

1st READING 1-11-10 pg. 442
FINAL READING 1-25-10 pg. 445
MINUTE BOOK # 25

ORDINANCE NO: 2010-02

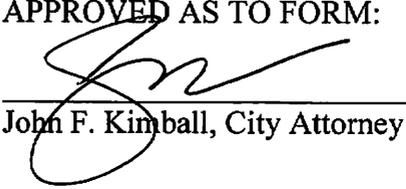
BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the Property described herein be, and the same is hereby, re-zoned from R1 Single Family Residential and R3 Multi-Family Residential to PUD8 Planned Unit Development #8:

1. Part of Map50A Group Parcel 2.01
APD 40/ 25th Street
Owner: Spring Brook Community
Prior reference: Deed Book 1821 Page 293

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage 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 9-26-2011

FINAL READING 10-10-2011

MINUTE BOOK # 26

ORDINANCE NO: 2011-20

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 8" ON PROPERTY DESCRIBED AS A PORTION OF TAX MAP 50A, GROUP P, PARCEL 2.1 CONTAINING APPROXIMATELY 14.14 ACRES, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 8; 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; 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 *Spring Brook Community Developers II* and *The Retreat at Spring Creek, LLC*, developers of the property described herein and hereinafter referred to as "Developers", would enter into an agreement with City to be encompassed in a PUD development plan 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 "PUD8" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD8 zoning district are those uses outlined in this ordinance. The location of particular residential and non-residential uses within the PUD8 will comport with the descriptions of the constituent parts of the development as more particularly described herein and in the Development Plan (Exhibit A). There are no conditional uses within the PUD8 district. The development standards for the PUD8 district are those outlined in this ordinance, including requirements for plan approval 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 8, includes approximately 14.14 acres, more or less, generally identified as part of Tax Map 50A, Group P, Parcel 2.1. PUD8 encompasses two distinct development areas, one residential (The Retreat at Spring Creek Phase II) and one commercial. The residential portion of PUD8 is integrated with The Retreat at Spring Creek Phase I which is nearing completion but which is not part of the PUD8 development. A site plan has been prepared for the residential portion which is moving toward immediate development. A site plan(s) will be prepared in the future for the commercial portion of PUD 8 when this property is to be developed. shown conceptually in the Development Plan's Master Site Plan (Exhibit A) and individually described below. The residential portion is proposed to be owned and developed by *The Retreat at Spring Creek, LLC* . The commercial portion is presently owned and proposed to be developed by *Spring Brook Community Developers II*. The overall PUD8 comprises the residential tract and the commercial tract with boundaries as given in the legal descriptions from Richmond Surveying:

3.B. PUD 8 COMMERCIAL AREA

PROPERTY DESCRIPTION: PROPOSED COMMERCIAL TRACT

BEING A TRACT OF LAND LOCATED IN THE 2ND WARD OF THE CITY OF CLEVELAND, 4TH CIVIL DISTRICT OF BRADLEY COUNTY, TENNESSEE, BEING BOUNDED ON THE NORTH BY 25TH STREET NE, ON THE EAST BY PROPOSED LANDS OF THE RETREAT AT SPRING CREEK, LL., ON THE SOUTH BY THE RETREAT AT SPRING CREEK, LLC. AND THE PROPOSED LANDS OF THE RETREAT AT SPRING CREEK, LLC, ON THE WEST BY THE RETREAT AT SPRING CREEK, LLC., AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN FOUND (N-307703.11, E-2309412.35 NAD 83) MARKING THE SOUTHWEST CORNER OF THE PROPOSED LANDS OF THE RETREAT AT SPRING CREEK LLC, AND THE NORTH LINE OF THE HARGIS HILLS S/D AND THE SOUTHEAST CORNER OF THE LANDS OF THE RETREAT AT SPRING CREEK, LL. (DB. 1961 – PG. 844); THENCE RUNNING ALONG THE LANDS OF THE RETREAT AT SPRING CREEK, LLC. ON A BEARING OF N 34*01'02" E FOR A DISTANCE OF 101.88 FEET TO AN IRON PIN SET MARKING THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE LANDS OF THE RETREAT AT SPRING CREEK, LLC. ON A BEARING OF N 34*01'02" E FOR A DISTANCE OF 62.31 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF N 632*38'37" E FOR A DISTANCE OF 82.40 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF N 4*16'36" E FOR A DISTANCE OF 77.37 FEET TO AN IRON PIN SET IN THE SOUTHERN LINE OF A 30 FOOT INGRESS/EGRESS EASEMENT; THENCE ALONG SAID EASEMENT AND CONTINUING WITH THE RETREAT AT SPRING CREEK, LLC ON A BEARING OF N 55*59'01" W FOR A DISTANCE OF 548.60 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF N 34*00'59" E FOR A DISTANCE OF 215.00

FEET MARKING THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT AND THE NORTHEAST CORNER OF THE LANDS OF THE RETREAT AT SPRING CREEK, LLC AND THE SOUTHERN RIGHT OF WAY OF 25TH STREET NE; THENCE ALONG THE SOUTHERN RIGHT OF WAY OF 25TH STREET NE ON A BEARING OF S 56*00'39" E FOR A DISTANCE OF 840.00 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF S 34*00'59" W FOR A DISTANCE OF 8.30 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF S 55*07'53" E FOR A DISTANCE OF 220.34 TO AN IRON PIN SET OVER A BRANCH MARKING THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT AND THE NORTHWEST CORNER OF THE PROPOSED LANDS OF THE RETREAT AT SPRING CREEK, LLC; THENCE LEAVING THE SOUTHERN RIGHT OF WAY OF 25TH STREET NE AND RUNNING ALONG THE MEANDERS OF A BRANCH ON A BEARING OF S 12*59'03" W FOR A DISTANCE OF 48.12 FEET TO AN IRON PIN SET IN A BRANCH; THENCE LEAVING THE BRANCH ON A NON TANGENT CURVE TO THE LEFT WITH A DELTA= 23*22'33", TANGENT= 25.86', RADIUS= 125.00', ARC LENGTH= 51.00', CHORD BEARING OF N 76*25'07" W, AND A CHORD DISTANCE= 50.65' TO A POINT; THENCE ON A BEARING OF N 88*06'24" W FOR A DISTANCE OF 131.20 FEET TO A POINT; THENCE ON A CURVE TO THE RIGHT WITH A DELTA= 32*07'57", TANGENT= 21.60', RADIUS= 75.00', ARC LENGTH= 42.06', CHORD BEARING= S 72*02'25" W, AND CHORD DISTANCE= 41.51' TO A POINT; THENCE ON A BEARING OF N 55*58'27" W FOR A DISTANCE OF 39.12 FEET TO AN IRON PIN SET AT A 60 FOOT INGRESS/EGRESS EASEMENT; THENCE WITH SAID EASEMENT ON A BEARING OF S 34*00'59" W FOR A DISTANCE OF 50.00 FEET TO AN IRON PIN SET; THENCE LEAVING SAID EASEMENT ON A BEARING OF S 55*58'27" E FOR A DISTANCE OF 39.11 FEET TO A POINT; THENCE ON A CURVE TO THE LEFT WITH A DELTA= 32*07'57", TANGENT= 36.00', RADIUS= 125.00', ARC LENGTH= 70.10', CHORD BEARING= S 72*02'25" E, AND CHORD DISTANCE= 69.19' TO A POINT; THENCE ON A BEARING OF S 88*06'24" E FOR A DISTANCE OF 131.20 FEET TO A POINT; THENCE ON A CURVE TO THE RIGHT WITH A DELTA= 31*51'41", TANGENT= 21.41', RADIUS= 75.00', ARC LENGTH= 41.71', CHORD BEARING= S 72*10'33" E, AND CHORD DISTANCE= 41.17' TO AN IRON PIN SET IN A BRANCH; THENC ALONG THE MEANDERS OF THE BRANCH ON A BEARING OF S 12*59'03" W FOR A DISTANCE OF 205.64 FEET TO AN IRON PIN SET IN THE BRANCH; THENCE LEAVING THE BRANCH ON A BEARING OF N 66*52'45"W FOR A DISTANCE OF 633.99 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS 7.01 ACRES. SAID TRACT CONTAINS A PROPOSED CONVEYANCE OF PROPERTY FROM THE STATE OF TENNESSEE.

3.C. PUD 8 RESIDENTIAL AREA

PROPERTY DESCRIPTION: PROPOSED RESIDENTIAL TRACT

BEING A TRACT OF LAND LOCATED IN THE 2ND WARD OF THE CITY OF CLEVELAND, 4TH CIVIL DISTRICT OF BRADLEY COUNTY, TENNESSEE, BEING BOUNDED ON THE NORTH BY 25TH STREET NE AND THE REMAINING LANDS OF SPRING BROOK COMMUNITY DEVELOPERS, ON THE EAST BY EUGENE BLANKENSHIP, ON THE SOUTH BY EUGENE BLANKENSHIP, WOOD CHASE S/D, AND HARGIS HILLS S/D, ON THE WEST BY THE RETREAT AT SPRING CREEK, LLC., AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN FOUND (N-307703.11, E-2309412.35 NAD 83) MARKING THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT AND NORTH LINE OF THE HARGIS HILLS S/D AND THE SOUTHEAST CORNER OF THE LANDS OF THE RETREAT AT SPRING CREEK, LL. (DB. 1961 – PG. 844); THENCE RUNNING ALONG THE LANDS OF THE

RETREAT AT SPRING CREEK LLC. ON A BEARING OF N 34*01'02" E FOR A DISTANCE OF 101.88 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF S 66*52'45" E FOR A DISTANCE OF 633.99 FEET TO AN IRON PIN SET IN A BRANCH; THENCE ALONG THE MEANDERS OF THE BRANCH ON A BEARING OF N 12*59'03" E FOR A DISTANCE OF 205.64 FEET TO AN IRON PIN SET; THENCE LEAVING THE BRANCH ON A NON TANGENT CURVE TO THE LEFT WITH A DELTA= 31*51'41", TANGENT= 21.41', RADIUS= 75.00', ARC LENGTH= 41.71', CHORD BEARING= N 72*10'33" W, AND A CHORD LENGTH= 41.17' TO A POINT; THENCE ON A BEARING OF N 88*06'24" W FOR A DISTANCE OF 131.20 FEET TO A POINT; THENCE ON A CURVE TO THE RIGHT WITH A DELTA= 32*07'57", TANGENT= 36.00', RADIUS= 125.00', ARC LENGTH= 70.10', CHORD BEARING= N 72*02'25" W, AND A CHORD LENGTH= 69.19' TO A POINT; THENCE ON A BEARING OF N 55*58'27" W FOR A DISTANCE OF 39.11 FEET TO AN IRON PIN SET AT A 60' INGRESS/EGRESS EASEMENT; THENCE ALONG THE EASEMENT ON A BEARING OF N 34*00'59" E FOR A DISTANCE 50.00 FEET TO AN IRON PIN SET; THENCE LEAVING THE EASEMENT ON A BEARING OF S 55*58'27" E FOR A DISTANCE OF 39.12 FEET TO A POINT; THENCE ON A CURVE TO THE LEFT WITH A DELTA= 32*07'57", TANGENT= 21.60', RADIUS= 75.00', ARC LENGTH= 42.06', CHORD BEARING= S 72*02'25" E, AND A CHORD LENGTH= 41.51' TO A POINT; THENCE ON A BEARING OF S 88*06'24" E FOR A DISTANCE OF 131.20 FEET TO A POINT; THENCE ON A CURVE TO THE RIGHT WITH A DELTA= 23*22'33", TANGENT= 25.86', RADIUS= 125.00', ARC LENGTH= 51.00', CHORD BEARING= S 76*25'07" E, AND A CHORD LENGTH= 50.65' TO AN IRON PIN SET IN A BRANCH; THENCE ALONG THE MEANDERS OF THE BRANCH ON A BEARING OF N 12*59'03" E FOR A DISTANCE OF 48.12 FEET TO AN IRON PIN SET MARKING THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT AND THE NORTHEAST CORNER OF THE REMAINING LANDS OF SPRING BROOK COMMUNITY DEVELOPERS AND THE SOUTHERN RIGHT OF WAY OF 25TH STREET NE; THENCE ALONG THE SOUTHERN RIGHT OF WAY OF 25TH STREET NE ON A BEARING OF S 55*07'53" E FOR A DISTANCE OF 804.80 FEET TO AN IRON PIN SET MARKING THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT; THENCE CONTINUING ALONG THE RIGHT OF WAY OF 25TH STREET NE ON A BEARING OF S 24*20'20" W FOR A DISTANCE OF 62.00 FEET TO A STEEL POST FOUND MARKING THE NORTHWEST CORNER OF THE LANDS OF EUGENE BLANKENSHIP (DB. 1541 – PG. 354); THENCE LEAVING THE RIGHT OF WAY OF 25TH STREET NE AND RUNNING ALONG THE LANDS OF EUGENE BLANKENSHIP ON A BEARING OF S 24*20'20" W FOR A DISTANCE OF 171.58 FEET TO A STEEL POST FOUND MARKING THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT; THENCE ALONG THE LANDS OF EUGENE BLANKENSHIP AND WOOD CHASE S/D ON A BEARING OF N 67*09'47" W FOR A DISTANCE OF 998.12 FEET TO AN IRON PIPE FOUND; THENCE ALONG THE LANDS OF THE HARGIS HILLS S/D ON A BEARING OF N 66*41'11" W FOR A DISTANCE OF 384.30 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS 7.13 ACRES. SAID TRACT CONTAINS A PROPOSED CONVEYANCE OF PROPERTY FROM THE STATE OF TENNESSEE.

Section 4. GENERAL PROJECT DESCRIPTION.

This section is intended to provide a general description of the PUD 8 project and not a detailed or exhaustive description.

4.A. OVERALL DESCRIPTION

PUD8 is a planned unit development that includes residential and non-residential land uses. The western area of the project nearest APD-40/ 25th Street will contain commercial uses similar to those existing in or planned for Spring Creek Town Center that is located across the highway.

The residential area to the rear of the project will contain single-family, cottage-style homes similar to those found in Spring Creek Commons or Spring Creek Highlands. These two parts are related through complementary architecture and amenities and infrastructure.

4.B. PUD 8 COMMERCIAL AREA

The PUD 8 Commercial Area would occupy the portion of the property designated as commercial in Exhibit A. It is anticipated to contain a number of commercial buildings or shop spaces that generally range from 5000 to 7000 square feet though it could contain one or more larger commercial buildings or suites. Primary access will be at a main entrance aligning with Spring Creek Drive and would be served by a traffic signal proposed on APD-40/25th Street. A detailed site plan for the commercial area as well as proposed building facades, landscaping, and buffering plans will be submitted to the Planning Commission prior to commencement of the commercial development.

4.C. PUD 8 RESIDENTIAL AREA

High architectural standards and a pedestrian scale of the development will typify the residential area. Typical residential building floor plans, facades, and amenities will be submitted to the Planning Commission along with the detailed block plan for this residential development (see Exhibit A).

Section 5. PERMITTED USES AND PROHIBITED USES.

5.A. PERMITTED USES

PUD 8 allows single-family and multi-family residential uses in the residential area of the development. Gross density of the residential area shall not exceed that necessary to construct 140 residential units in the area identified for residential use in Exhibit A. For the residential area the developer shall supply a block plan indicating lots, proposed building footprints, vehicle and pedestrian access, areas for any accessory structures, if any, and amenities (the block plan is in addition to the subdivision plat; see detailed description of block plan below). The commercial and office uses specified below are allowed in the commercial area of the development. Open spaces, trails, community meeting rooms, and other amenities are allowed as are utilities and transportation features. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 8 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.

The following commercial and office uses, as described by the North American Industrial Classification (NAICS) code numbers, are allowed in the Commercial Area of PUD 8 with the exceptions as noted and to the extent that they are not otherwise among 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.B. PROHIBITED USES.

No use shall be permitted in PUD 8 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 or office 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-track 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 PUD 8 was prepared by Cleveland Surveying and presented by Developer to the Cleveland Municipal Planning Commission on November 24, 2009 for approval. All development within PUD 8 must be consistent with this Development Plan. Additional site plans, building 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 PUD 8 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 are to govern the design and implementation of PUD 8 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 PUD 8 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 PUD 8 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 PUD 8 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 area. 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. This requirement is met for the residential portion by the drawings in Exhibit A. Prior to development of the commercial area of PUD 8, a detailed site plan will be submitted for approval by the Cleveland Municipal Planning Commission.

Section 7. DEVELOPMENT STANDARDS

The development standards for PUD8 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 for the PUD 8 commercial area and the R3 multi-family home standards for the residential area of PUD 8, except that residential density limits shall allow for the development of 140 units in the residential portion of PUD8. 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

Setbacks along the south property line of PUD8 are to be a minimum of 30 feet except adjacent to proposed building 5 in the residential area where they would be 20 feet exclusive of breezeway or porch area. Setbacks along the east property line of PUD8 would be 20 feet exclusive of breezeway or porch area on the proposed residential building 5. Minimum setbacks along the north property line of PUD8 adjacent to the APD-40 right-of-way line would be 25 feet except adjacent to the proposed residential building 6 where they may be less if TDOT conveys less of the excess right-of-way than is requested (the developer is seeking to obtain a portion of the APD-40 excess right-of-way from TDOT). Setbacks and building separation internal to the PUD 8 development must meet requirements of the building code and meet needs for emergency vehicle access. These internal setbacks and building separations shall be as approved through the site plan and plat review process. For the residential portion these shall be as indicated in Exhibit A.

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 PUD 8 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 PUD 8 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.

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 adjoining residential areas

surrounding PUD 8. 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.

Developer shall prepare a parking plan for the PUD 8 commercial and residential areas. Parking standards in the City of Cleveland zoning regulations shall be the basis for the parking plan; however, parking requirements for the residential area shall be 1.8 spaces per unit. Deviations from the number of spaces and other parking-related standards may be approved by the Planning Commission based upon sound evidence to be supplied by the Developer and evaluated by 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 PUD 8, 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 PUD 8 will be designed so as to facilitate bicycle and pedestrian modes and to provide access for public transit in the commercial areas. PUD 8 shall be designed so as to accommodate a connection with an extension of the City greenway system. Design and construction of the 25th 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 PUD 8. 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.

7.H. DISTURBANCE TO SURROUNDING PROPERTY.

Construction-related noise, vibrations, dust, debris, and traffic in the PUD 8 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 PUD 8 commercial area not to exceed 75% for the development as a whole. Impervious area in the PUD 8 residential area is not to exceed 65%. Developer may propose and the City may accept an alternative proposal that would allow an additional 5% of

site area to be developed with pervious concrete, turf blocks, or other pervious material if approved by the City Engineer. Landscaping is to be in accordance with landscape plans approved for each section of the PUD8 development. All development in PUD 8 is to comply with the City's stormwater regulations. Building permits will be issued for construction of buildings only in those parts of PUD 8 that are served by stormwater drainage facilities built in accordance with a plan approved by the City Engineer.

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 PUD 8 development. Landscaping in PUD 8 shall be irrigated. All landscape materials shall be maintained so as to stay in a first class condition. Landscaped buffers are required along the south property line of PUD8 where it adjoins existing single-family development. There would be a 15-foot landscaped buffer with a solid 8-foot wooden fence along the south property line (the developer expects there also to be a cut that would put his apartments below a bank of 10 feet or more in height along most of the south property line).

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 PUD 8. 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 PUD 8 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 PUD 8 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. 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 10. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.

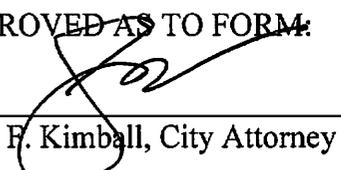
This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Revisions to plans and drawings required by this ordinance that are determined by the Planning Commission to yield improved or substantially 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 PUD 8, 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 11. 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 PUD 8 zoning district and is binding upon City's regulation of these activities in this location. It shall be the

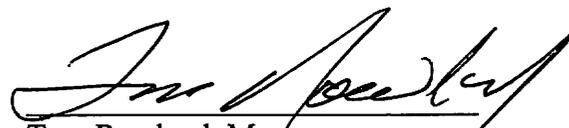
duty of the Developer, and subsequent heirs, assigns, or successors in title, to ensure compliance with all terms of this ordinance affecting construction, use, or maintenance of property within PUD 8. The term "Developer" is also intended to include any holding company or other entity established for 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.

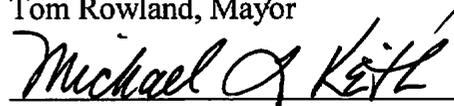
Section 12. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE. Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined 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:



John F. Kimball, City Attorney



Tom Rowland, Mayor


Michael L. Keith, City Clerk

7'6" SPACING REQUIRED BY ... 7' FOR EACH 1" OVER BY ... 7'6" SPACING REQUIRED BY ... 7' FOR EACH 1" OVER BY ... 7'6" SPACING REQUIRED BY ... 7' FOR EACH 1" OVER BY ...

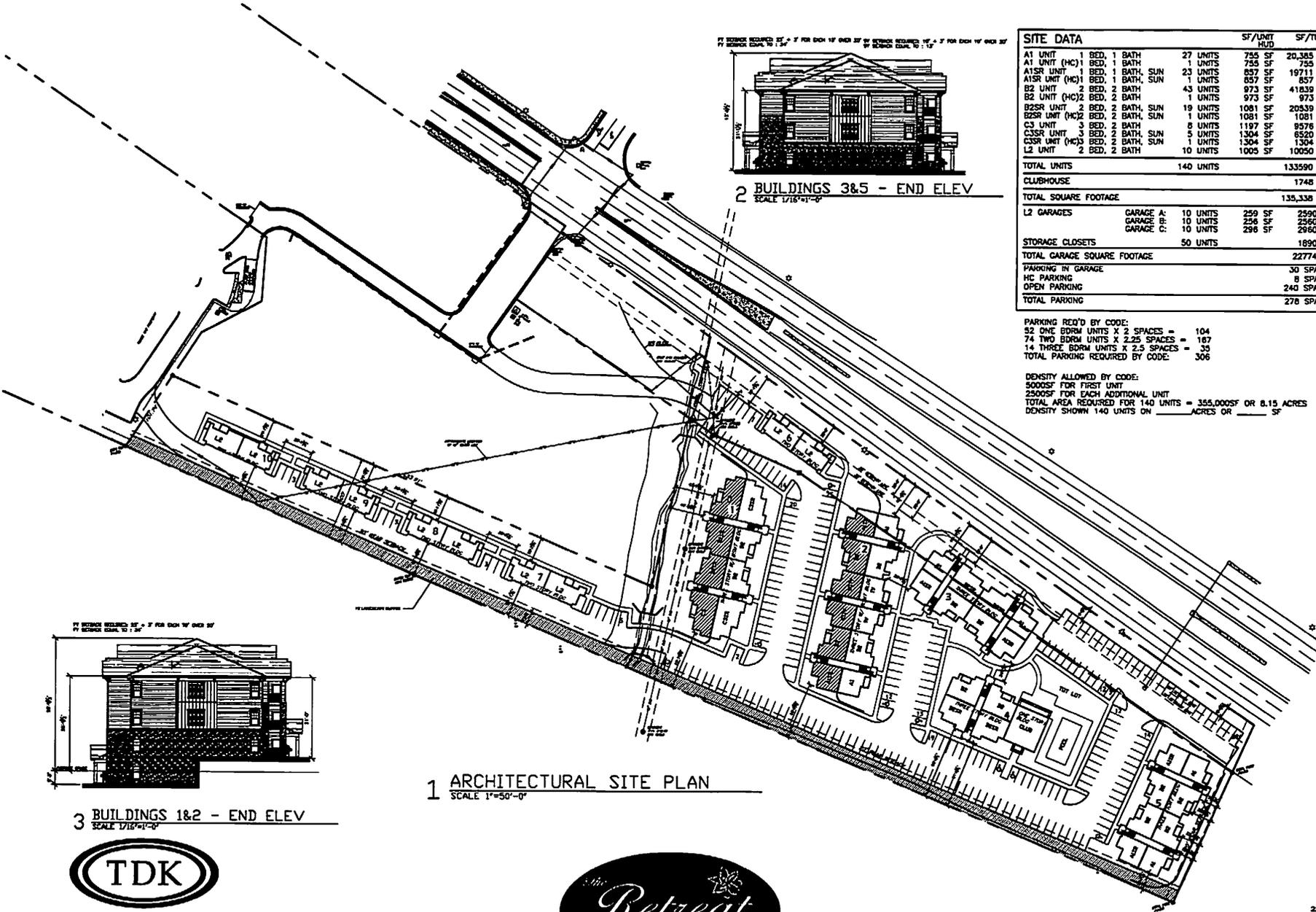


2 BUILDINGS 3&5 - END ELEV
SCALE 1/18"=1'-0"

| SITE DATA | | SF/UNIT | SF/TOTAL | SF/UNIT | SF/TOTAL |
|------------------------------------|--------------------|------------------|----------|---------------------|------------------|
| | | HLTD | HLTD | NET HEATED | NET HEATED |
| A1 UNIT (HC) 1 | 1 BED, 1 BATH | 27 UNITS | 755 SF | 20,385 S.F. | 796 SF |
| A1 UNIT (HC) 1 | 1 BED, 1 BATH | 1 UNITS | 755 SF | 755 S.F. | 796 SF |
| A1SR UNIT (HC) 1 | 1 BED, 1 BATH, SUN | 23 UNITS | 857 SF | 19711 S.F. | 904 SF |
| A1SR UNIT (HC) 1 | 1 BED, 1 BATH, SUN | 1 UNITS | 857 SF | 857 S.F. | 904 SF |
| B2 UNIT 2 | 2 BED, 2 BATH | 43 UNITS | 973 SF | 41839 S.F. | 1024 SF |
| B2 UNIT (HC) 2 | 2 BED, 2 BATH | 1 UNITS | 973 SF | 973 S.F. | 1024 SF |
| B2SR UNIT 2 | 2 BED, 2 BATH, SUN | 19 UNITS | 1081 SF | 20539 S.F. | 1131 SF |
| B2SR UNIT (HC) 2 | 2 BED, 2 BATH, SUN | 1 UNITS | 1081 SF | 1081 S.F. | 1131 SF |
| C3 UNIT 3 | 3 BED, 2 BATH | 8 UNITS | 1197 SF | 9576 S.F. | 1225 SF |
| C3SR UNIT (HC) 3 | 3 BED, 2 BATH, SUN | 5 UNITS | 1304 SF | 6520 S.F. | 1362 SF |
| C3SR UNIT (HC) 3 | 3 BED, 2 BATH, SUN | 1 UNITS | 1304 SF | 1304 S.F. | 1362 SF |
| L2 UNIT 2 | 2 BED, 2 BATH | 10 UNITS | 1005 SF | 10050 S.F. | 1057 SF |
| TOTAL UNITS | | 140 UNITS | | 133590 S.F. | 140442 SF |
| CLUBHOUSE | | | | 1748 S.F. | 1748 SF |
| TOTAL SQUARE FOOTAGE | | | | 135,338 S.F. | 142190 SF |
| L2 GARAGES | | | | | |
| | GARAGE A: 10 UNITS | 259 SF | 2590 SF | | |
| | GARAGE B: 10 UNITS | 258 SF | 2580 SF | | |
| | GARAGE C: 10 UNITS | 296 SF | 2960 SF | | |
| STORAGE CLOSETS | | 50 UNITS | | 1890 SF | |
| TOTAL GARAGE SQUARE FOOTAGE | | | | 2274 SF | |
| PARKING IN GARAGE | | | | 30 SPACES | |
| HC PARKING | | | | 8 SPACES | |
| OPEN PARKING | | | | 240 SPACES | |
| TOTAL PARKING | | | | 278 SPACES | |

PARKING REQ'D BY CODE:
 52 ONE BDRM UNITS X 2 SPACES = 104
 74 TWO BDRM UNITS X 2.25 SPACES = 167
 14 THREE BDRM UNITS X 2.5 SPACES = 35
 TOTAL PARKING REQUIRED BY CODE: 306

DENSITY ALLOWED BY CODE:
 5000SF FOR FIRST UNIT
 2500SF FOR EACH ADDITIONAL UNIT
 TOTAL AREA REQUIRED FOR 140 UNITS = 355,000SF OR 8.15 ACRES
 DENSITY SHOWN 140 UNITS ON _____ ACRES OR _____ SF



7'6" SPACING REQUIRED BY ... 7' FOR EACH 1" OVER BY ... 7'6" SPACING REQUIRED BY ... 7' FOR EACH 1" OVER BY ...



3 BUILDINGS 1&2 - END ELEV
SCALE 1/18"=1'-0"

1 ARCHITECTURAL SITE PLAN
SCALE 1"=50'-0"



TDK CONSTRUCTION COMPANY, INC.
 1610 S. CHURCH STREET
 MURFREESBORO, TN



Parker Associates
 2202 E. 49th Street South
 Suite 220
 Tulsa, OK 74103
 (918)-742-3488

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CITY OF CLEVELAND LANDSCAPE REQUIREMENTS

PERIMETER LANDSCAPING
 8' MIN. (AVE. WIDTH FOR PARCELS GREATER THAN 2 ACRES) PERIMETER YARD PROVIDED PER REQUIREMENTS. SITE AREA = 1.291 ACRES
 1 SHADE TREE PER 40 LINEAR FEET OF PERIMETER (LESS VEHICLE ACCESS)

| TREES REQUIRED | TREES PROVIDED |
|----------------|----------------|
| 87 | 64 |

NO MORE THAN 60% OF ONE SPECIES IS PROVIDED
 LESS THAN 40% OF THE TREES PROVIDED ARE ORNAMENTAL

PARKING AREA LANDSCAPING
 INTERIOR ISLANDS HAVE BEEN PROVIDED FOR A MIN. OF EVERY 20 SPACES AND CONSIST OF GREATER THAN 4% OF THE IMPERVIOUS AREA.
 1 SHADE TREE HAS BEEN PROVIDED FOR EVERY ISLAND. NOTE: FOR ISLANDS WITH BASEMENTS OR SIDEWALKS, TREES HAVE BEEN RELOCATED ON SITE ADJACENT TO PARKING STALLS

| TREES REQUIRED | TREES PROVIDED |
|----------------|----------------|
| 22 | 20 |

PARKING STALLS = 256

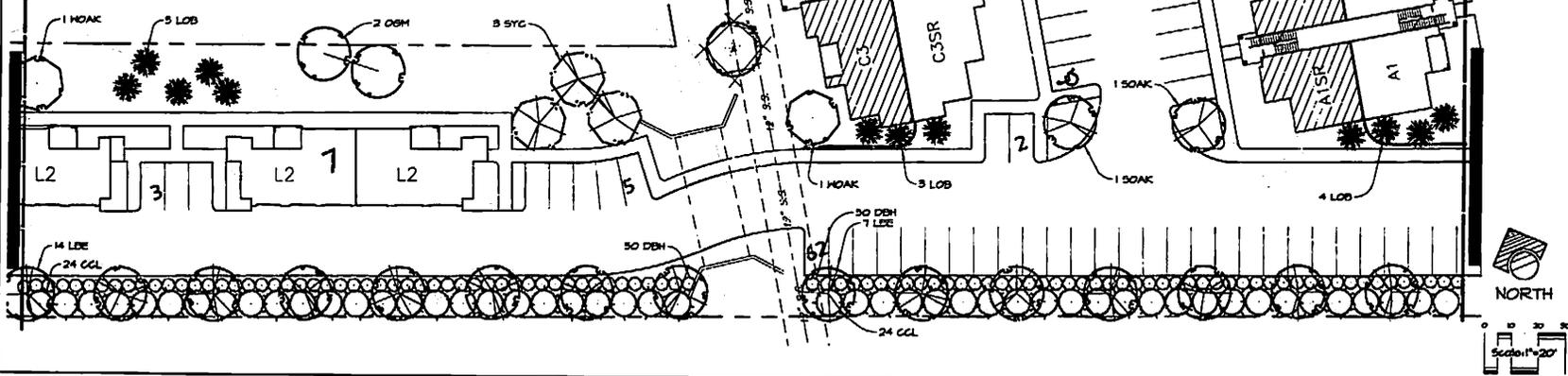
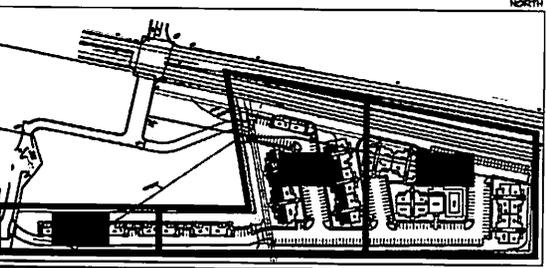
PARKING LOT AREA = 10,170 SF
 PARKING LOT LANDSCAPE AREA = 5,520 SF (5.25%)

ALL LANDSCAPED AREAS ON SITE WILL BE IRRIGATED WITH A FULLY AUTOMATIC SPRINKLER SYSTEM

BUFFERING REQUIREMENTS
 PROPOSED USE INTENSITY = M - MEDIUM RESIDENTIAL USE
 PROPERTY ADJ. TYPE N (RESIDENCE) RESIDENTIAL USE ALONG SOUTH PROPERTY LINE. TYPE A OR C BUFFER REQUIRED.

TYPE C BUFFER PROVIDED WITH 6' TALL HOOD SCREEN FENCE TO BE INSTALLED, ALLOWING REDUCED WIDTH BUFFER REDUCTION AND EXISTING LOT OF RECORD.

KEY MAP
 SCALE: 1" = 50'



GENERAL NOTES

CALL TENNESSEE ONE-CALL AT 1-800-251-1111 FOR INFORMATION ON THE LOCATION OF ALL UNDERGROUND UTILITIES.
 CONTACT PRIOR TO DIGGING. CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE CAUSED TO THE UTILITIES (BOTH OVERHEAD AND BURIED) WHICH MAY OCCUR DUE TO HIS ACTION OR LACK OF ACTION ON THE PROJECT SITE DURING LANDSCAPE OR IRRIGATION INSTALLATION. CONTRACTOR SHALL SEEK THE ASSISTANCE OF LOCAL UTILITIES AND THE OWNER IN LOCATING THE UTILITIES PRIOR TO PERFORMING TRENCHING OPERATIONS IN ANY AREA.

PLANT TREES THREE (3) INCHES ABOVE FINISHED GRADE. CUT THREE FROM AROUND THE TRUNK AND PULL BACK THE BURLAP FROM THE TOP 1/3 OF THE ROOT BALL. PLANT SHRUBS TWO (2) INCHES ABOVE FINISHED GRADE. CROWN ISLANDS 4" ABOVE TOP OF CURB OR AS DIRECTED ON DRAWING. ALL PLANTING BEDS SHALL HAVE POSITIVE DRAINAGE OUT OF THE PLANTING BEDS. ADJUST TREE/SHRUB BED LOCATIONS FOR FINAL GRADES / DRAINAGE SLOPES/UTILITIES.

IF LOCATIONS OF SITE ELEMENTS ARE NOT AS SHOWN, ADJUST PLANTINGS ACCORDINGLY (LIGHT POLES, SIGNAGE, AIR CONDITIONER UNITS, TRANSFORMERS, METERS, ETC.).

BED PREPARATION

ALL SHRUB BED AREAS SHALL RECEIVE A THREE (3) INCH LAYER OF "BACK TO EARTH" SOIL CONDITIONS AND A ONE (1) INCH LAYER OF STERILIZED COM MANURE. THESE PRODUCTS SHALL BE INCORPORATED INTO THE EXISTING SOIL TO A DEPTH OF EIGHT (8) INCHES. ROTO-TILL AMENDMENTS AND TOPSOIL UNTIL A SMOOTH EVEN MIXTURE IS ACHIEVED.

PROVIDE BIOFLEX 5-8-4 COMPLETE PLANTING GRANULES AS MANUFACTURED BY ADVANCED GROWING SOLUTIONS TO ALL PLANTING BEDS. APPLY AT A RATE OF 2.0 POUNDS PER 100 SQUARE FEET. ROTO-TILL INTO THE TOP 3"-4" OF PLANTING BEDS.

EACH TREE LOCATED OUTSIDE A PLANTING BED SHALL RECEIVE THREE (3) CUBIC FEET OF BACK TO EARTH SOIL CONDITIONER, MULCH AND ONE (1) CUBIC FOOT OF AGED, STERILIZED COM MANURE. MIX WITH THE TOPSOIL AND USE AS A BACKFILL. APPLY BIOFLEX 5-8-4 COMPLETE PLANTING GRANULES AT A RATE OF 8 OUNCES PER EACH 1" CALIPER. INCORPORATE 3"-4" INTO THE TOP 3"-4" OF SOIL BACKFILL.

MULCH

MULCH ALL PLANTING BEDS AND TREE WELLS WITH SHREDDED CEDAR MULCH TO A DEPTH OF THREE (3) INCHES.

LAWN

SOD AREAS WITHIN ALL CURB LINES AS INDICATED ON THE PLANS WITH SOLID SLAB HYBRID TALL FESCUE GRASS SOD WATER AND ROLL IN ACCORDANCE WITH STANDARD NURSERY PRACTICE.

FOR SOD APPLY FERTILIZER ACCORDING TO THE TOP OF INSTALLATION. MAY 1 - AUGUST 1 APPLY A 16-8-8 FERTILIZER AT A RATE OF 1 POUND OF ACTUAL NITROGEN PER 1,000 SQUARE FEET TO ALL LAWN AREAS.

SEPTEMBER 1 - APRIL 30 APPLY 10-20-10 FERTILIZER AT A RATE OF 1/2 POUND OF NITROGEN PER 1,000 SQUARE FEET OF LAWN AREA. FERTILIZER SHALL BE APPLIED PRIOR TO SODDING.

IRRIGATION

ALL AREAS OF THE SITE ARE TO BE IRRIGATED WITH A FULLY AUTOMATIC IRRIGATION SYSTEM.

Retical
 WATER & IRRIGATION

| | |
|---|--|
| <p>CITY OF CLEVELAND LANDSCAPE DEPARTMENT</p> | <p>THE RESERVE AT SPRING CREEK, LLC</p> <p>1810 E. CLARK STREET MAPLEWOOD, TN 37130</p> |
| <p>NORTH Scale: 1" = 20'</p> | <p>JOB NUMBER: 0000 DRAWN BY: BJD DATE: 7-25-2011</p> <p>CITY LANDSCAPE PLAN</p> <p>SHEET: 1 OF 3</p> |

GENERAL NOTES

CALL TRENCHES ONE-CALL AT 1-800-368-3838 FOR INFORMATION ON THE LOCATION OF ALL UNDERGROUND UTILITIES. CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE CAUSED TO THE UTILITIES BOTH OVERHEAD AND UNDERGROUND. CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTION OF ALL UTILITIES. CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTION OF ALL UTILITIES. CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTION OF ALL UTILITIES. CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTION OF ALL UTILITIES.

BED PREPARATION
ALL BED AREAS SHALL BE GRASS. A THREE (3) INCH LAYER OF STERILIZED SOIL CONDITIONER AND A ONE (1) INCH LAYER OF STERILIZED COM MANURE. THESE PRODUCTS SHALL BE APPLIED TO THE BED TO A DEPTH OF EIGHT (8) INCHES. THE EXISTING SOIL TO A DEPTH OF EIGHT (8) INCHES SHALL BE REMOVED AND TOPSOIL SHALL BE ADDED TO THE BED TO A DEPTH OF EIGHT (8) INCHES. A SMOOTH EVEN FINISH SHALL BE ACHIEVED. PROVIDE BODILY 5-INCH COMPLETE PLANTING GRANULES AS MANUFACTURED BY ADVANCED GROWING SOLUTIONS TO ALL PLANTING AREAS. APPLY AT A RATE OF 25 POUNDS PER 100 SQUARE FEET. TOP-DRESS AT A RATE OF 25 POUNDS PER 100 SQUARE FEET INTO THE TOP 3-4" OF PLANTING BEDS.

MULCH
MULCH PLANTING BEDS AND TREE BELLS WITH SHREDDED CEDAR MULCH TO A DEPTH OF THREE (3) INCHES.

LAWN
500 AREAS WITHIN ALL GRID LINES AS INDICATED ON THE PLANS WITH SOLID SLAB HYBRID TALL FESCUE GRASS SOD MATS AND ROLL IN ACCORDANCE WITH STANDARD NURSERY PRACTICE FOR SOD APPLY FERTILIZER ACCORDING TO TIME OF INSTALLATION MAY 1 - AUGUST 1 APPLY A 16-0-0 FERTILIZER AT A RATE OF 1 POUND OF ACTUAL NITROGEN PER 1000 SQUARE FEET TO ALL LAWN AREAS.

IRRIGATION
SEPTEMBER 1 - APRIL 30 APPLY 10-20-0 FERTILIZER AT A RATE OF 1 POUND OF ACTUAL NITROGEN PER 1000 SQUARE FEET TO ALL LAWN AREAS. FERTILIZER SHALL BE APPLIED PRIOR TO SOODINGS. ALL AREAS OF THE SITE ARE TO BE IRRIGATED WITH A FULLY AUTOMATIC IRRIGATION SYSTEM.

| QUANT. | TAG | COMMON NAME | BOTANICAL NAME | SIZE/REMARKS | SPACING |
|--------|------|-------------|-------------------|--|---------|
| 23 | 50AK | SHAWANO OAK | QUERCUS SHAWANOII | 1/2" CAL., 7-9 HT., 3-4" DBH, 500, 518, 535, 552, 569, 586, 603, 620, 637, 654, 671, 688, 705, 722, 739, 756, 773, 790, 807, 824, 841, 858, 875, 892, 909, 926, 943, 960, 977, 994, 1011, 1028, 1045, 1062, 1079, 1096, 1113, 1130, 1147, 1164, 1181, 1198, 1215, 1232, 1249, 1266, 1283, 1300, 1317, 1334, 1351, 1368, 1385, 1402, 1419, 1436, 1453, 1470, 1487, 1504, 1521, 1538, 1555, 1572, 1589, 1606, 1623, 1640, 1657, 1674, 1691, 1708, 1725, 1742, 1759, 1776, 1793, 1810, 1827, 1844, 1861, 1878, 1895, 1912, 1929, 1946, 1963, 1980, 1997, 2014, 2031, 2048, 2065, 2082, 2099, 2116, 2133, 2150, 2167, 2184, 2201, 2218, 2235, 2252, 2269, 2286, 2303, 2320, 2337, 2354, 2371, 2388, 2405, 2422, 2439, 2456, 2473, 2490, 2507, 2524, 2541, 2558, 2575, 2592, 2609, 2626, 2643, 2660, 2677, 2694, 2711, 2728, 2745, 2762, 2779, 2796, 2813, 2830, 2847, 2864, 2881, 2898, 2915, 2932, 2949, 2966, 2983, 3000, 3017, 3034, 3051, 3068, 3085, 3102, 3119, 3136, 3153, 3170, 3187, 3204, 3221, 3238, 3255, 3272, 3289, 3306, 3323, 3340, 3357, 3374, 3391, 3408, 3425, 3442, 3459, 3476, 3493, 3510, 3527, 3544, 3561, 3578, 3595, 3612, 3629, 3646, 3663, 3680, 3697, 3714, 3731, 3748, 3765, 3782, 3799, 3816, 3833, 3850, 3867, 3884, 3901, 3918, 3935, 3952, 3969, 3986, 4003, 4020, 4037, 4054, 4071, 4088, 4105, 4122, 4139, 4156, 4173, 4190, 4207, 4224, 4241, 4258, 4275, 4292, 4309, 4326, 4343, 4360, 4377, 4394, 4411, 4428, 4445, 4462, 4479, 4496, 4513, 4530, 4547, 4564, 4581, 4598, 4615, 4632, 4649, 4666, 4683, 4700, 4717, 4734, 4751, 4768, 4785, 4802, 4819, 4836, 4853, 4870, 4887, 4904, 4921, 4938, 4955, 4972, 4989, 5006, 5023, 5040, 5057, 5074, 5091, 5108, 5125, 5142, 5159, 5176, 5193, 5210, 5227, 5244, 5261, 5278, 5295, 5312, 5329, 5346, 5363, 5380, 5397, 5414, 5431, 5448, 5465, 5482, 5499, 5516, 5533, 5550, 5567, 5584, 5601, 5618, 5635, 5652, 5669, 5686, 5703, 5720, 5737, 5754, 5771, 5788, 5805, 5822, 5839, 5856, 5873, 5890, 5907, 5924, 5941, 5958, 5975, 5992, 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FORWARD SPLITTING CO
 1815 1/2 STREET SW
 CLEVELAND TN 37311
 PHONE (615) 459-1789

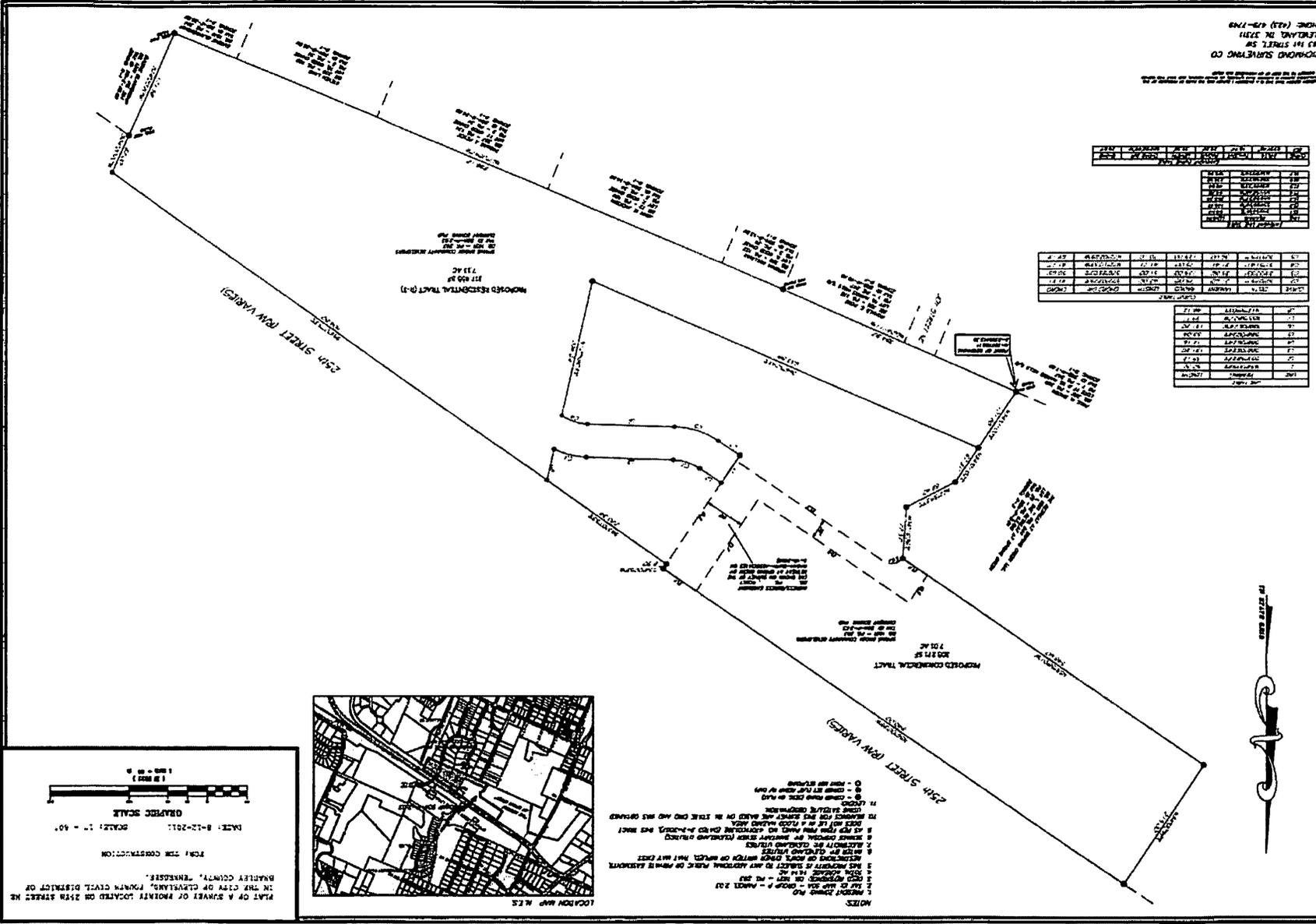
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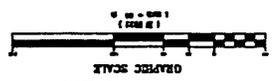
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NOTES:

1. VERIFY EXISTING AND PROPOSED LOT LINES AND DIMENSIONS.
2. ALL DIMENSIONS ARE IN FEET AND INCHES.
3. ALL DIMENSIONS ARE TO THE CENTERLINE UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE TO THE CENTERLINE UNLESS OTHERWISE NOTED.
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DATE: 8-12-2011 SCALE: 1" = 50'
 FROM THE CONSTRUCTION
 PLAN OF A SURVEY OF POINTS LOCATED ON 25TH STREET IN
 BUNDELY COUNTY, TENNESSEE.

ORDINANCE 2022-15

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO AMEND THE PUD 08 ZONING DISTRICT ESTABLISHED BY ORDINANCE 2011-08 AND AMENDED BY ORDINANCE 2011-30 AND AS FURTHER AMENDED HERE SO AS TO ALLOW A CAR WASH AS AN ALLOWABLE USE IN ALL AREAS WITH THE PUD08 PLANNED UNIT DEVELOPMENT ZONING DISTRICT AND RETAINING ALL OTHER FEATURES IN FULL FORCE AND EFFECT WITH THE ADDITION OF SITE REQUIREMENTS FOR CAR WASH SITE LOCATION.

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 PUD08 by Ordinance 2011-30 which Ordinance is attached hereto and incorporated herein as Exhibit 1, which ordinance contains the PUD 08 zoning district and standards and conditions for the development, operation, and maintenance of the property; and

WHEREAS, at its meeting on May 17, 2022, the Cleveland Municipal Planning Commission recommended changes to Ordinance 2011-30; and

WHEREAS the current owner(s) has petitioned to allow carwashes throughout the boundaries of the PUD 08 Planned Unit Development Zoning District, 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 of Ordinance Number 2011-30, which established the PUD 08 Zoning District, is hereby replaced with the following language:

Section 5. PERMITTED USES AND PROHIBITED USES

5.A. PERMITTED USES

This Section 5.A retains and updates the description of permitted and specifically prohibited uses found in Ordinance 2011-08 which are now applied in the respective residential and commercial areas described in this ordinance. PUD 8 allows single family and multi-family residential uses in the residential area of the development. Gross density of the residential area shall not exceed that necessary to construct 112 residential units and a clubhouse and accessory structures in the area identified for residential use in Exhibit A. The commercial and office uses specified below are allowed in the commercial area of the development. Open spaces, trails, community meeting rooms, and other amenities are allowed as are utilities and transportation features. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 8 that would further restrict the allowable uses within a particular part

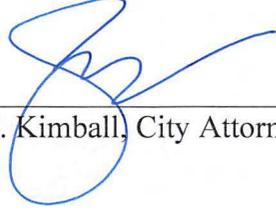
of the development or from excluding a particular use from the development altogether through the operation of private restrictions or covenants.

The following commercial and office uses, as described by the North American Industrial Classification (NAICS) code numbers, are allowed in the Commercial Area of PUD 8 with the exceptions as noted and to the extent that they are not otherwise among the prohibited uses:

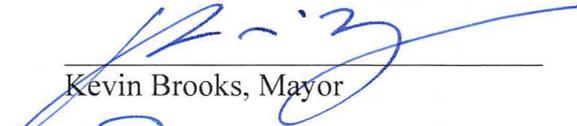
- 4413 Automotive Parts, Accessories, and tire stores
- 442 Furniture and home furnishings stores
- 443 Electronics and appliance stores
- 444 Building material and garden equipment and supplies dealers
- 445 Food and beverage stores
- 446 Health and personal care stores
- 448 Clothing and accessories 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)
- 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
- 811192 Car Wash (Must be oriented with exterior exit doors pointing away from any residential structures within 200', must be built to a standard or architectural detail to meet or exceed the existing development, and must provide cross access for outparcels connecting to the site)

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

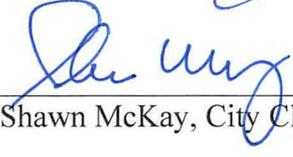
APPROVED AS TO FORM:



John F. Kimball, City Attorney



Kevin Brooks, Mayor



Shawn McKay, City Clerk



ORDINANCE NO: 2011-30

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO REVISE THE PLANNED UNIT DEVELOPMENT (PUD) KNOWN AS "PUD 8" AS APPROVED IN ORDINANCE 2011-20 ON OCTOBER 10, 2011 ON PROPERTY DESCRIBED AS A PORTION OF TAX MAP 50A, GROUP P, PARCEL 2.1 AS MORE PARTICULARLY DESCRIBED HEREIN IN AN UPDATED PROPERTY DESCRIPTION; PROVIDING AN UPDATED DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 8 TO ACCOUNT FOR THE UPDATED PROPERTY DESCRIPTION; RETAINING PROVISIONS OF ORDINANCE 2011-20 MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; UPDATING PROVISIONS OF ORDINANCE 2011-20 ESTABLISHING LISTS OF PERMITTED USES AND PROHIBITED USES; UPDATING PROVISIONS OF ORDINANCE 2011-20 ESTABLISHING A DEVELOPMENT PLAN AND PROCESS AND RELATED REQUIREMENTS; UPDATING PROVISIONS OF ORDINANCE 2011-20 ESTABLISHING VARIOUS DEVELOPMENT STANDARDS; RE-STATING RESPONSIBILITY FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; RE-STATING REQUIREMENTS OF ORDINANCE 2011-20 PROVIDING FOR TIME LIMITS AND POSSIBLE REVERSION TO THE FORMER ZONING CLASSIFICATION; RE-STATING PROVISIONS OF ORDINANCE 2011-20 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", approved Ordinance 2011-20 on October 10, 2011 providing for residential and non-residential uses to be developed in a Planned Unit Development, hereinafter "PUD", by *Spring Brook Community Developers II* and *The Retreat at Spring Creek, LLC*, developers of the property described herein and hereinafter referred to as "Developers", and the boundaries and design of the aforesaid PUD were dependent upon the conveyance of excess highway right-of-way by the Tennessee Department of Transportation (TDOT) which was not approved by TDOT, and the design is potentially affected by determinations of other regulatory agencies, Developers have proposed revisions to the PUD known as "PUD8" which are the purpose of this ordinance, NOW THEREFORE BE IT ORDAINED:

Section 1. ZONING PLAN AND MAP AMENDMENT.

The zoning plan and map described in Ordinance 2011-08 are hereby amended so as to zone the property described in Section 3 herein as "PUD8" subject to the provisions described in each section of this ordinance. Other property not included in this ordinance but intended to be zoned PUD8 under Ordinance 2011-08 shall revert to the zoning classification it had prior to the adoption of Ordinance 2011-08. The permitted uses in the PUD8 zoning district are those uses outlined in this ordinance. The location of particular residential and non-residential uses within the PUD8 will comport with the

descriptions of the constituent parts of the development as more particularly described herein and in the Development Plan (Exhibit A) which revises the development plan included as Exhibit A in Ordinance 2011-08. There are no conditional uses within the PUD8 district. The development standards for the PUD8 district are those outlined in this ordinance, including requirements for plan approval and compliance with applicable permitting requirements.

Section 2. VIOLATIONS UNLAWFUL AND SUBJECT TO PENALTIES.

This ordinance continues the requirements of Ordinance 2011-08 with respect to the subject discussed in this Section 2. 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.

This Section 3, including its component Sections 3.A, 3.B, and 3.C, revises the property description provided in Ordinance 2011-08 so as to take into account the portion of TDOT right-of-way that was not made available to the project as intended by the Developers at the time of Ordinance 2011-08.

3.A. OVERALL

PUD 8, includes approximately 12.43 acres, more or less, generally identified as part of Tax Map 50A, Group P, Parcel 2.1. PUD8 encompasses two distinct development areas, one residential (The Retreat at Spring Creek Phase II) and one commercial. The residential portion of PUD8 is integrated with The Retreat at Spring Creek Phase I which is nearing completion but which is not part of the PUD8 development. A site plan has been prepared for the residential portion which is moving toward immediate development. A site plan(s) will be prepared in the future for the commercial portion of PUD 8 when this property is to be developed. The residential and commercial portions of PUD8 are shown conceptually in in the Development Plan's Master Site Plan (Exhibit A) and individually described below. The residential portion is proposed to be owned and developed by *The Retreat at Spring Creek, LLC* . The commercial portion is presently owned and proposed to be developed by *Spring Brook Community Developers II*. The overall PUD8 comprises the residential tract and the commercial tract with boundaries as given in the legal descriptions from Richmond Surveying:

3.B. PUD 8 COMMERCIAL AREA

PROPERTY DESCRIPTION: PROPOSED COMMERCIAL TRACT

BEING A TRACT OF LAND LOCATED IN THE 2ND WARD OF THE CITY OF CLEVELAND, 4TH CIVIL DISTRICT OF BRADLEY COUNTY, TENNESSEE, BEING BOUNDED ON THE NORTH BY 25TH STREET NE, ON THE EAST BY PROPOSED LANDS OF THE RETREAT AT SPRING CREEK, LL., ON THE SOUTH BY THE RETREAT AT SPRING CREEK, LLC. AND THE PROPOSED LANDS OF THE RETREAT AT SPRING CREEK, LLC, ON THE WEST BY THE RETREAT AT SPRING CREEK, LLC., AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN FOUND (N-307703.11, E-2309412.35 NAD 83) MARKING THE SOUTHWEST CORNER OF THE PROPOSED LANDS OF THE RETREAT AT SPRING CREEK LLC, AND THE NORTH LINE OF THE HARGIS HILLS S/D AND THE SOUTHEAST CORNER OF THE LANDS OF THE RETREAT AT SPRING CREEK, LL. (DB. 1961 – PG. 844); THENCE RUNNING ALONG THE LANDS OF THE RETREAT AT SPRING CREEK, LLC. ON A BEARING OF N 34°01'02" E FOR A DISTANCE OF 101.88 FEET TO AN IRON PIN SET MARKING THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE LANDS OF THE RETREAT AT SPRING CREEK, LLC. ON A BEARING OF N 34°01'02" E FOR A DISTANCE OF 62.31 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF N 62°38'37" E FOR A DISTANCE OF 82.40 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF N 4°16'36" E FOR A DISTANCE OF 77.37 FEET TO AN IRON PIN SET IN THE SOUTHERN LINE OF A 30 FOOT INGRESS/EGRESS EASEMENT; THENCE ALONG SAID EASEMENT AND CONTINUING WITH THE RETREAT AT SPRING CREEK, LLC ON A BEARING OF N 55°59'01" W FOR A DISTANCE OF 548.60 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF N 34°00'59" E FOR A DISTANCE OF 215.00 FEET MARKING THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT AND THE NORTHEAST CORNER OF THE LANDS OF THE RETREAT AT SPRING CREEK, LLC AND THE SOUTHERN RIGHT OF WAY OF 25TH STREET NE; THENCE ALONG THE SOUTHERN RIGHT OF WAY OF 25TH STREET NE ON A BEARING OF S 56°00'39" E FOR A DISTANCE OF 840.00 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF S 34°00'59" W FOR A DISTANCE OF 106.21 FEET; THENCE S 56°14'43" E FOR A DISTANCE OF 175.80 FEET TO AN IRON PIN SET; THENCE ON A NON TANGENT CURVE TO THE LEFT WITH A DELTA=31°51'40", TANGENT=35.68', RADIUS=125.00', LENGTH=69.51' (CHORD=N 72°10'34"W-68.62') TO AN IRON PIN SET; THENCE ON A BEARING OF N 88°06'24" W FOR A DISTANCE OF 36.48 FEET TO AN IRON PIN SET; THENCE ON A CURVE TO THE RIGHT WITH A DELTA=32°07'57", TANGENT=21.60', RADIUS=75.00', LENGTH=42.06' (CHORD=N 72°02'25" W-41.51') TO AN IRON PIN SET; THENCE ON A BEARING OF N 55°58'27" W FOR A DISTANCE OF 39.12 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF S 34°00'59" W FOR A DISTANCE OF 50.00 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF S 55°58'27" E FOR A DISTANCE OF 39.11 FEET TO AN IRON PIN SET; THENCE ON A CURVE TO THE LEFT WITH A DELTA=32°07'57", TANGENT=36.00', RADIUS=125.00', LENGTH=70.10' (CHORD=S 72°02'25" E-69.19') TO AN IRON PIN SET; THENCE ON A BEARING OF S 88°06'24" E FOR A DISTANCE OF 36.48 FEET TO AN IRON PIN SET; THENCE ON A CURVE TO THE RIGHT WITH A DELTA=31°51'41", TANGENT=21.41', RADIUS=75.00', LENGTH=41.71' (CHORD=S 72°10'33" E-41.17') TO AN IRON PIN SET; THENCE ON A BEARING OF S 56°14'43" E FOR A DISTANCE OF 99.41 FEET TO AN IRON PIN SET IN THE MEANDERS OF THE BRANCH; THENC ALONG THE MEANDERS OF THE BRANCH ON A BEARING OF S 12°59'03" W FOR A DISTANCE OF 152.17 FEET TO AN IRON PIN SET IN THE BRANCH; THENCE LEAVING THE BRANCH ON A BEARING OF N 66°52'45"W FOR A DISTANCE OF 633.99 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS 6.459 ACRES.

3.C. PUD 8 RESIDENTIAL AREA

PROPERTY DESCRIPTION: PROPOSED RESIDENTIAL TRACT

BEING A TRACT OF LAND LOCATED IN THE 2ND WARD OF THE CITY OF CLEVELAND, 4TH CIVIL DISTRICT OF BRADLEY COUNTY, TENNESSEE, BEING BOUNDED ON THE NORTH BY 25TH STREET NE AND THE REMAINING LANDS OF SPRING BROOK COMMUNITY DEVELOPERS, ON THE EAST BY EUGENE BLANKENSHIP, ON THE SOUTH BY EUGENE BLANKENSHIP, WOOD CHASE S/D, AND HARGIS HILLS S/D, ON THE WEST BY THE RETREAT AT SPRING CREEK, LLC., AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN FOUND (N-307703.11, E-2309412.35 NAD 83) MARKING THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT AND NORTH LINE OF THE HARGIS HILLS S/D AND THE SOUTHEAST CORNER OF THE LANDS OF THE RETREAT AT SPRING CREEK, LL. (DB. 1961 – PG. 844); THENCE RUNNING ALONG THE LANDS OF THE RETREAT AT SPRING CREEK LLC. ON A BEARING OF N 34°01'02" E FOR A DISTANCE OF 101.88 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF S 66°52'45" E FOR A DISTANCE OF 633.99 FEET TO AN IRON PIN SET IN A BRANCH; THENCE ALONG THE MEANDERS OF THE BRANCH ON A BEARING OF N 12°59'03" E FOR A DISTANCE OF 152.17 FEET TO AN IRON PIN SET IN THE MEANDERS OF THE BRANCH; THENCE ON A BEARING OF N 56°14'43" W FOR A DISTANCE OF 99.41 FEET TO AN IRON PIN SET; THENCE ON A CURVE TO THE LEFT WITH A DELTA=31°51'41", TANGENT=21.41', RADIUS=75.00', LENGTH=41.71' (CHORD=N 72°10'33" W-41.17'); THENCE ON A BEARING OF N 88°06'24" W FOR A DISTANCE OF 36.48 FEET TO AN IRON PIN SET; THENCE ON A CURVE TO THE RIGHT WITH A DELTA=32°06'57", TANGENT=36.00', RADIUS=125.00', LENGTH=70.10' (CHORD=N 72°02'25" W-69.19') TO AN IRON PIN SET; THENCE ON A BEARING OF N 55°58'27" W FOR A DISTANCE OF 39.11 FEET; THENCE ON A BEARING OF N 34°00'59" E FOR A DISTANCE OF 50.00 FEET TO AN IRON PIN SET; THENCE ON A BEARING OF S 55°58'27" E FOR A DISTANCE OF 39.12 FEET TO AN IRON PIN SET; THENCE ON A CURVE TO THE LEFT WITH A DELTA=32°07'57", TANGENT=21.60', RADIUS=75.00', LENGTH=42.06' (CHORD=S 72°02'25" E-41.51') TO AN IRON PIN SET; THENCE ON A BEARING OF S 88°06'24" E FOR A DISTANCE OF 36.48 FEET TO AN IRON PIN SET; THENCE ON A CURVE TO THE RIGHT WITH A DELTA=31°51'40", TANGENT=35.68', RADIUS=125.00', LENGTH=69.51' (CHORD=S 72°10'34" E-68.62') TO AN IRON PIN SET ON THE SOUTHERN RIGHT-OF-WAY OF 25TH STREET NE (APD 40); THENCE ALONG THE SOUTHERN RIGHT-OF-WAY OF 25TH STREET NE (APD 40) THE FOLLOWING CALLS AND DISTANCES: S 56°14'43" E FOR A DISTANCE OF 80.45 FEET TO A POINT; THENCE S 56°14'43" E FOR A DISTANCE OF 33.61 FEET TO A RIGHT-OF-WAY MONUMENT; THENCE S 66°44'15" E FOR A DISTANCE OF 113.06 FEET TO A RIGHT-OF-WAY MONUMENT; THENCE S 55°54'17" E FOR A DISTANCE OF 634.51 FEET TO A STEEL POST; THENCE LEAVING THE RIGHT OF WAY OF 25TH STREET NE (APD40) AND RUNNING ALONG THE LANDS OF EUGENE BLANKENSHIP ON A BEARING OF S 24°20'20" W FOR A DISTANCE OF 171.58 FEET TO A STEEL POST FOUND MARKING THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT; THENCE ALONG THE LANDS OF EUGENE BLANKENSHIP AND WOOD CHASE S/D ON A BEARING OF N 67°09'47" W FOR A DISTANCE OF 998.12 FEET TO AN IRON PIPE FOUND; THENCE ALONG THE LANDS OF THE HARGIS HILLS S/D ON A BEARING OF N 66°41'11" W FOR A DISTANCE OF 384.30 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS 5.965 ACRES.

Section 4. GENERAL PROJECT DESCRIPTION.

This Section 4, including the following Sections 4.A, 4.B, and 4.C., revises the general project description in Ordinance 2011-08. This section is intended to provide a general description of the PUD 8 project and not a detailed or exhaustive description.

4.A. OVERALL DESCRIPTION

PUD8 is a planned unit development that includes residential and non-residential land uses. The western area of the project nearest APD-40/ 25th Street will contain commercial uses similar to those existing in or planned for Spring Creek Town Center that is located across the highway. The residential area of the project will contain multi-family structures similar to those located in The Retreat at Spring Creek Phase I. The commercial and residential parts of PUD8, as well as The Retreat at Spring Creek Phase I which is not part of PUD8, are related through complementary architecture and amenities and infrastructure.

4.B. PUD 8 COMMERCIAL AREA

The PUD 8 Commercial Area would occupy the portion of the property designated as commercial in Exhibit A. It is anticipated to contain a number of commercial buildings or shop spaces that generally range from 5000 to 7000 square feet though it could contain one or more larger commercial buildings or suites. Primary access will be at a main entrance aligning with Spring Creek Drive and would be served by a traffic signal proposed on APD-40/25th Street. A detailed site plan for the commercial area as well as proposed building facades, landscaping, and buffering plans will be submitted to the Planning Commission prior to commencement of the commercial development.

4.C. PUD 8 RESIDENTIAL AREA

High architectural standards and a pedestrian scale of the development will typify the residential area. Typical residential building floor plans, facades, and amenities will be submitted to the Planning Commission along with the detailed block plan for this residential development (see Exhibit A).

Section 5. PERMITTED USES AND PROHIBITED USES.

5.A. PERMITTED USES

This Section 5.A retains and updates the description of permitted and specifically prohibited uses found in Ordinance 2011-08 which are now applied in the respective residential and commercial areas described in this ordinance. PUD 8 allows single-family and multi-family residential uses in the residential area of the development. Gross density of the residential area shall not exceed that necessary to construct 112 residential units and a clubhouse and accessory structures in the area identified for residential use in Exhibit A. The commercial and office uses specified below are

allowed in the commercial area of the development. Open spaces, trails, community meeting rooms, and other amenities are allowed as are utilities and transportation features. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 8 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.

The following commercial and office uses, as described by the North American Industrial Classification (NAICS) code numbers, are allowed in the Commercial Area of PUD 8 with the exceptions as noted and to the extent that they are not otherwise among 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.B. PROHIBITED USES.

This Section 5.B retains the prohibited uses provisions in Ordinance 2011-08. No use shall be permitted in PUD 8 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 or office 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-track 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 the residential area of PUD8.

Section 6. DEVELOPMENT PLAN AND RELATED REQUIREMENTS.

6.A. DEVELOPMENT PLAN.

This Section 6 and Section 6.A revises the development plan approved in Ordinance 2011-08. A Development Plan to be approved by this ordinance is shown in Exhibit A for the residential area of PUD 8. Prior to development of the PUD8 commercial area, a development plan will be presented to and approved by the Cleveland Municipal Planning Commission. The development plan for the PUD8 commercial area will be consistent with the general description of the development found in this ordinance. building plans, plats, and other development-related documents and permits will be necessary to carry out the construction of this project.

6.B. PLATS.

This Section 6.B retains the plats provisions in Ordinance 2011-08. One or more plats will be prepared for the PUD 8 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 PUD 8 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.

This Section 6.C modifies the private development documents provisions in Ordinance 2011-08 so as to refer to the development as PUD8 . 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 PUD 8 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 PUD8 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.

Section 7. DEVELOPMENT STANDARDS

This Section 7 revises the development standards approved in Ordinance 2011-08. The development standards for PUD8 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 for the PUD 8 commercial area and the R3 multi-family home standards for the residential area of PUD 8, except that residential density limits shall allow for the development of 112 units in the residential portion of PUD8. 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

This Section 7.A revises the setbacks approved in Ordinance 2011-08. Setbacks along the south and east property lines of PUD8, where the PUD8 residential area adjoins other property, are to be a minimum of 20 feet exclusive of breezeway or porch area. The north property line of PUD8 is formed by the right-of-way for 25th Street/APD-40 where it is intended that the setback take into account a buffer formed by the substantially grassy area of remaining right-of-way that is 70 feet, more or less, from the current roadway edge of pavement but no building shall encroach to within less than 4 feet of the right-of-way line (the City does not anticipate a roadway expansion in this area of right-of-way but the City makes no guarantees to that effect). Setbacks and building separation internal to the PUD 8 development must meet requirements of the building code and meet needs for emergency vehicle access. These internal setbacks and building separations shall be as approved through the site plan and plat review process. For the residential portion these shall be as indicated in Exhibit A.

7.B. QUALITY OF APPEARANCE.

This Section 7.B retains the quality of appearance provisions in Ordinance 2011-08 except it is specified that the residential area of PUD8 will be constructed and maintained in a manner consistent with The Retreat at Spring Creek Phase I. 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.

This Section 7.C retains the signage provisions in Ordinance 2011-08. A master signage plan is to be produced and submitted by the developer for all areas within PUD 8 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

This Section 7.D retains the building height provisions in Ordinance 2011-08. Building heights in the PUD 8 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.

7.E. EXTERIOR LIGHTING.

This Section 7.E retains the exterior lighting provisions in Ordinance 2011-08. 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 adjoining residential areas surrounding PUD 8. 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.

This Section 7.F modifies the parking, internal traffic, and access provisions in Ordinance 2011-08. Developer shall prepare a parking plan for the PUD 8 commercial and residential areas. Parking standards in the City of Cleveland zoning regulations shall be the basis for the parking plan; however, parking requirements for the residential area shall be 1.8 spaces per unit but the Developer may increase the amount of parking on-site not to exceed 2.04 spaces per unit as indicated in Exhibit A . Deviations from the number of spaces and other parking-related standards may be approved by the Planning Commission based upon sound evidence to be supplied by the Developer and evaluated by 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 PUD 8, 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 PUD 8 will be designed so as to facilitate bicycle and pedestrian modes and to provide access for public transit in the commercial areas. PUD 8 shall be designed so as to accommodate a connection with an extension of the City greenway system. Design and construction of the 25th 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.

This Section 7.G retains the site maintenance provisions in Ordinance 2011-08. 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 PUD 8. 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.

7.H. DISTURBANCE TO SURROUNDING PROPERTY.

This Section 7.H retains the disturbance to surrounding property provisions in Ordinance 2011-08. Construction-related noise, vibrations, dust, debris, and traffic in the PUD 8 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.

This Section 7.I retains the impervious area and drainage provisions in Ordinance 2011-08. Impervious surfaces in the PUD 8 commercial area not to exceed 75% for the development as a whole. Impervious area in the PUD 8 residential area is not to exceed 65%. Developer may propose and the City may accept an alternative proposal that would allow an additional 5% of site area to be developed with pervious concrete, turf blocks, or other pervious material if approved by the City Engineer. Landscaping is to be in accordance with landscape plans approved for each section of the PUD8 development. All development in PUD 8 is to comply with the City's stormwater regulations. Building permits will be issued for construction of buildings only in those parts of PUD 8 that are served by stormwater drainage facilities built in accordance with a plan approved by the City Engineer.

J. LANDSCAPING.

This Section 7.J retains the landscaping provisions in Ordinance 2011-08. Landscaping is to meet or exceed the requirements of city ordinances and be in accordance with landscape plans approved for each section of the PUD 8 development. Landscaping in PUD 8 shall be irrigated. All landscape materials shall be maintained so as to stay in a first class condition. Landscaped buffers are required along the south property line of PUD8 where it adjoins existing single-family development. There would be a 15-foot landscaped buffer with a solid 8-foot wooden fence along the south property line (the developer expects there also to be a cut that would put his apartments below a bank of 10 feet or more in height along most of the south property line).

7.K. SOLID WASTE.

This Section 7.K retains the solid waste provisions in Ordinance 2011-08. 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 PUD 8. 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.

This Section 7.L retains the operating and maintenance agreement provisions in Ordinance 2011-08. All private parking lots, drives, lanes alleys, sidewalks, trails, and other privately owned amenities and infrastructure in the common areas of PUD 8 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.

This Section 8 retains the compliance with other applicable laws and permitting requirements provisions in Ordinance 2011-08. 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 8 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. TIME LIMITS AND POSSIBLE REVERSION TO FORMER ZONING.

This Section 9 retains the time limits and possible reversion to former zoning provisions in Ordinance 2011-08. 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 10. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.

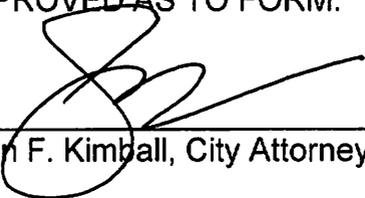
This Section 10 retains the errors, omissions, and possible future revisions to the PUD provisions in Ordinance 2011-08. This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Revisions to plans 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 PUD 8, 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 11. BINDING UPON OTHERS. This Section 11 retains the binding upon others provisions in Ordinance 2011-08. 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 PUD 8 zoning district and is binding upon City's regulation of these activities in this location. It shall be the duty of the Developer, and subsequent heirs, assigns, or successors in title, to ensure compliance with all terms of this ordinance affecting construction, use, or maintenance of property within PUD 8. The term "Developer" is also intended to include

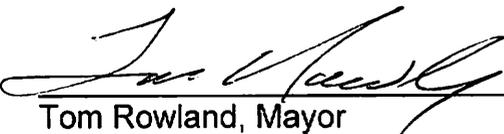
any holding company or other entity established for the ongoing operation and maintenance of the development of the subject property including, but not limited to, common areas, joint use or joint access areas, and undeveloped portions of the property that are intended for development.

Section 12. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE. This Section 12 retains the conflicts, severability, and effective date provisions in Ordinance 2011-08. 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:



John F. Kimball, City Attorney



Tom Rowland, Mayor



Michael L. Keith, City Clerk

