and campgrounds)
- 811191 Automotive oil change and lubrication shops
- 8112 Electronic and precision equipment repair and maintenance
- 811430 Footwear and leather goods repair
- 8121 Personal care services
- 81292 Photofinishing
- 813 Religious, Grantmaking, Civic, Professional, and Similar Organizations
- 92 Public administration

#### **5.A.2. Spring Creek Commons and Spring Creek Highlands**

Residential dwellings and miscellaneous uses such as roads, utilities, sidewalks, bike paths, transit stops or shelters, swimming pools, tennis courts, club houses, pool houses, residential garages, storage sheds, gatehouses, and other ancillary structures and uses typically associated with residential development. Also, similar miscellaneous uses that may be associated with residential development including architectural focal points such as a gazebo, bandstand, public gardens, parks, planting areas, fountains and other water features, information kiosks, and the like. Residential dwelling types are to be specifically identified for each phase of development through specific block plans, consistent with the Development Plan (Exhibit A), and platting but the gross residential density in Spring Creek Commons and Spring Creek Highlands combined shall not exceed one dwelling unit per 5000 square feet of total land area. Home occupations are allowed consistent with the City of Cleveland zoning regulations unless otherwise restricted by the private covenants or restrictions of Spring Creek.

#### **5.B. PROHIBITED USES.**

No use shall be permitted in Spring Creek which is inconsistent with the operation of a first-class development. Without limiting the generality of the foregoing, the following uses shall not be permitted:

- a. An operation primarily used as a storage warehouse operation and any assembling, manufacturing, distilling, refining, smelting, agricultural or mining operation.
- b. Any "second hand" store, "surplus" store, or pawn shop.

c. Any mobile home park, trailer court, labor camp, junkyard, or stockyard; provided, however, this prohibition shall not be applicable to the temporary use of construction trailers during periods of construction, reconstruction or maintenance.

d. Any dumping, disposing, incineration or reduction of garbage; provided, however, this prohibition shall not be applicable to garbage compactors located near the rear of any building.

e. Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation.

f. Any automobile, truck, trailer or recreational vehicle sales, leasing, display or body shop repair operation.

g. Any veterinary hospital or animal raising or boarding facility; provided, however, this prohibition shall not be applicable to pet shops.

h. Any establishment selling or exhibiting "obscene" material as determined by final decree of a Court of competent jurisdiction or any establishment classified as a sex outlet by City ordinance.

i. Any establishment selling or exhibiting illegal drug-related paraphernalia or which exhibits either live or by other means to any degree, nude or partially clothed dancers or wait staff.

j. Any gambling facility or operation, including but not limited to: off-tract or sports betting parlor; table games such as blackjack or poker; slot machines, video poker/blackjack/keno machines or similar devices; or bingo hall. Notwithstanding the foregoing, this prohibition shall not be applicable to government sponsored gambling activities or charitable gambling activities, so long as such activities are incidental to the business operation being conducted by the Occupant.

k. Except home occupations described in the City of Cleveland's zoning regulations where these are not otherwise prohibited by private restrictions, non-residential uses are prohibited in Spring Creek Commons and Spring Creek Highlands.

## **Section 6. DEVELOPMENT PLAN AND RELATED REQUIREMENTS.**

### **6.A. DEVELOPMENT PLAN.**

A Development Plan (Exhibit A) for PUD4 Spring Creek was prepared by Cleveland Surveying and presented by Developer to the Cleveland Municipal Planning Commission on May 24, 2007 for approval. The development plan consists of seven sheets: Sheet 1 Title Sheet, Sheet 2 Survey, Sheet 3 Master Site Plan, Sheet 4 Spring Creek Town Center Site Plan, Sheet 5 Spring Creek Commons Site Plan, Sheet 6 Spring Creek Town Center Grading Plan, and Sheet 7 Spring Creek Commons Grading

Plan. All development within PUD4 must be consistent with this Development Plan. Additional plans, plats, and other development-related documents and permits will be necessary to carry out the construction of this project; for example, detailed site plans will be needed for construction of buildings other than one and two-family homes. It is recognized that the plats and detailed block plans for Spring Creek may ultimately reflect some alteration in the Development Plan, such as in the number of lots in the residential areas, the width or alignment of streets, or the precise placement of buildings in the commercial areas, but these will need to be generally consistent with the Development Plan, mutually consistent with one another, and not violate any features of the Development Plan and this ordinance as these relate to adjoining properties and infrastructure (e.g. external intersection locations and traffic improvements, buffers with external properties, etc.). Staff comments regarding the plans submitted in Exhibit A, previous staff comments regarding the previous plan submittals prior to Exhibit A, are to govern the design and implementation of PUD4 unless these are rendered obsolete by changes to the Developer's plans or changes on the site that would necessitate a different regulatory response from staff.

#### **6.B. PLATS.**

One or more plats will be prepared for the PUD4 property by the Developer for approval in accordance with the City of Cleveland, Tennessee subdivision regulations. These plats will describe and dedicate public streets any other public properties; identify lots; and identify easements that are necessary for various purposes within the development such as utilities, access, maintenance, and conservation, etc. Platting of the property in PUD4 will be congruous with the requirements of the Development Plan (Exhibit A), and any amendments thereto, and the requirements of this ordinance.

#### **6.C. PRIVATE DEVELOPMENT DOCUMENTS.**

The Developer shall prepare and implement such master covenants, restrictions, condominium association documents, common area agreements, and the like which the Developer determines are necessary to carry out the Spring Creek development as envisioned herein. It is a requirement of this ordinance that such documents are in place and enforced by the Developer (or Developer's heirs, successors, or assigns) to the extent necessary for Spring Creek to function as described herein. The City of Cleveland assumes no responsibility to review these documents, or to determine their adequacy to these purposes, or to enforce any of their provisions, or to otherwise be a party to them.

#### **6.D. DETAILED BLOCK PLANS AND SITE PLANS.**

The Developer shall prepare and submit to the City of Cleveland, TN for approval by the Cleveland Municipal Planning Commission detailed block plans for each block in the residential areas, Spring Creek Commons and Spring Creek Highlands. These detailed block plans shall indicate lot configurations, setbacks, structure types, streets, lanes, sidewalks, common areas, utility locations, etc. The information in the detailed

block plan will be congruous with the plat developed for the lots and adjacent public street infrastructure. The content and level of detail of the detailed block plan will be sufficient for City staff to determine compliance of the proposed development with the Development Plan and applicable City ordinances. The detailed block plan for the Spring Creek Town Center is to be as shown in the Spring Creek Town Center Site Plan (see Exhibit A), inclusive of any additions or modifications required by the City of Cleveland's site plan review process. Prior to development of the Spring Creek Business Park, a detailed block plan will be submitted for approval by the Cleveland Municipal Planning Commission that is site plan of the type prepared for Spring Creek Town Center. The Spring Creek Business Park Site Plan is to be generally consistent with the representation of Spring Creek Business Park shown in the Master Site Plan (see Exhibit A).

## **Section 7. DEVELOPMENT STANDARDS**

The development standards for PUD4 shall be those established in this ordinance or incorporated herein. Where development standards are not otherwise included in this ordinance, the standards shall be those in the CH zone, from the City of Cleveland's zoning regulations, for Spring Creek Town Center and Spring Creek Business Park. Where development standards are not otherwise included in this ordinance, the standards shall be those in the R3 zone, from the City of Cleveland's zoning regulations, for Spring Creek Commons and Spring Creek Highlands. Requirements of the City's adopted building codes, fire codes, stormwater regulations and other ordinances affecting the development, use, and maintenance of property shall apply.

### **7.A. BUILDING SETBACKS**

#### **7.A.1. Spring Creek Town Center**

The building setback for all principal structures shall be 30 feet off of the property line with Sullivan Estates. Buildings shall be a minimum of 20 feet from the 25<sup>th</sup> Street right-of-way. Buildings shall be a minimum of 15 feet from the proposed Spring Creek Drive. Other setbacks shall be as approved through the site plan review process but otherwise not less than would be indicated by the scale and relative position of buildings and infrastructure in the site plan shown in Exhibit A.

#### **7.A.2. Spring Creek Business Park**

Building setbacks within Spring Creek Business Park will be at least 20 feet from the 25<sup>th</sup> Street right-of-way, at least 20 feet from the east property line for principal structures, 20 feet from Spring Creek Commons for principal structures, and at least 15 feet from the proposed Spring Creek Drive. Other setbacks will be as approved by the Cleveland Municipal Planning Commission in the detailed block plan (site plan) process described herein.

### 7.A.3. Spring Creek Commons

Phase I as shown in Exhibit A is all single-family detached housing. The principal building setbacks are 15 feet in the front, 18 feet in the rear, 15 feet on a side street, and 6 feet on a side. Setbacks for future phases shall be as approved by the Cleveland Municipal Planning Commission for the detailed block plans.

### 7.A.4 Spring Creek Highlands

Spring Creek Highlands will maintain a 20 foot minimum setback for all principal structures from the adjoining Sullivan Estates together with a 15 foot wide undisturbed vegetative buffer adjacent to Sullivan Estates. Other setbacks are to be as approved by the Cleveland Municipal Planning Commission in the detailed block plans provided by the Developer.

## **7.B. QUALITY OF APPEARANCE.**

The commercial areas will be designed and constructed of a quality comparable to Hamilton Corner Shopping Center at 2115 Gunbarrel Road in Chattanooga (presently the location of Bonefish Grill, Jason's Deli, etc.). The Developer shall develop architectural standards and exercise control over the exterior building finishes such that these are consistent with a first class retail and/or professional office area. The buildings will be maintained in good repair.

## **7.C. SIGNAGE.**

A master signage plan is to be produced and submitted by the developer for all areas within Spring Creek and the parameters of this signage plan include one main entrance sign not to exceed 300 square feet, one ground sign for each individual commercial building not to exceed 150 square feet, wall signage on commercial buildings not to exceed 40% of any front or side facade. No sign shall be mounted on the roof. No portion of any sign containing an electronic reader board, light-emitting diode (LED), or the like shall exceed 50 square feet and any such sign shall be equipped and operated with an automatic dimmer for night time or low light conditions. Portable signs, inflatable advertising devices, strobe lights, and other advertising devices characterized by motion, flashing light, or high-intensity light are prohibited. Except when located within 20 feet of a permanent building, no banner, flag, pennant, temporary sign, or merchandise display shall be located within 100 feet of any public right-of-way.

## **7.D. BUILDING HEIGHTS**

Building heights in the PUD4 development shall be limited to three stories, exclusive of any basement areas. This is not intended to prohibit architectural detailing, such as decorative parapet walls and the like, or to establish a height limit on structures that are generally uninhabited such as the proposed clock tower.

## **7.E. EXTERIOR LIGHTING.**

Exterior lighting of buildings and parking lots and signs shall be designed so as to allow minimum light from the proposed commercial areas into the existing residential areas surrounding Spring Creek, such as Sullivan Estates. The lighting system shall provide for adequate safety and security for pedestrians and others within the residential and commercial areas of the development. The lighting system shall be designed so as to minimize glare onto adjacent public roadways. No pole mounted light shall exceed a height of 40 (forty) feet.

## **7.F. DESIGN OF PARKING, INTERNAL TRAFFIC, ACCESS.**

The number of parking spaces to be provided in Spring Creek Town Center shall be within 5% of the number indicated in the site plan in Exhibit A. The number of parking spaces shall be determined through the detailed block plan (site plan) review process for Spring Creek Business Park based upon the anticipated mixture of business types. It is anticipated that individual businesses in Spring Creek Town Center and Spring Creek Business Park will be served, at least in part, by shared parking managed through a private agreement to be produced by the Developer. Designs for parking, drive-through lanes, and other internal traffic circulation for the commercial sites within PUD4 shall be as reviewed and approved by the City's traffic engineer. On street-parking, rear load parking house designs, private lanes and other access and traffic circulation features of Spring Creek Commons and Spring Creek Highlands shall be designed in close cooperation with the City's traffic engineer and other City Staff. A dysfunctional impedance of traffic in public streets, blocking of access for public services, and interruption of the ability to provide fire and emergency services will not be allowed to arise through the design and operation of traffic circulation and parking features within PUD4, but it is recognized that speed and convenience for motorists will be balanced against other competing needs in a "New Urbanist" development style. It is intended that PUD4 will be designed so as to facilitate bicycle and pedestrian modes and to provide access for public transit in the commercial areas. PUD4 shall be designed so as to accommodate a connection with an extension of the City greenway system. Design and construction of the 25<sup>th</sup> Street entrances and related traffic improvements, such as the proposed traffic signal, shall be at the expense of the Developer and subject to design approval by the City of Cleveland.

## **7.G. SITE MAINTENANCE.**

A program of regular sweeping and litter removal from the parking lots, driveways, private streets and lanes, sidewalks, landscaped areas, and common areas shall be required for Spring Creek Town Center, Spring Creek Business Park, Spring Creek Commons, and Spring Creek Highlands. The detention ponds and other drainage facilities shall be maintained in good working order, including removal of debris, trimming of excess vegetation, and mosquito control. The PUD4 development is traversed by a "blue line" stream and it shall be maintained in compliance with all required permits.

## **7.H. DISTURBANCE TO SURROUNDING PROPERTY.**

Construction-related noise, vibrations, dust, debris, and traffic in the PUD4 zoning district shall be managed so as to minimize their impacts on nearby residential uses and the public right-of-way. Heavy construction activities that could result in noise and vibration offsite will be conducted only between 7:00 a.m. and 7:00 p.m. Potential disturbing effects of construction activities will be mitigated by observing industry best practices. Developer, developer's heirs or successors or assigns, and all contractors and subcontractors will promptly comply with any directive from City to manage construction-related noise, vibrations, and or traffic.

## **7.I. IMPERVIOUS AREA AND DRAINAGE.**

Impervious surfaces in the Spring Creek Town Center are not to exceed 68% of the overall area. Impervious surfaces in Spring Creek Business Park are not to exceed 75% for the development as a whole. Impervious area in the Spring Creek Commons and Spring Creek Highlands combined is not to exceed 50%. Developer may propose and the City may accept an alternative proposal that would allow an additional 2% of site area to be developed with pervious concrete, turf blocks, or other pervious material if approved by the City Engineer. Landscaping is to meet or exceed the requirements of city ordinances and be in accordance with landscape plans approved for each section of the PUD4 development. All development in PUD4 is to comply with the City's stormwater regulations. Building permits will be issued for construction of buildings only in those parts of PUD4 that are served by stormwater drainage facilities built in accordance with a plan approved by the City Engineer. Among the various requirements for stormwater drainage is that the post-construction run-off shall not exceed the pre-construction run-off from the site.

## **J. LANDSCAPING.**

Landscaping is to meet or exceed the requirements of city ordinances and be in accordance with landscape plans approved for each section of the PUD4 development. Landscaping in Spring Creek Town Center and Spring Creek Business Park shall be irrigated. All landscape materials shall be maintained so as to stay in a first class condition.

## **7.K. SOLID WASTE.**

Dumpsters, compactors, grease receptacles, and other such waste disposal facilities shall be provided as necessary to properly dispose of the wastes generated commercial buildings in Spring Creek Town Center and Spring Creek Business Park. All dumpsters and other such facilities shall be on a concrete pad and enclosed by an opaque screened enclosure of a good quality. Slatted chain-link fence will not be used for the enclosure. Grease storage areas, if co-located with dumpster pads, will be separated by a concrete block wall at least three blocks high. Waste disposal facilities will be situated so as to minimize noise and other impacts on nearby residential areas.

Residential garbage collection, brush and leaf pick-up, and other residential solid waste services provided by the City of Cleveland will be provided along public streets consistent with the type and manner of services provided in other neighborhoods in the City of Cleveland and any extraordinary service needs or costs would be subject to negotiation and/or additional fees.

#### **7.L. OPERATING AND MAINTENANCE AGREEMENT.**

All private parking lots, drives, lanes alleys, sidewalks, trails, and other privately owned amenities and infrastructure in the common areas of PUD4 shall be maintained in an attractive, safe condition and good state of repair. The Developer, or other appropriate contractually designated private entity(s) with the capacity to carry out the provisions of this paragraph, shall be responsible to operate, maintain, and/or repair the following: 1) drive and parking areas; 2) removal of debris and refuse; 3) directional signs and markers; 4) common area lighting; 5) landscaping; 6) sidewalks; 7) common utility lines; and 8) storm water pipes and detention areas. Such operation, maintenance, and repair of common facilities shall be consistent with a first-class development.

#### **Section 8. COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS.**

The Developer, and its assigns or successors in title, is responsible for obtaining all federal, state, and local permits required for the construction of the proposed Spring Creek Town Center, Spring Creek Business Park, Spring Creek Commons, and Spring Creek Highlands and for other construction on or adjacent to the site for which the Developer is responsible. The Developer and its assigns or successors in title shall carry out the construction on the project site in compliance with all applicable ordinances of the City of Cleveland, Tennessee, and also in compliance with applicable federal and state laws. Buildings shall be designed and constructed in accordance with adopted building codes and shall not be occupied until final inspections are complete and certificates of occupancy have been issued (permission for limited use of building after substantial completion of construction for fixture installation, furnishing, store stocking, employee training and the like may be granted by the City's Building Official and such permission shall not be unreasonably withheld). Failure to develop, use, or maintain the subject property other than in conformity with all of the requirements of this ordinance is unlawful and shall be deemed a violation of the City's zoning ordinance and a nuisance subject to the penalties described in the zoning ordinance and any increased fine as may be allowed by state law.

#### **Section 9. PUD DEVELOPMENT ORDER.**

Development of the property as described herein shall require the execution of the PUD Development Order that is further described herein. Time is of the essence in the construction season and for the display of model homes and other model structures that will conform to the requirements of PUD4; however, only such improvements to the property or occupancy thereof that is consistent with the zoning of the property prior to

PUD4 will be allowed prior to execution of the development order. The development order shall be inclusive, by incorporation or reference thereto, of all permits, plats, design documents, etc., that are necessary to implement the project described herein. After final approval of this ordinance, the Mayor and the Developer shall execute a development order, to be signed by both parties. The Development Order shall encompass the PUD Development Plan that includes the plans and drawings referenced herein as well as the requirements of this ordinance pertaining to the development of the subject property, including any additional plans, plan revisions, and permits. The Development Order shall also encompass the requirements of this ordinance as they pertain to the use and maintenance of the subject property after it is developed. The Development Order may be amended from time to time as necessary to conform with any amendments to this ordinance or plan changes consistent with the requirements of this ordinance. Errors and omissions in the Development Order that can be corrected without conflicting with the terms of this ordinance and without conflicting with plans approved by the Cleveland Municipal Planning Commission may be corrected and approved with the signature of the Mayor and the Developer.

#### **Section 10. TIME LIMITS AND POSSIBLE REVERSION TO FORMER ZONING.**

The developer must have carried out a substantial development of this project within five years from the effective date of this ordinance or the City may cause the property to revert to its former zoning classification without liability for any damages. Substantial development shall in be interpreted to mean completion of construction on at least 20% of the commercial buildings and housing, and parking areas, landscaping, streets and sidewalk improvements to the extent needed to support the portion of the development that has been constructed.

#### **Section 11. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.**

This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Revisions to plans and drawings required by this ordinance that are determined by the Planning Commission to yield improved or substantially similar quality of results affecting the public, and which affect less than 20% of the site or any approved dimension or quantity by less than 20%, can be approved by majority vote of the Planning Commission without amending the PUD ordinance. Where this ordinance contemplates the future approval of a detailed block plan and/or site plan, or the future approval of a plat by the Cleveland Municipal Planning Commission, and where this ordinance contemplates the future refinement of plans to conform with permitting requirements or conditions of approval necessitated by staff review, and where the Developer and the City of Cleveland may enter into future agreements regarding possible public facilities, infrastructure, and/or services within PUD4, an amendment to this ordinance is not required to implement such detailed block plan, site plan, plat, refinement to plans necessitated by permitting or review requirements, or agreement pertaining to public facilities, infrastructure, or services.

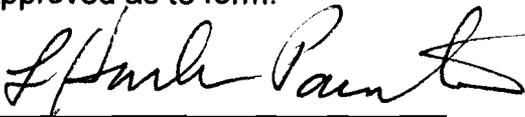
**Section 12. BINDING UPON OTHERS.** This ordinance is a law and not a contract, and as such it is generally binding upon all development and use of property in the PUD4 zoning district and is binding upon City's regulation of these activities in this location. The Development Order required by this ordinance shall be an agreement between City and Developer specifying how the terms of this ordinance are to be carried out. The Development Order shall be binding upon the Developer and its assigns, lessees, tenants, or successors in title. Compliance with this ordinance and Development Order shall be a condition of all deeds, leases, or other instruments that convey a right to own or occupy all or a portion of the subject property for commercial or business purposes. Moreover, it shall be the duty of the Developer to ensure compliance with all terms of this ordinance and the Development Order affecting construction or maintenance. Wherever this ordinance establishes a duty, responsibility, or right for the Developer, the term "Developer" is intended to encompass Spring Brook Community Developers, Inc. or any heirs, assigns, or successors in title, or any owners of record of the subject property as of the effective date of this ordinance and their heirs, assigns, or successors in title. The term "Developer" is also intended to include any holding company or other entity established for the ongoing operation and maintenance of the development of the subject property including, but not limited to, common areas, joint use or joint access areas, and undeveloped portions of the property that are intended for development.

**Section 13. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.** Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance shall take effect upon after passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

1<sup>st</sup> Reading: June 25, 2007

2<sup>nd</sup> Reading: July 9, 2007

Approved as to form:



L. Harlen Painter, City Attorney



Tom Rowland, Mayor



Michael L. Keith, City Clerk

# EXHIBIT A

SPRING CREEK  
 A.P.D. 40 ROAD  
 CITY OF CLEVELAND  
 BRADLEY COUNTY, TENNESSEE



VICINITY MAP

## DRAWING INDEX

TITLE	SHEET NUMBER
TITLE SHEET	1
SURVEY	2
MASTER SITE PLAN	3
SPRING CREEK TOWN CENTER SITE PLAN	4
SPRING CREEK COMMONS SITE PLAN	5
SPRING CREEK TOWN CENTER GRADING PLAN	6
SPRING CREEK COMMONS GRADING PLAN	7

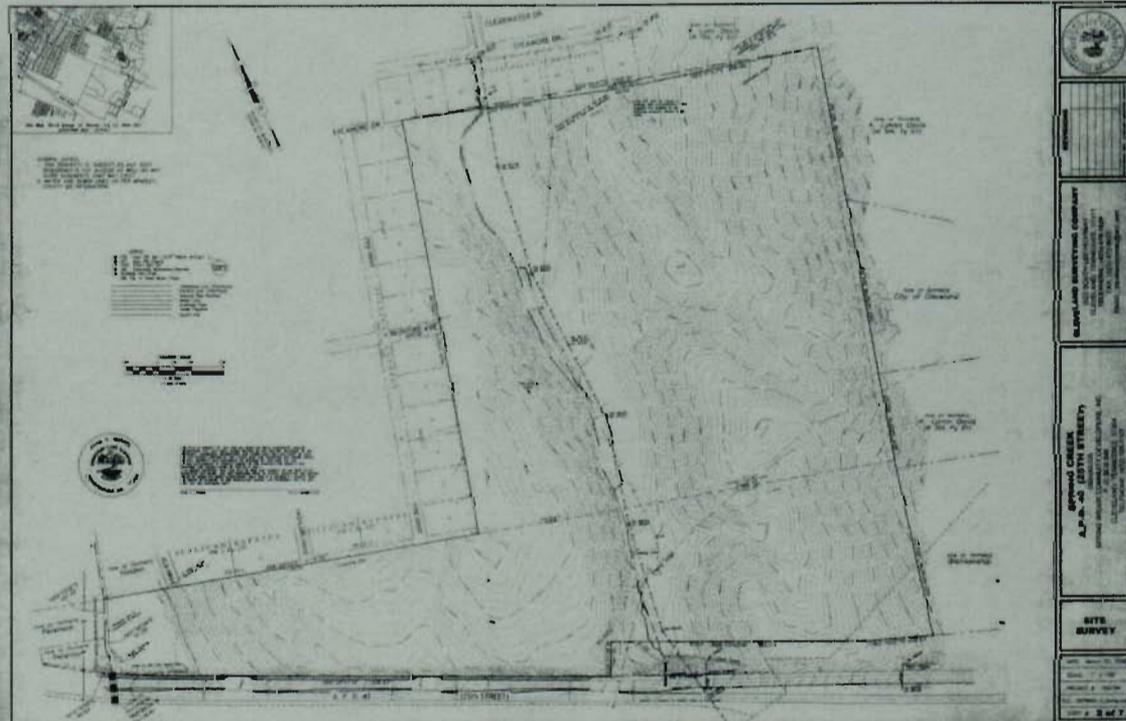
PREPARED FOR:  
 SPRING BROOK COMMUNITY DEVELOPERS, INC.  
 P. O. BOX 548  
 CLEVELAND, TENNESSEE 37364  
 TELEPHONE: (472) 595-7146

PREPARED BY:



CLEVELAND SURVEYING COMPANY  
 1523 SOUTH LEE HIGHWAY  
 CLEVELAND, TENNESSEE 37311

JOHN T. MINGER DATE  
 TENNESSEE P.E. #20,753

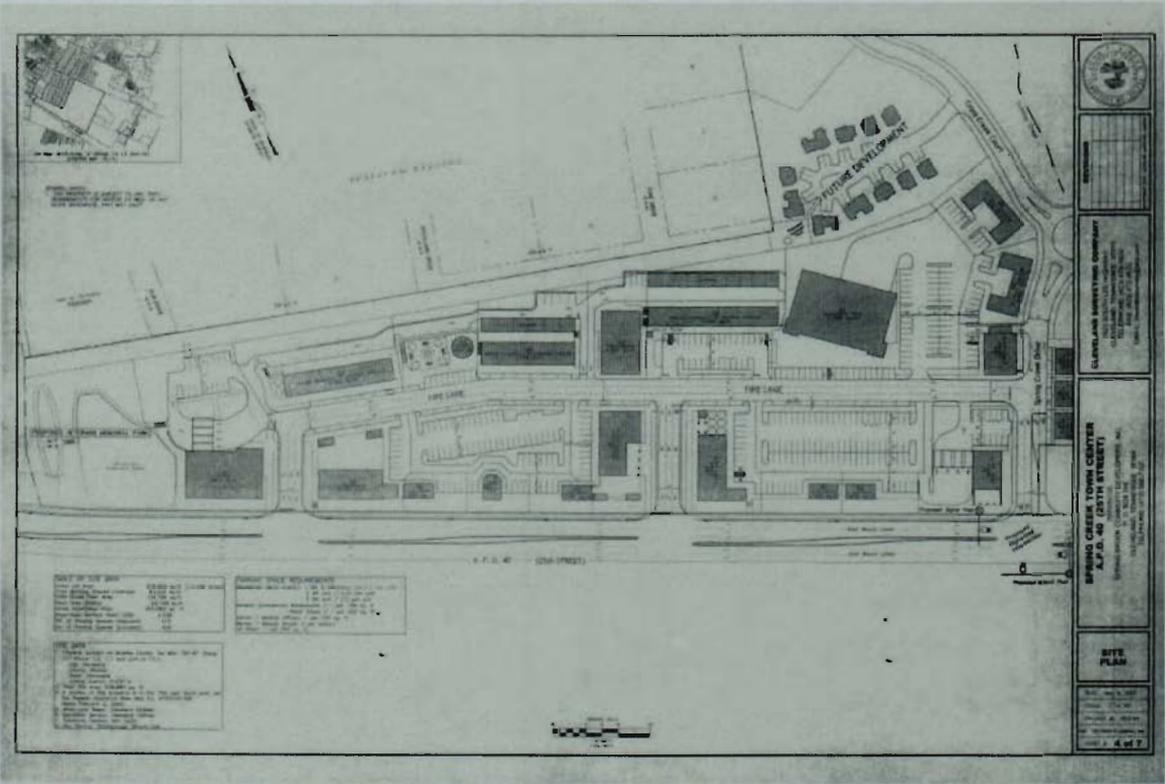
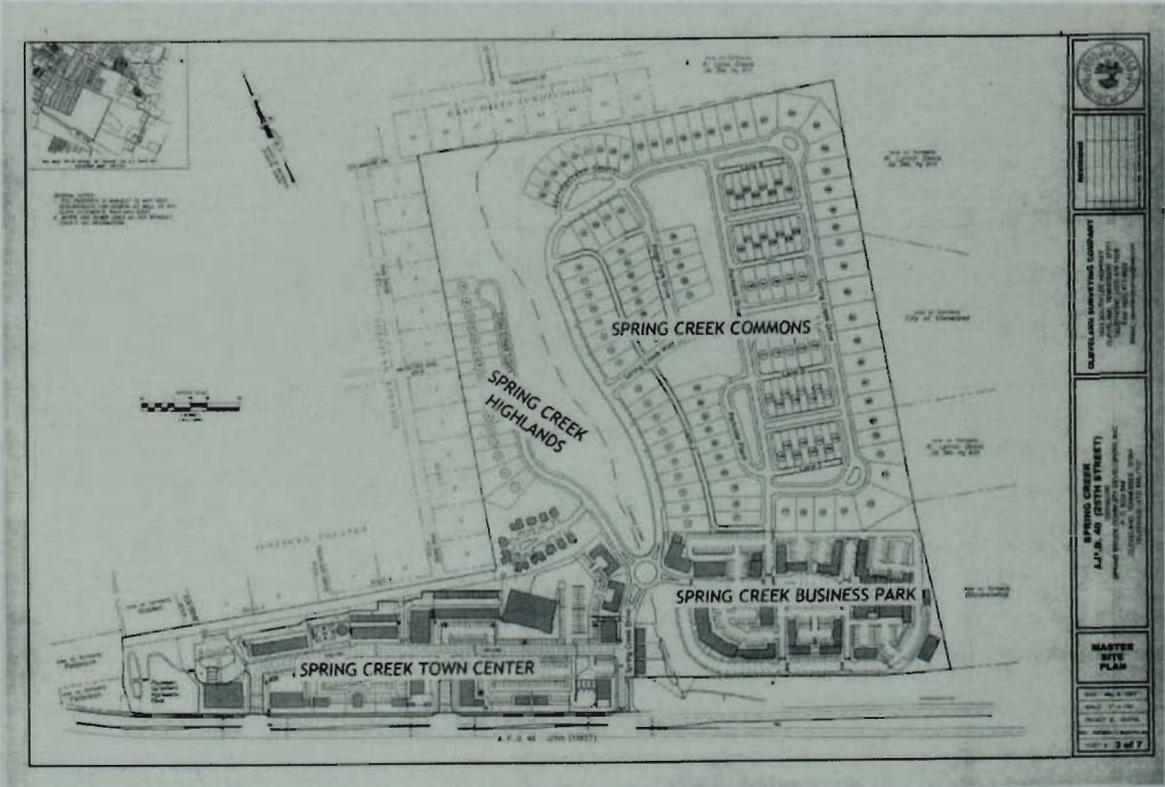


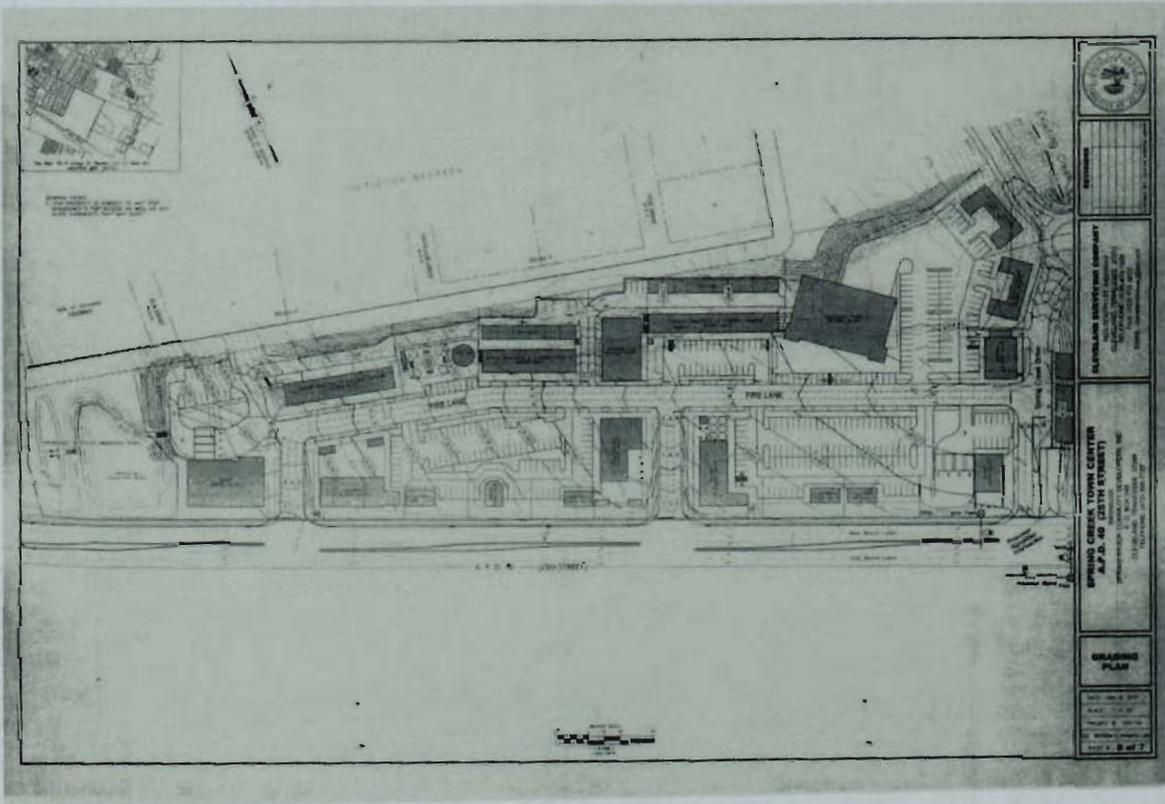
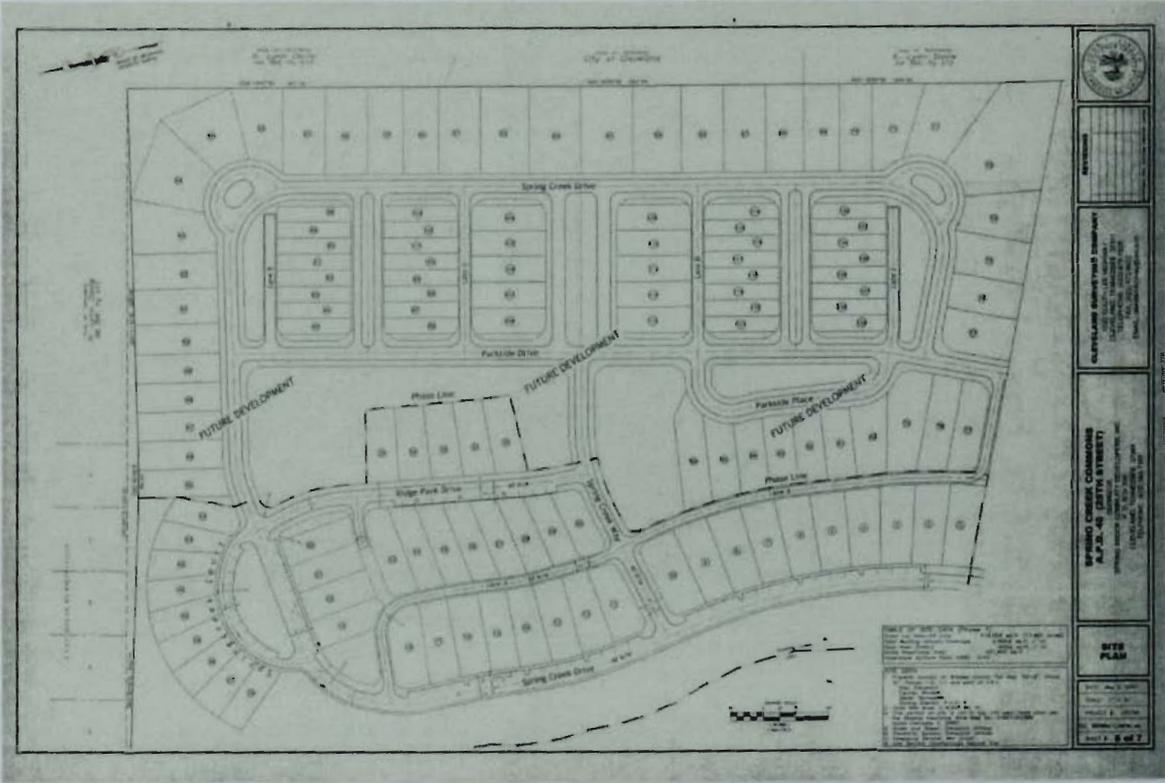


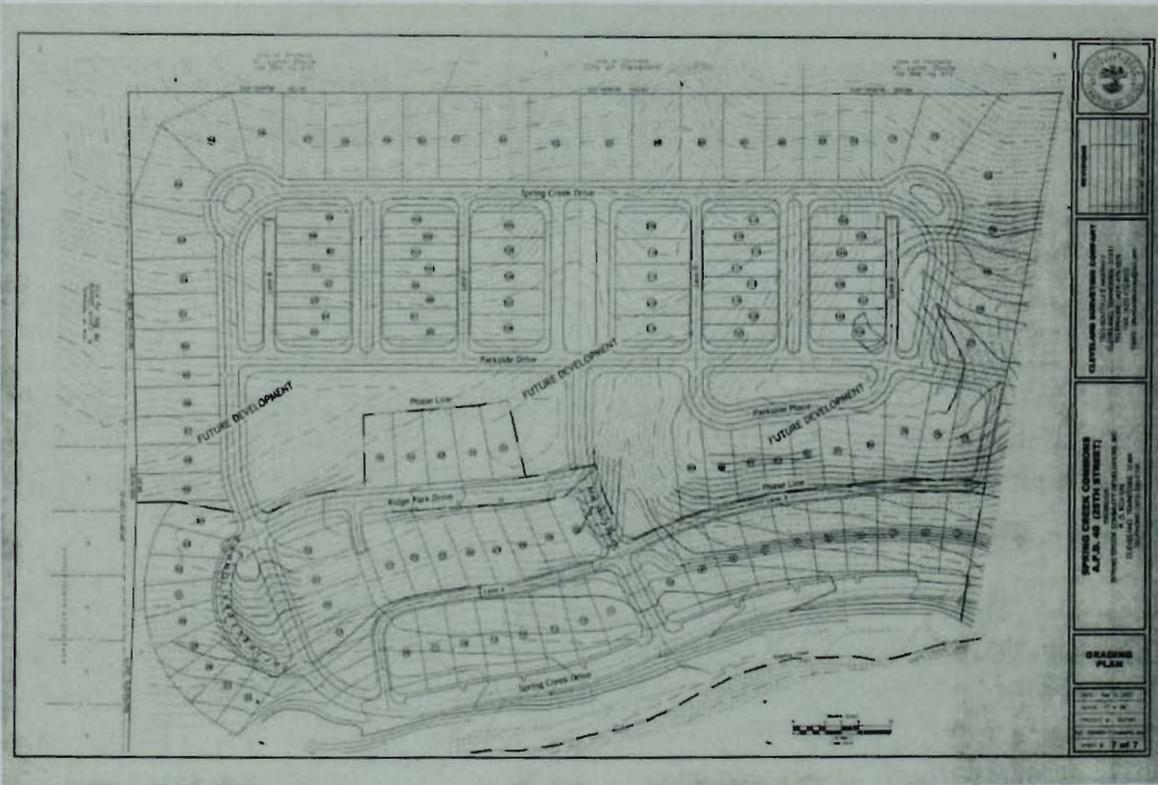
CLEVELAND SURVEYING COMPANY  
 1523 SOUTH LEE HIGHWAY  
 CLEVELAND, TENNESSEE 37311  
 JOHN T. MINGER  
 P.E. #20,753

**SITE SURVEY**

2 of 7







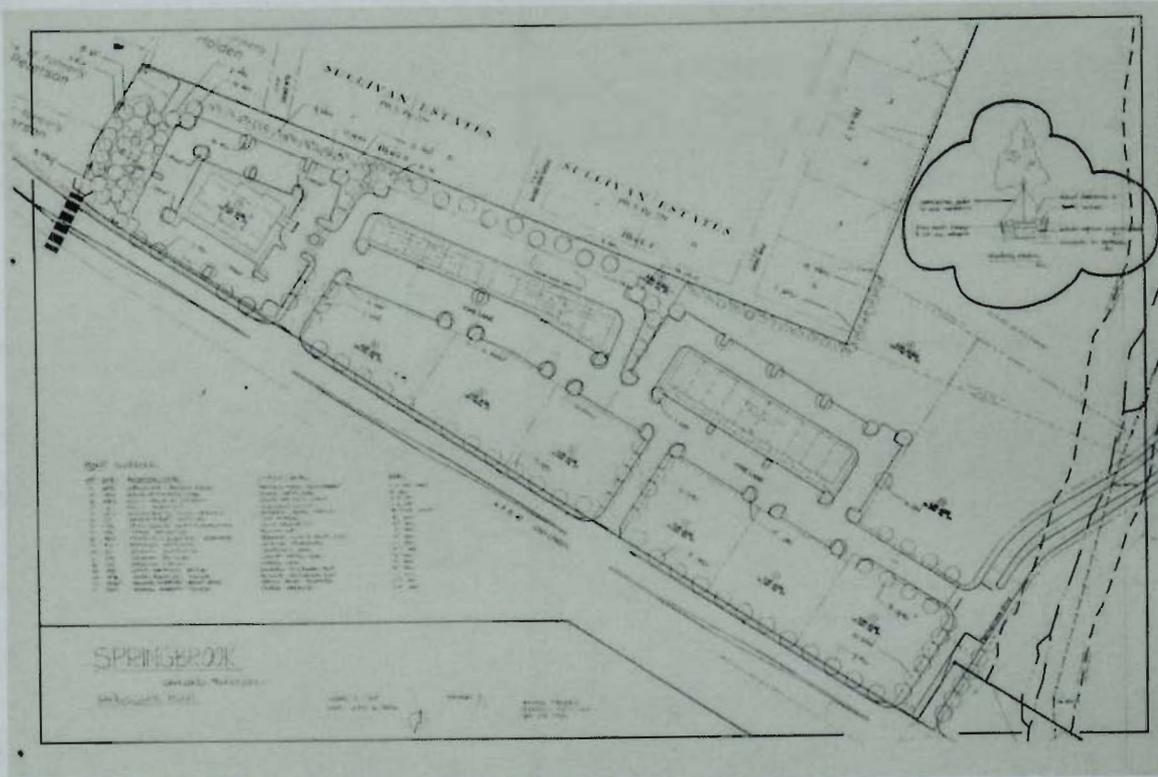
**SEAL**

**CLEVELAND ENGINEERING COMPANY**  
 11111 EAST 12TH STREET  
 CLEVELAND, OHIO 44124  
 PHONE: 223-1111  
 FAX: 223-1111

**SPRING CREEK COMMONS**  
 A.P. 48 (25TH STREET)  
 PROJECT NUMBER: 2001-01-001  
 SHEET NO. 1 OF 7

**GRADING PLAN**

DATE: 11/11/01  
 SCALE: 1" = 40'  
 SHEET NO. 1 OF 7



- LEGEND**
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**SPRINGBROOK**  
 11111 EAST 12TH STREET  
 CLEVELAND, OHIO 44124



1st READING 4-9-12 pg. 415  
FINAL READING 4-23-12 pg. 419  
MINUTE BOOK # 26

**ORDINANCE NO: 2012-06**

**AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING ORDINANCE 2007-21 SO AS TO REVISE THE PLANNED UNIT DEVELOPMENT (PUD) DESIGNATED AS "PUD 4" ON PROPERTY DESCRIBED AS A PORTION OF TAX MAP 50A, GROUP R, PARCEL 1.0, AS MORE PARTICULARLY DESCRIBED HEREIN, SO AS TO MOVE A PORTION OF THE SECTION OF PUD4 DESIGNATED AS "SPRING CREEK COMMONS" INTO THE SECTION OF PUD4 DESIGNATED AS "SPRING CREEK BUSINESS PARK"; PROVIDING THAT THE AFOREMENTIONED NEW PART OF SPRING CREEK BUSINESS PARK CAN BE DEVELOPED AS A SCHOOL OR RESIDENTIAL USES ALLOWED IN SPRING CREEK COMMONS BUT NOT FOR THE OTHER USES ALLOWED IN OTHER PARTS OF SPRING CREEK BUSINESS PARK AND MAKING VIOLATIONS UNLAWFUL AND PROVIDING FOR PENALTIES; PROVIDING FOR A DEVELOPMENT PLAN REVISION AND PLAT AND SITE PLAN APPROVAL FOR THE AFOREMENTIONED SCHOOL; PROVIDING FOR DEVELOPMENT STANDARDS FOR THE AFOREMENTIONED SCHOOL; DELETING THE REQUIREMENT FOR A PUD DEVELOPMENT ORDER FROM PUD4; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE**

**WHEREAS** the City of Cleveland, Tennessee, hereinafter "City", desires orderly land development in furtherance of the public welfare and has adopted the Planned Unit Development, hereinafter "PUD", process as an alternative development standard whereby to accomplish such development; and

**WHEREAS** City established the Spring Creek PUD, designated as PUD4, in cooperation with the developers of the property described herein and known as Spring Brook Community Developers, Inc., hereinafter "Developers"; and

**WHEREAS** Developers and City now to desire to amend a PUD4 to allow for the development of a school within a portion of the PUD designated as Spring Creek Commons and to move the boundaries within PUD4 such that the school site is within Spring Creek Business Park and not Spring Creek Commons, NOW THEREFORE BE IT ORDAINED:

**Section 1. DESCRIPTION OF THE AREA WITHIN PUD4 TO BE AMENDED SO AS TO ALLOW THE DEVELOPMENT OF A SCHOOL**

From a point on the east right-of-way line of Spring Creek Drive at its intersection with the north right-of-way line of 25<sup>th</sup> Street/APD-40 thence N55°17'02"W a distance of 782.01 feet along the north right-of-way line of 25<sup>th</sup> Street/APD-40 to a point continuing thence east along the aforesaid right-of-way line N60°16'27"W a distance of 206.97 feet to a point that is the west line of property now or formerly of Blankenship thence north along the aforesaid west line of Blankenship S22°30'46"W a distance of 492.69 feet to a point of Beginning, thence west S55°16'31"E a distance of 401.93 feet to a point on the east right-of-way line of Ridge park Drive, thence north along said east right-of-way line of Ridge Park Drive along an arc (L=115.12, R=262.27, N08°23'42"E, C=114.19) to a point, thence N04°08'39"W a

distance of 87.02 feet, thence along an arc (L=92.98, R=93.04, N24\*29'03"E, C=89.16) to a point of inflection, thence along an arc (L=34.00, R=142.89, N46\*17'41"E, C=33.92) to a point on the aforesaid east right-of-way line of Ridge Park Drive, thence east a distance of 461.36 feet on a bearing S55\*16'31"E to a point on the west line of property now or formerly of Davis (DB386 p973 ROBCT), thence south along the aforesaid west line of Davis S24\*18'50"W a distance of 254.92 feet to a point that is the northwest corner of property now or formerly of Blankenship, thence south along the west line of Blankenship a distance of 41.15 feet to the Point of Beginning. The subject property contains 3.0 acres, more or less. The subject property is depicted in a survey drawing by Cleveland Surveying Company attached hereto as EXHIBIT A to this ordinance.

## **Section 2. CHANGES TO BOUNDARIES OF SPRING CREEK COMMONS AND SPRING CREEK BUSINESS PARK**

The property described above is hereby removed from the property contained in Spring Creek Commons as described in Section 3.D. of Ordinance 2007-21 and it is hereby incorporated into the property described as Spring Creek Business Park in Section 3.C. of Ordinance 2007-21.

## **Section 3. CHANGES TO GENERAL PROJECT DESCRIPTION**

Section 4 of Ordinance 2007-21 provides an overall description of what is to be contained in each of the four parts of PUD4. The four parts are Spring Creek Town Center, Spring Creek Business Park, Spring Creek Commons, and Spring Creek Highlands. Section 4.C. provides a general description of development to take place in Spring Creek Business Park. Section 4.C of Ordinance 2007-21 is hereby amended to read as follows: "Spring Creek Business Park is located on the east side of Spring Creek Drive near 25<sup>th</sup> Street. It will provide space for professional offices and some limited retail uses, including the possibility of live/work space with upper story residential development. A school site is included in a portion of Spring Creek Business Park adjacent to Spring Creek Commons."

## **Section 4. CHANGE IN PERMITTED USES, VIOLATIONS UNLAWFUL, PENALTIES**

Section 5 of Ordinance 2007-21 describes the uses that are allowed and prohibited in each of the four sections of PUD4. Section 5.A.1. of Ordinance 2007-21 governing uses allowed in Spring Creek Business Park is hereby amended to provide that the property described in Section 1 and EXHIBIT A of this ordinance is to be developed as a school but it is not allowed to be developed for the other uses allowed in other parts of Spring Creek Business Park (in the event that a school is not developed on all of this portion of Spring Creek Business Park, the development of residential uses is allowed consistent with Spring Creek Commons without further revision to PUD4). Any development or use of the property described herein in manner contrary to the terms of this ordinance is a zoning violation and is unlawful, subject to the penalties prescribed by the Cleveland Municipal Code and the laws of Tennessee.

**Section 5. DEVELOPMENT PLAN AND RELATED REQUIREMENTS.**

Section 6 of Ordinance 2007-21 described the required development plan that was attached and incorporated in the ordinance, together with the process for site plans and detailed block plans and plats. Section 6 of ordinance 2007-21 and its referenced attachment is hereby revised to include the school site described in this ordinance. A plat of the school site has been prepared and site plan for the school site is required. The site plan for the school site shall be coordinated with the development plan for Spring Creek Commons and Spring Creek Business Park.

**Section 6. DEVELOPMENT STANDARDS**

Development standards (building setbacks; quality of appearance; signage; building heights; design of parking, internal traffic , and access; exterior lighting; site maintenance; disturbance to surrounding property; impervious area and drainage; landscaping; solid waste; and operating and maintenance agreement) for the school site property described in this ordinance shall be as required in Section 7 of Ordinance 2007-21 for Spring Creek Business Park, except where these a specifically modified for the school site by the Cleveland Municipal Planning Commission and added into the record of their review. The plat and site plan for the school site shall be as approved by the Cleveland Municipal Planning Commission and otherwise compliant with this ordinance and other applicable laws and regulations.

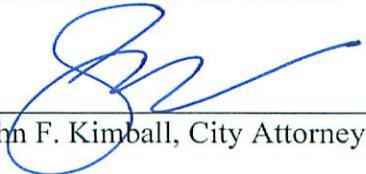
**Section 7. PUD DEVELOPMENT ORDER REQUIREMENT DELETED.**

Section 9 of Ordinance 2007-21 requiring a PUD Development Order is hereby deleted.

**Section 8. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.** Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance shall take effect upon after passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

Approved this \_\_\_ day of \_\_\_\_\_, 2012.

APPROVED AS TO FORM:

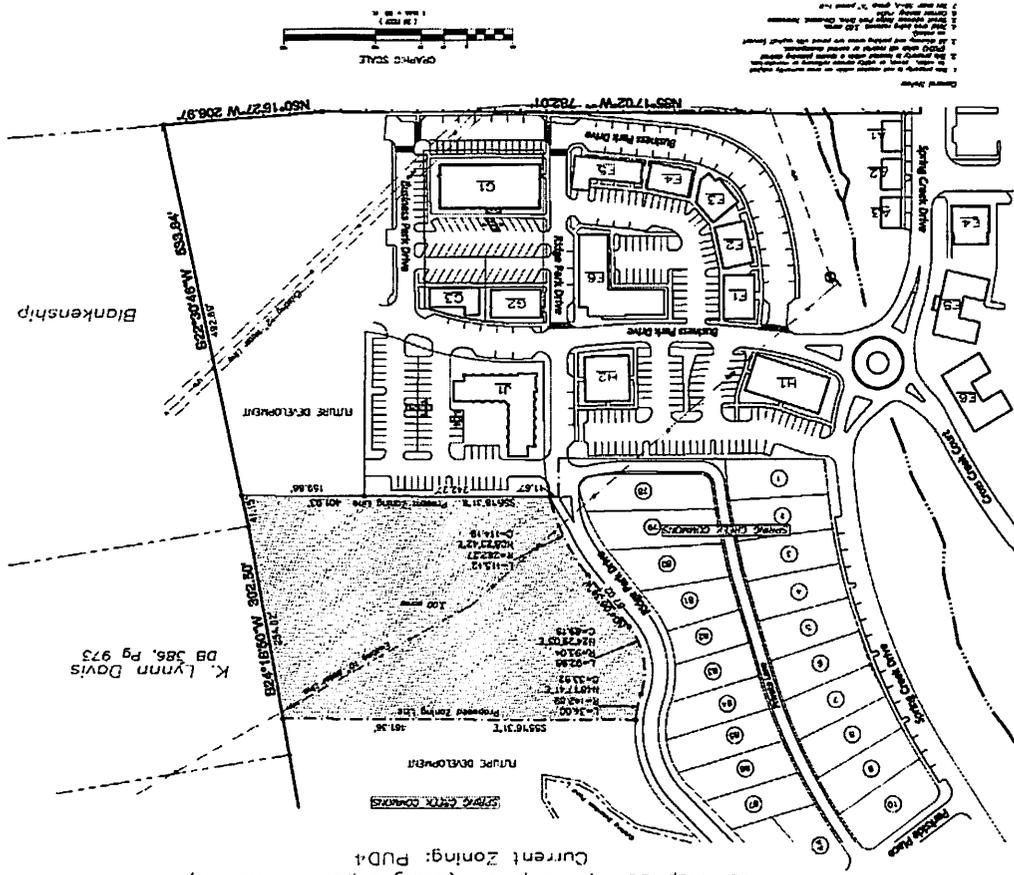
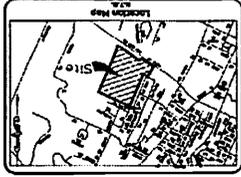
  
\_\_\_\_\_  
John F. Kimball, City Attorney

  
\_\_\_\_\_  
Tom Rowland, Mayor

  
\_\_\_\_\_  
Michael L. Keith, City Clerk

**EXHIBIT A**

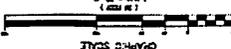
Boundary Line Revision between:  
 Spring Creek Business Park  
 and  
 Spring Creek Commons  
 Tax Map 50-A, Group "A" (being a portion thereof)  
 Current zoning: PUD4



Owner \ Developer  
 Spring Brook Community Developers, LLC  
 P.O. Box 548  
 Cleveland, TN 37364  
 Phone: (423) 595-7107  
 Date: January 8, 2010 Sheet: 1 of 07  
 PROJECT NO. 000787

**CONTRIBUTOR**  
 SURVEYING  
 11205 BROADWAY  
 MEMPHIS, TN 38117  
 (901) 498-1829

1. The accuracy of this map is based on the data provided by the client.
2. The accuracy of this map is based on the data provided by the client.
3. The accuracy of this map is based on the data provided by the client.
4. The accuracy of this map is based on the data provided by the client.
5. The accuracy of this map is based on the data provided by the client.



1st READING 10-08-12 pg. 586  
FINAL READING 10-22-12 pg. 592  
MINUTE BOOK # 26

**ORDINANCE NO: 2012-20**

**AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING ORDINANCE 2007-21 SO AS TO REVISE THE PLANNED UNIT DEVELOPMENT (PUD) DESIGNATED AS “PUD 4” ON PROPERTY DESCRIBED AS A PORTION OF TAX MAP 50A, GROUP R, PARCEL 1.0, SO AS TO ADD A NEW DRAWING NAMED “SPRING CREEK RETAIL CENTER ENTRANCE DRIVE” TO “EXHIBIT A” TO ALLOW A NEW RIGHT-IN/RIGHT-OUT ACCESS POINT, A NEW BUILDING LOCATION WITH PARKING NEAR THE GREENWAY AND TO ADD A GREENWAY EASEMENT FOR THE “SPRING CREEK TOWN CENTER” PORTION OF PUD4; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE**

**WHEREAS** the City of Cleveland, Tennessee, hereinafter “City”, desires orderly land development in furtherance of the public welfare and has adopted the Planned Unit Development, hereinafter “PUD”, process as an alternative development standard whereby to accomplish such development; and

**WHEREAS** City established the Spring Creek PUD, designated as PUD4, in cooperation with the developers of the property described herein and known as Spring Brook Community Developers, Inc., hereinafter “Developers”; and

**WHEREAS** Developers and City now to desire to amend a PUD4 to add the “Spring Creek Retail Center – Entrance Drive” Drawing to “Exhibit A.” NOW THEREFORE BE IT ORDAINED:

**Section 1. AMEND SECTION 6.A to read:**

**Section 6. DEVELOPMENT PLAN AND RELATED REQUIREMENTS.**

**6.A. DEVELOPMENT PLAN.**

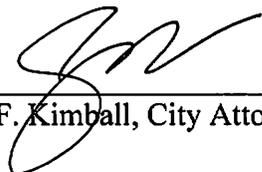
A Development Plan (Exhibit A) for PUD4 Spring Creek was prepared by Cleveland Surveying and presented by Developer to the Cleveland Municipal Planning Commission on May 24, 2007 for approval. The development plan consists of eight sheets: Sheet 1 Title Sheet, Sheet 2 Survey, Sheet 3 Master Site Plan, Sheet 4 Spring Creek Town Center Site Plan, Sheet 5 Spring Creek Commons Site Plan, Sheet 6 Spring Creek Town Center Grading Plan, Sheet 7 Spring Creek Commons Grading Plan and Sheet 8 Spring Creek Retail Center Entrance Drive. All development within PUD4 must be consistent with this Development Plan.

**Section 2 AMEND EXHIBIT A.**

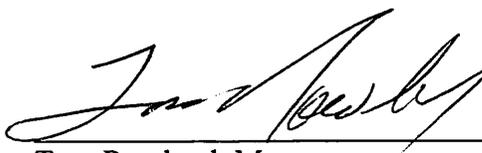
The attached drawing shall be added to Exhibit A as Sheet 8

**Section 3. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.** Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance shall take effect upon final passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

APPROVED AS TO FROM:



John F. Kimball, City Attorney

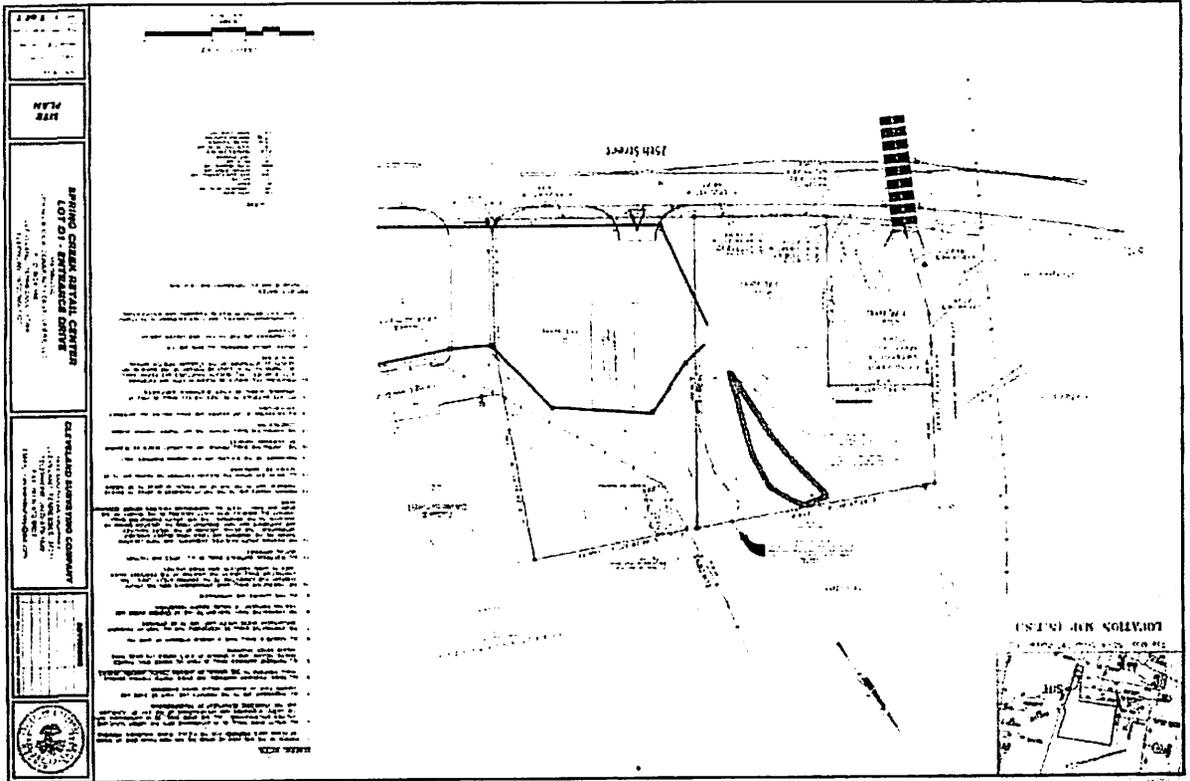


Tom Rowland, Mayor



William Watson, City Clerk

PUD Amendment



SPRING CREEK RETAIL CENTER  
60701 SPRING CREEK CENTER  
CITY OF SPRING CREEK, COLORADO  
PLANNING AND ZONING DEPARTMENT  
1200 SPRING CREEK BLVD., SPRING CREEK, CO 80101  
TEL: 303.473.1000  
WWW.SPRINGCREEKCO.ORG  
DATE: 11/15/2011  
DRAWN BY: J. HARRIS  
CHECKED BY: J. HARRIS  
SCALE: AS SHOWN  
PROJECT NO.: 11-001  
SHEET NO.: 17 OF 23



