

ORDINANCE NO: 2009-34

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO AMEND THE PUD5 ZONING DISTRICT ESTABLISHED BY ORDINANCE 2006-26 BY AMENDING VARIOUS PROVISIONS OF ORDINANCE 2006-26 SO AS TO PROVIDE SETBACK LIMITS, BUFFERING REQUIREMENTS AND ALLOWING 2 TO 4 UNIT RESIDENTIAL BUILDINGS WITH ZERO LOT LINE OR TOWNHOME LOTS AND RETAINING ALL OTHER FEATURES OF ORDINANCE 2006-26 IN FULL FORCE AND EFFECT.

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 the City zoned certain property as PUD5 by Ordinance 2006-26 (Minute Book 23, page 665), which Ordinance is attached hereto and incorporated herein as Exhibit 1, which ordinance contains the PUD5 zoning district and standards and conditions for the development, operation, and maintenance of the property; and

WHEREAS, at its meeting on March 24, 2009 the Cleveland Municipal Planning Commission recommended changes to Ordinance 2006-26 to address changes in PUD5 sought by the current owner(s), and the City Council desires to approve those changes.

NOW THEREFORE BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, IN REGULAR SESSION ASSEMBLED.

Section 1: Sections 1, 4 and 11 of Ordinance Number 2006-26, which established the PUD 5 Zoning District, are hereby replaced with the following language:

Section 1. ZONING PLAN AND MAP AMENDMENT. The zoning plan and map are hereby amended so as to zone the property described in Section 3 herein as "PUD5" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD5 zoning district are those uses outlined in this ordinance. There are no conditional uses within the PUD5 district. The development standards for the PUD5 district are those outlined in this ordinance, including requirements for plan approval, the development order, and compliance with applicable permitting requirements.

Front setbacks will match the setbacks for the existing buildings as of March 18, 2009. The rear setbacks will be located as not to encroach on the easements and to provide for rear yard buffers to adjoining properties outside of the PUD.

Section 4. PERMITTED USES. The following uses, are permitted with exceptions as noted: Residential dwelling units in structures containing one or two dwelling units; however, the total number of dwelling units to be developed within the property shall not exceed 53 for all development phases combined; and,

Two to Four Unit Residential Buildings. Residential Units may be configured in a zero lot line or townhome fashion, with each unit on its own fee simple lot.

Accessory structures and amenities ordinarily and customarily associated with residential developments including garages, carports, storage sheds, recreational amenities (swimming pools, shuffleboard courts, basketball courts, and similar facilities intended for the enjoyment of residents and their guests), walking trails or sidewalks, landscape and garden areas, community buildings or club houses, driveway and parking facilities, mail boxes, community message boards, entry signs and other types of signage ordinarily permitted in the R2 zoning district, streets, utilities, and drainage structures; and,

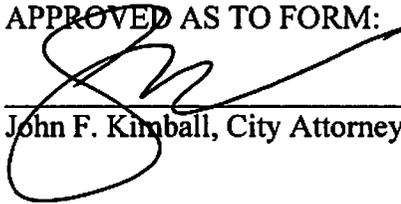
Home occupations of the type ordinarily permitted in the R2 zoning district and subject to the same zoning restrictions that apply in the R2 zoning district.

Uses other than those described above are not permitted in the PUD5 zoning district.

Section 11. IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING. The PUD5 development is to be carried out in a manner that allows the City to remain in compliance with federal and state stormwater requirements. All construction within PUD5 will be carried out in a manner that complies with the City's stormwater regulations and approved by the City Engineer. All design or re-design of drainage facilities is to be performed by a Tennessee registered engineer. Total impervious area within the development are not to exceed 47% as indicated in Exhibit A, subject to limited revisions that may be approved by the Cleveland Municipal Planning Commission pursuant to Section 16 below. A landscape plan has been approved by the City's Urban Forester and is attached as Exhibit B. In addition a buffer will be provided for the adjoining Single Family properties outside of the PUD. This buffer will preserve the existing vegetation and add a row of evergreen trees (of a type approved by the Urban Forester) to be planted approximately 6 feet from the row of existing trees and put on 6 foot centers.. Landscaping in PUD5 must be continuously maintained in good repair by the developer and subsequently by the condominium association. Landscaping plan shall include a plan for irrigation, fertilization, pest/weed control, and regular maintenance and replacement of dead or diseased plants to be carried out by Developer initially and assumed by condominium association. Developer is to provide for a program of regular maintenance for the proposed Emmylie Court, sidewalks and other common areas through removal of litter and debris.

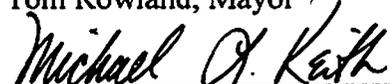
Section 2: This Ordinance shall take effect on final reading, the public welfare requiring it.

APPROVED AS TO FORM:



John F. Kimball, City Attorney



Tom Rowland, Mayor


Michael L. Keith, City Clerk

1st READING 7-24-06 pg. 655
FINAL READING 8-14-06 pg. 165
MINUTE BOOK # 23

EXHIBIT 1
ORDINANCE NO: 2006-26

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) ZONING DISTRICT PURSUANT TO SECTION 4.1 OF THE AFOREMENTIONED TITLE 14 CHAPTER 2 WITH SAID PUD TO BE KNOWN AS "PUD 5" ON PROPERTY DESCRIBED AS TAX MAP 42G GROUP C PARCEL 19 AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD5; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING A LIST OF PERMITTED USES; ESTABLISHING DEVELOPMENT PLAN REQUIREMENTS; ESTABLISHING PLATTING REQUIREMENTS; ESTABLISHING REQUIREMENTS FOR UTILITIES; ESTABLISHING REQUIREMENTS FOR TRANSPORTATION FACILITIES AND RELATED ISSUES; ESTABLISHING REQUIREMENTS FOR IMPERVIOUS AREAS, STORMWATER MANAGEMENT, AND LANDSCAPING; PROVIDING FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; PROVIDING FOR A PUD DEVELOPMENT ORDER; PROVIDING FOR TIME LIMITS AND POSSIBLE REVERSION TO FORMER ZONING; PROVIDING FOR ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS; PROVIDING FOR BINDING EFFECT; 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 (Ted C. Moss, Michael Dowling, and/or others), 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 residential community with common open space and other amenities; 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 3 herein as "PUD5" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD5 zoning district are those uses outlined in this ordinance. There are no conditional uses within the PUD5 district. The development standards for the PUD5 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. The subject property contains 4.46 acres, more or less, and is generally located at the northern terminus of Eveningside Drive that is northeast of the intersection of North Ocoee Street and Gale Drive. The property is more particularly described as follows: beginning at a point that is the southeast corner of Ocoee Landing Lot 1 (Plat Book 13, Page 329 in the Records of Bradley County, Tennessee, hereinafter referred to as ROBCT), thence north 20 degrees 32 minutes 33 seconds east a distance of 103.70 feet along the east line of the aforementioned lot 1, thence continuing along the east line of the aforementioned lot 1 north 24 degrees 02 minutes 17 seconds east to the northeast corner of the aforementioned lot 1, thence south 78 degrees 55 minutes 24 seconds east a distance of 1101.12 feet along the south line of North Crest Townhomes (Plat Book 4, Sections I-VIII, pages 113, 119, 121, 127, 128, 131, 135) to a point on the east right-of-way line of Pryor Drive, thence generally south 20.05 feet along the aforesaid east right-of-way line of Pryor Drive to a point that is the northeast corner of property now or formerly of James I. Cooke (Plat Book 1102, page 81), thence along the north line of the aforementioned property of Cooke north 79 degrees 00 minutes and 00 seconds west a distance of 175.00 feet to a point that is the northwest corner of the Cooke property, thence south 11 degrees 00 minutes 00 seconds west a distance of 183.00 feet to a point on the north line of the W.M. Watson property (Plat Book 1, page 178), thence north 79 degrees 00 minutes 00 seconds west a distance of 401.46 feet to a point on the east right-of-way line of Eveningside Drive, thence across the Eveningside Drive right-of-way north 79 degrees 00 minutes 00 seconds west a distance of 40.00 feet to a point on the west right-of-way line of Eveningside Drive that is the northeast corner of Courtyard Condominiums (Plat Book 6, Page 12), thence along the north lines of the aforementioned Courtyard Condominiums and the property now or formerly of Ralph Buckner (Plat Book 116, Page 565) north 79 degrees 00 minutes 00 seconds west a distance of 525.53 feet to the point of beginning.

Section 4. PERMITTED USES. The following uses, are permitted with exceptions as noted:

Residential dwelling units in structures containing one, two or three dwelling units; however, the total number of dwelling units to be developed within the property shall not exceed 53 for all development phases combined; and,

Accessory structures and amenities ordinarily and customarily associated with residential developments including garages, carports, storage sheds, recreational amenities (swimming pools, shuffleboard courts, basketball courts, and similar facilities intended for the enjoyment of residents and their guests), walking trails or sidewalks, landscape and garden areas, community buildings or club houses, driveway and parking facilities,

mail boxes, community message boards, entry signs and other types of signage ordinarily permitted in the R2 zoning district, streets, utilities, and drainage structures; and,

Home occupations of the type ordinarily permitted in the R2 zoning district and subject to the same zoning restrictions that apply in the R2 zoning district.

Uses other than those described above are not permitted in the PUD5 zoning district.

Section 5. PLATTING AND DEVELOPMENT PLAN. A development plan, including the "SITE MASTER PLAN" shown in Exhibit A, was developed by Brown Surveying Company, LLC and the PUD development will be in accordance with that plan. The development plan will be substantially consistent, in terms of the general location and configuration of buildings, infrastructure, and amenities, with a two-lot plat prepared for the project by Brown Surveying and approved by the Cleveland Municipal Planning Commission on May 23, 2006. Since the private Emmyllie Court shown in the aforementioned plat, as well as drainage infrastructure, were approved and developed under a previous plat before PUD5 was contemplated, it is intended that the PUD5 development be done so as to conform to the this existing infrastructure such that the effective functioning of this infrastructure is not compromised. Any modification to any existing street, utility or other infrastructure necessitated by the design of the PUD will be the responsibility of the developer and subject to approval by the City of Cleveland and, as appropriate by Cleveland Utilities. Since PUD5 is a condominium development, the horizontal plat regime and any other documents required by Tennessee law for the establishment of a condominium, shall be drawn in a way that is consistent with the PUD development plan.

Section 8. FLOOD PREVENTION. The proposed development is not within a 100-year floodplain or regulatory floodway per FIRM Community Panel Number 470015001D dated April 2, 1993.

Section 9. UTILITIES. Water, sanitary sewer, and electric utilizes are to be designed and installed as approved by Cleveland Utilities who are to receive all necessary easements for the maintenance of these utilities and these easements are to be indicated on the plat(s). The PUD approval is contingent upon the installation of properly functioning sanitary sewer service as approved by Cleveland Utilities. Street lighting will be as approved by Cleveland Utilities in accordance with normal City standards. Any additional or upgraded lighting will be at the cost of Developer and/or homeowners for installation, maintenance, and operation. Other utilities may be provided as planned by the developer and accommodated within utility easements.

Section 10. TRANSPORTATION FACILITIES AND RELATED ISSUES. Sidewalks within the development, including those abutting Eveningside Drive and the private Emmyllie Court will be constructed and maintained so as to meet handicapped accessibility requirements applicable in the City of Cleveland, Tennessee. The developer and subsequent owners and owners association are to keep Emmyllie Court free from obstruction by parked vehicles or other obstructions at all times such that accessibility for

emergency vehicles can be maintained. Any gate(s) or similar barrier(s) erected at Emmyllie Court will require approval of the City of Cleveland through its site plan approval process, and approval of the Cleveland Fire Chief and Police Chief.

Section 11. IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING. The PUD5 development is to be carried out in a manner that allows the City to remain in compliance with federal and state stormwater requirements. All construction within PUD5 will be carried out in a manner that complies with the City's stormwater regulations and approved by the City Engineer. All design or re-design of drainage facilities is to be performed by a Tennessee registered engineer. Total impervious area within the development are not to exceed 47% as indicated in Exhibit A, subject to limited revisions that may be approved by the Cleveland Municipal Planning Commission pursuant to Section 16 below. A landscape plan has been approved by the City's Urban Forester and is attached as Exhibit B. Landscaping in PUD5 must be continuously maintained in good repair by the developer and subsequently by the condominium association. Landscaping plan shall include a plan for irrigation, fertilization, pest/weed control, and regular maintenance and replacement of dead or diseased plants to be carried out by Developer initially and assumed by condominium association. Developer is to provide for a program of regular maintenance for the proposed Emmyllie Court, sidewalks and other common areas through removal of litter and debris.

Section 12. SIGNAGE. One entrance sign is allowed near the terminus of Eveningside Drive but not in the public right-of-way. Any lighting of the aforementioned sign shall be installed so as to minimize glare and light on the surrounding roadway and other property. This does not preclude the installation of decorative features, such as decorative pillars, with small decorative signs of four square feet or less bearing the name or emblem of the development. This also does not preclude informational kiosks or other small signs less than four square feet inside the development. No sign advertising a business shall be placed inside the development so as to be visible from outside the development but this prohibition is not intended to preclude real estate signs advertising the properties within the development.

Section 13. 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 PUD. 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. 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 14. PUD DEVELOPMENT ORDER. It is understood that complete development of the property as described herein requires the rezoning of the property to PUD3 per the terms of this ordinance as well as subdivision plat approval. The developer has expressed a desire to begin grading and development of the site prior to final completion of the PUD. It is understood that any work that commences prior to the final approval of this ordinance by the City Council, and execution of a development order by the Mayor and the Developer, and plat approval by the Cleveland Municipal Planning Commission is solely at the risk of the Developer and may not be undertaken prior to the issuance of a Land Disturbance Permit by the City. The development order is to provide a more final and complete description of how the terms of this ordinance are to be carried out by the developer. The development order shall be inclusive of all permits, plats, design documents, etc. necessary to implement the project described herein.

Section 15. 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 at least one-half of the proposed condominium housing units.

Section 16. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD. 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. 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. Errors and omissions in the Development Order that can be corrected without conflicting with the terms of this ordinance may be corrected without amending this ordinance with the recommendation of the Cleveland Municipal Planning Commission and the signature of the Mayor and the Developer.

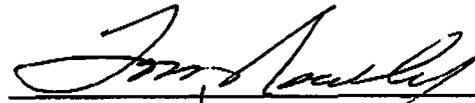
Section 17. BINDING UPON OTHERS. This ordinance is a law and not a contract, and as such it is generally binding upon all development and use of property in the PUD5 zoning district and is binding upon City's regulation of these activities in this location. The Development Order required by this ordinance 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,

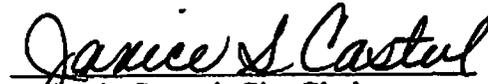
or successors in title. Compliance with this ordinance and Development Order shall be a condition of all deeds, leases, or other instruments that convey a right to own or occupy all or a portion of the subject property. Moreover, it shall be the duty of the Developer to ensure compliance with all terms of this ordinance and the Development Order affecting construction or maintenance.

Section 18. 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 AS TO FORM:


L. Harlen Painter, City Attorney


Tom Rowland, Mayor


Janice S. Casteel, City Clerk

ORDINANCE NO: 2014-39

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO AMEND THE PUD5 ZONING DISTRICT ESTABLISHED BY ORDINANCE 2006-26 BY AMENDING VARIOUS PROVISIONS OF ORDINANCE 2006-26 SO AS TO REMOVE REFERNCES TO THE REQUIREMENTS OF A CONDOMINIUM DEVELOPMENT, REMOVE THE PROCESS OF A DEVELOPMENT ORDER AND PROVIDE AN THE OPTION FOR THE CITY OF CLEVELAND TO ACCEPT EMMYLLIE COURT AS A CITY STREET AND RETAINING ALL OTHER FEATURES OF ORDINANCE 2006-26 AND 2009-34 IN FULL FORCE AND EFFECT.

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 the City zoned certain property as PUD5 by Ordinance 2006-26, which Ordinance is attached hereto and incorporated herein as Exhibit 1, which ordinance contains the PUD5 zoning district and standards and conditions for the development, operation, and maintenance of the property; and

WHEREAS, the City amended PUD5 through the adoption of Ordinance 2009-34 to provide for the creation of setbacks requirements and to create changes to the buffering requirements and the types of buildings allowable; and

WHEREAS, at its meeting on July 15, 2014 the Cleveland Municipal Planning Commission recommended additional changes to Ordinance 2006-26 to address changes in PUDS sought by the current owner(s), and the City Council desires to approve those changes.

NOW THEREFORE BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF CLEVELAND, IN REGULAR SESSION ASSEMBLED.

Section 1: Sections 5, 10, 14, 15, 16, 17 and Appendix A of Ordinance Number 2006-26, which established the PUD 5 Zoning District, and section 11 of Ordinance Number 2009-34 which amended PUD 5, are hereby replaced with the following language:

Section 5: PLATTING AND DEVELOPMENT PLAN. Since the private Emmyllie Court, shown in the Exhibit A as prepared by Brown Surveying, as well as drainage infrastructure, were approved and developed under a previous plat before PUD5 and subsequent revisions were contemplated, it is intended that the PUD5 development be done so as to conform to the this existing infrastructure such that the effective functioning of this infrastructure is not compromised. Any modification to any existing street, utility or other infrastructure necessitated by the design of the PUD will be the responsibility of the developer and subject to approval by the City of Cleveland and, as appropriate by Cleveland Utilities. Future development will be substantially consistent, in terms of the general location and configuration of buildings and

amenities with the aforesaid plat. The platting and recording of any ROW or individual lots shall be the same as the process required within the City of Cleveland Subdivision Regulations. Additionally, all permitting and site reviews shall follow the standard policies of the City. The City of Cleveland retains the discretion to accept or deny ownership of any street, right of way or other form of infrastructure regardless of the language of this ordinance.

Section 10. TRANSPORTATION FACILITIES AND RELATED ISSUES. Sidewalks within the development, including those abutting Eveningside Drive and the private Emmyllie Court will be constructed and maintained so as to meet handicapped accessibility requirements applicable in the City of Cleveland, Tennessee. At any time that Emmyllie Court is not a public street, the developer and subsequent owners and owners association are to keep Emmyllie Court free from obstruction by parked vehicles or other obstructions at all times such that accessibility for emergency vehicles can be maintained. Any gate(s) or similar barrier(s) erected at Emmyllie Court will require approval of the City of Cleveland through its site plan approval process, and approval of the Cleveland Fire Chief and Police Chief.

Section 11. IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING. The PUD5 development is to be carried out in a manner that allows the City to remain in compliance with federal and state stormwater requirements. All construction within PUD5 will be carried out in a manner that complies with the City's stormwater regulations and approved by the City Engineer. All design or re-design of drainage facilities is to be performed by a Tennessee registered engineer. Total impervious area within the development are not to exceed 47% as indicated in Exhibit A, subject to limited revisions that may be approved by the Cleveland Municipal Planning Commission pursuant to Section 16 below. A landscape plan must be submitted in compliance with City regulations and approved by the City's Urban Forester. Landscaping in PUD5 must be continuously maintained in good repair by the developer and subsequently owners or established association. Landscaping plan shall include a plan for irrigation, fertilization, pest/weed control, and regular maintenance and replacement of dead or diseased plants to be carried out by Developer initially and assumed subsequent owners or established association. Developer is to provide for a program of regular maintenance for the proposed Emmyllie Court, sidewalks and other common areas through removal of litter and debris for as long as it remains a private road.

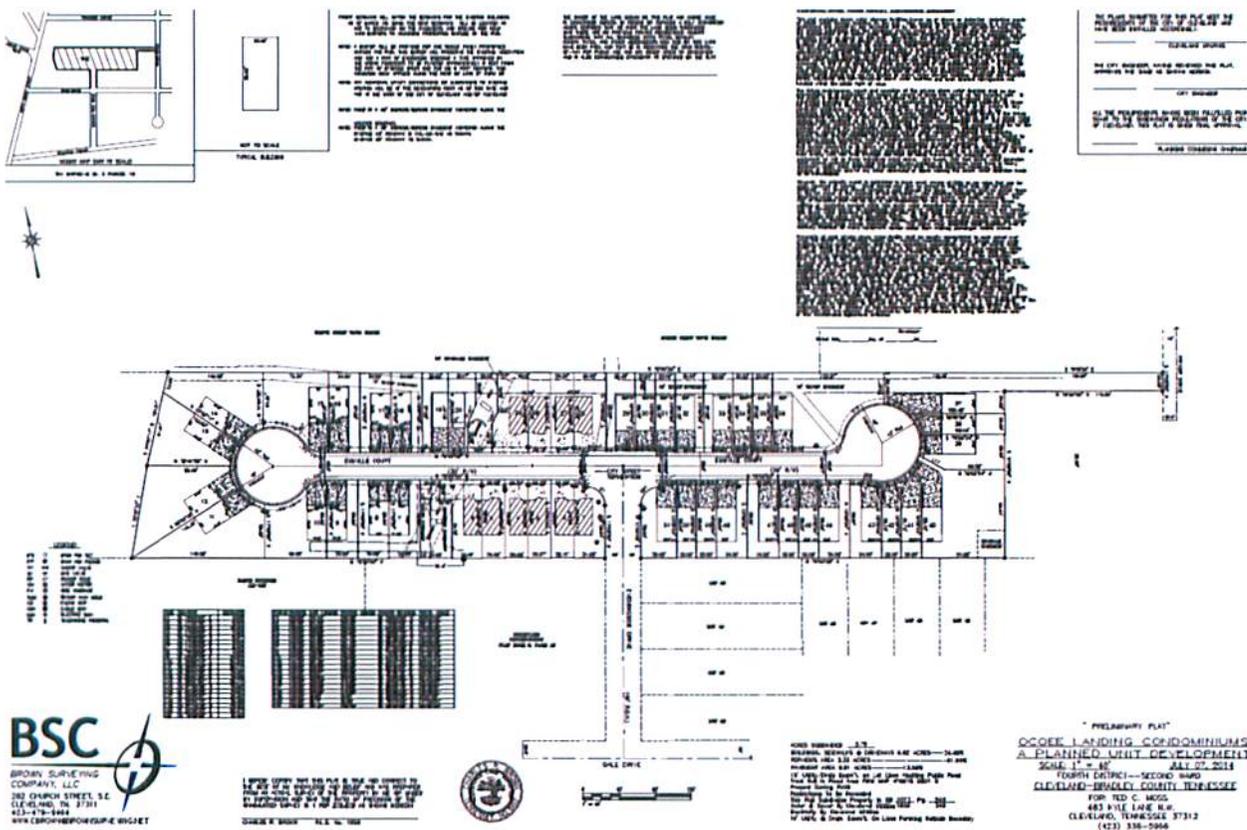
Section 14.- REMOVED

Section 15. 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.

Section 16. 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.

Section 17. 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 PUD5 zoning district and is binding upon City's regulation of these activities in this location. Compliance with this ordinance 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. Moreover, it shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance.

"Exhibit A":

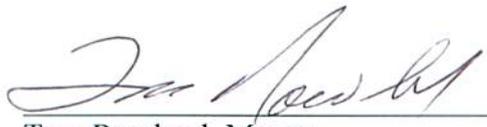


Section 2: This Ordinance shall take effect on final reading, the public welfare requiring it.

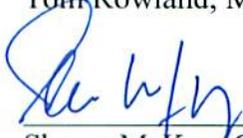
APPROVED AS TO FORM:



 John Kimball, City Attorney



 Tom Rowland, Mayor



 Shawn McKay, City Clerk

1st READING 7-24-06 pg. 655
FINAL READING 8-14-06 pg. 1465
MINUTE BOOK # 23

ORDINANCE NO: 2006-26

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) ZONING DISTRICT PURSUANT TO SECTION 4.1 OF THE AFOREMENTIONED TITLE 14 CHAPTER 2 WITH SAID PUD TO BE KNOWN AS "PUD 5" ON PROPERTY DESCRIBED AS TAX MAP 42G GROUP C PARCEL 19 AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD5; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING A LIST OF PERMITTED USES; ESTABLISHING DEVELOPMENT PLAN REQUIREMENTS; ESTABLISHING PLATTING REQUIREMENTS; ESTABLISHING REQUIREMENTS FOR UTILITIES; ESTABLISHING REQUIREMENTS FOR TRANSPORTATION FACILITIES AND RELATED ISSUES; ESTABLISHING REQUIREMENTS FOR IMPERVIOUS AREAS, STORMWATER MANAGEMENT, AND LANDSCAPING; PROVIDING FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; PROVIDING FOR A PUD DEVELOPMENT ORDER; PROVIDING FOR TIME LIMITS AND POSSIBLE REVERSION TO FORMER ZONING; PROVIDING FOR ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS; PROVIDING FOR BINDING EFFECT; 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 (Ted C. Moss, Michael Dowling, and/or others), 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 residential community with common open space and other amenities; 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 3 herein as "PUD5" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD5 zoning district are those uses outlined in this ordinance. There are no conditional uses within the PUD5 district. The development standards for the PUD5 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. The subject property contains 4.46 acres, more or less, and is generally located at the northern terminus of Eveningside Drive that is northeast of the intersection of North Ocoee Street and Gale Drive. The property is more particularly described as follows: beginning at a point that is the southeast corner of Ocoee Landing Lot 1 (Plat Book 13, Page 329 in the Records of Bradley County, Tennessee, hereinafter referred to as ROBCT), thence north 20 degrees 32 minutes 33 seconds east a distance of 103.70 feet along the east line of the aforementioned lot 1, thence continuing along the east line of the aforementioned lot 1 north 24 degrees 02 minutes 17 seconds east to the northeast corner of the aforementioned lot 1, thence south 78 degrees 55 minutes 24 seconds east a distance of 1101.12 feet along the south line of North Crest Townhomes (Plat Book 4, Sections I-VIII, pages 113, 119, 121, 127, 128, 131, 135) to a point on the east right-of-way line of Pryor Drive, thence generally south 20.05 feet along the aforesaid east right-of-way line of Pryor Drive to a point that is the northeast corner of property now or formerly of James I. Cooke (Plat Book 1102, page 81), thence along the north line of the aforementioned property of Cooke north 79 degrees 00 minutes and 00 seconds west a distance of 175.00 feet to a point that is the northwest corner of the Cooke property, thence south 11 degrees 00 minutes 00 seconds west a distance of 183.00 feet to a point on the north line of the W.M. Watson property (Plat Book 1, page 178), thence north 79 degrees 00 minutes 00 seconds west a distance of 401.46 feet to a point on the east right-of-way line of Eveningside Drive, thence across the Eveningside Drive right-of-way north 79 degrees 00 minutes 00 seconds west a distance of 40.00 feet to a point on the west right-of-way line of Eveningside Drive that is the northeast corner of Courtyard Condominiums (Plat Book 6, Page 12), thence along the north lines of the aforementioned Courtyard Condominiums and the property now or formerly of Ralph Buckner (Plat Book 116, Page 565) north 79 degrees 00 minutes 00 seconds west a distance of 525.53 feet to the point of beginning.

Section 4. PERMITTED USES. The following uses, are permitted with exceptions as noted:

Residential dwelling units in structures containing one, two or three dwelling units; however, the total number of dwelling units to be developed within the property shall not exceed 53 for all development phases combined; and,

Accessory structures and amenities ordinarily and customarily associated with residential developments including garages, carports, storage sheds, recreational amenities (swimming pools, shuffleboard courts, basketball courts, and similar facilities intended for the enjoyment of residents and their guests), walking trails or sidewalks, landscape and garden areas, community buildings or club houses, driveway and parking facilities,

mail boxes, community message boards, entry signs and other types of signage ordinarily permitted in the R2 zoning district, streets, utilities, and drainage structures; and,

Home occupations of the type ordinarily permitted in the R2 zoning district and subject to the same zoning restrictions that apply in the R2 zoning district.

Uses other than those described above are not permitted in the PUD5 zoning district.

Section 5. PLATTING AND DEVELOPMENT PLAN. A development plan, including the "SITE MASTER PLAN" shown in Exhibit A, was developed by Brown Surveying Company, LLC and the PUD development will be in accordance with that plan. The development plan will be substantially consistent, in terms of the general location and configuration of buildings, infrastructure, and amenities, with a two-lot plat prepared for the project by Brown Surveying and approved by the Cleveland Municipal Planning Commission on May 23, 2006. Since the private Emmyllie Court shown in the aforementioned plat, as well as drainage infrastructure, were approved and developed under a previous plat before PUD5 was contemplated, it is intended that the PUD5 development be done so as to conform to the this existing infrastructure such that the effective functioning of this infrastructure is not compromised. Any modification to any existing street, utility or other infrastructure necessitated by the design of the PUD will be the responsibility of the developer and subject to approval by the City of Cleveland and, as appropriate by Cleveland Utilities. Since PUD5 is a condominium development, the horizontal plat regime and any other documents required by Tennessee law for the establishment of a condominium, shall be drawn in a way that is consistent with the PUD development plan.

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Section 12. SIGNAGE. One entrance sign is allowed near the terminus of Eveningside Drive but not in the public right-of-way. Any lighting of the aforementioned sign shall be installed so as to minimize glare and light on the surrounding roadway and other property. This does not preclude the installation of decorative features, such as decorative pillars, with small decorative signs of four square feet or less bearing the name or emblem of the development. This also does not preclude informational kiosks or other small signs less than four square feet inside the development. No sign advertising a business shall be placed inside the development so as to be visible from outside the development but this prohibition is not intended to preclude real estate signs advertising the properties within the development.

Section 13. 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 PUD. 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. 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 14. PUD DEVELOPMENT ORDER. It is understood that complete development of the property as described herein requires the rezoning of the property to PUD3 per the terms of this ordinance as well as subdivision plat approval. The developer has expressed a desire to begin grading and development of the site prior to final completion of the PUD. It is understood that any work that commences prior to the final approval of this ordinance by the City Council, and execution of a development order by the Mayor and the Developer, and plat approval by the Cleveland Municipal Planning Commission is solely at the risk of the Developer and may not be undertaken prior to the issuance of a Land Disturbance Permit by the City. The development order is to provide a more final and complete description of how the terms of this ordinance are to be carried out by the developer. The development order shall be inclusive of all permits, plats, design documents, etc. necessary to implement the project described herein.

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Section 16. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD. 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. 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. Errors and omissions in the Development Order that can be corrected without conflicting with the terms of this ordinance may be corrected without amending this ordinance with the recommendation of the Cleveland Municipal Planning Commission and the signature of the Mayor and the Developer.

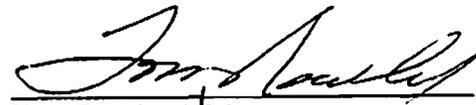
Section 17. BINDING UPON OTHERS. This ordinance is a law and not a contract, and as such it is generally binding upon all development and use of property in the PUD5 zoning district and is binding upon City's regulation of these activities in this location. The Development Order required by this ordinance 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. 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.

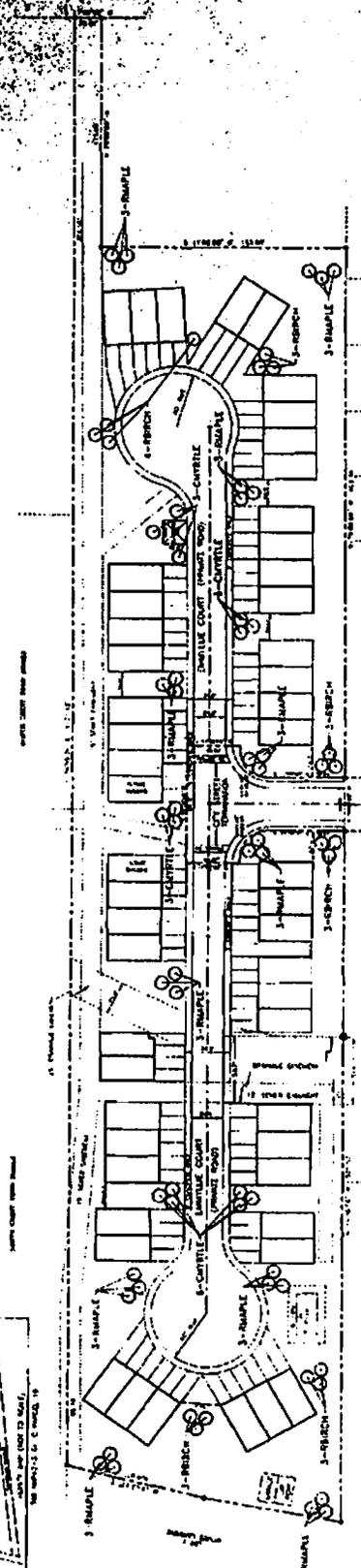
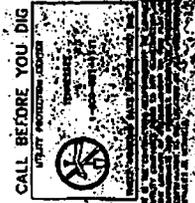
Section 18. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE. Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined 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 AS TO FORM:


L. Harlen Painter, City Attorney


Tom Rowland, Mayor


Janice S. Casteel, City Clerk



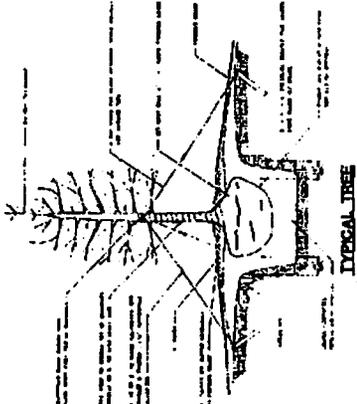
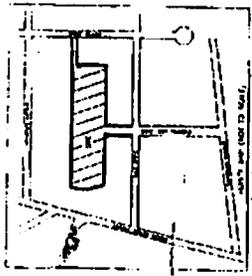
LANDSCAPE/IRRIGATION NOTES:

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND ANY NECESSARY UTILITIES PRIOR TO COMMENCING CONSTRUCTION OF ANY LANDSCAPE OR IRRIGATION WORK.
2. ALL PLANTING SHALL BE DONE IN ACCORDANCE WITH THE SPECIFICATIONS AND APPROVED BY THE ARCHITECT OR OWNER PRIOR TO INSTALLATION.
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LANDSCAPING PLAN



LANDSCAPE LEGEND			
SYMBOL	DESCRIPTION	QUANTITY	SIZE
(Symbol)	NO MAPLE	21	1" CALIBER
(Symbol)	EVER GREEN	18	1" CALIBER
(Symbol)	MAPLE (CROWN TREE)	13	1" CALIBER

ORDINANCE NO: 2006-26

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) ZONING DISTRICT PURSUANT TO SECTION 4.1 OF THE AFOREMENTIONED TITLE 14 CHAPTER 2 WITH SAID PUD TO BE KNOWN AS "PUD 5" ON PROPERTY DESCRIBED AS TAX MAP 42G GROUP C PARCEL 19 AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD5; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING A LIST OF PERMITTED USES; ESTABLISHING DEVELOPMENT PLAN REQUIREMENTS; ESTABLISHING PLATTING REQUIREMENTS; ESTABLISHING REQUIREMENTS FOR UTILITIES; ESTABLISHING REQUIREMENTS FOR TRANSPORTATION FACILITIES AND RELATED ISSUES; ESTABLISHING REQUIREMENTS FOR IMPERVIOUS AREAS, STORMWATER MANAGEMENT, AND LANDSCAPING; PROVIDING FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; PROVIDING FOR A PUD DEVELOPMENT ORDER; PROVIDING FOR TIME LIMITS AND POSSIBLE REVERSION TO FORMER ZONING; PROVIDING FOR ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS; PROVIDING FOR BINDING EFFECT; 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 (Ted C. Moss, Michael Dowling, and/or others), 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 residential community with common open space and other amenities; 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 3 herein as "PUD5" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD5 zoning district are those uses outlined in this ordinance. There are no conditional uses within the PUD5 district. The development standards for the PUD5 district are those outlined in this ordinance, including requirements for plan approval, the development order, and compliance with applicable permitting requirements.

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Section 14. PUD DEVELOPMENT ORDER. It is understood that complete development of the property as described herein requires the rezoning of the property to PUD3 per the terms of this ordinance as well as subdivision plat approval. The developer has expressed a desire to begin grading and development of the site prior to final completion of the PUD. It is understood that any work that commences prior to the final approval of this ordinance by the City Council, and execution of a development order by the Mayor and the Developer, and plat approval by the Cleveland Municipal Planning Commission is solely at the risk of the Developer and may not be undertaken prior to the issuance of a Land Disturbance Permit by the City. The development order is to provide a more final and complete description of how the terms of this ordinance are to be carried out by the developer. The development order shall be inclusive of all permits, plats, design documents, etc. necessary to implement the project described herein.

Section 15. 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 at least one-half of the proposed condominium housing units.

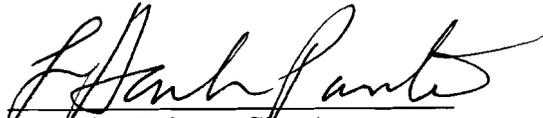
Section 16. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD. After final approval of this ordinance, the Mayor and the Developer shall execute a development order, to be signed by both parties. The Development Order shall encompass the PUD Development Plan that includes the plans and drawings 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. 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. Errors and omissions in the Development Order that can be corrected without conflicting with the terms of this ordinance may be corrected without amending this ordinance with the recommendation of the Cleveland Municipal Planning Commission and the signature of the Mayor and the Developer.

Section 17. 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 PUD5 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. 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.

Section 18. 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.

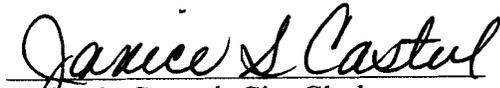
APPROVED AS TO FORM:



L. Harlen Painter, City Attorney



Tom Rowland, Mayor



Janice S. Casteel, City Clerk

