

ORDINANCE NO: 2012-17

AN ORDINANCE 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 "PUD10" ON PROPERTY DESCRIBED AS TAX MAP 57G, GROUP M, PARCEL 16 THRU 32, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 10; 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 THAT THE APPROVED PUD 10 ORDINANCE WILL SERVE AS THE DEVELOPMENT ORDER; PROVIDING FOR TIME LIMITS AND POSSIBLE REVERSION TO THE FORMER ZONING CLASSIFICATION; PROVIDING FOR ERRORS AND OMISSIONS AND POSSIBLE FUTURE REVISIONS TO THE PUD; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS the City of Cleveland, Tennessee, hereinafter "City", desires orderly land development in furtherance of the public welfare and has adopted the Planned Unit Development, hereinafter "PUD", process as an alternative development standard whereby to accomplish such development; and whereas it is intended that the developers of the property described herein Habitat for Humanity of Cleveland, hereinafter "Developers", would enter into an agreement with City to be encompassed in a PUD development plan and development order for Developers to construct or cause to be constructed a planned residential community; and whereas the 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 "PUD10" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD10 zoning district are those uses outlined in this ordinance. There are no conditional uses within the PUD10 district. The development standards for the PUD10 district are those outlined in this ordinance, including requirements for plan approval, the development order, and compliance with applicable permitting requirements.

Section 2. VIOLATIONS UNLAWFUL AND SUBJECT TO PENALTIES.

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

Section 3. PROPERTY DESCRIPTION.

3.A. OVERALL

PUD10, Victory Cove, includes property generally identified as Tax Map 57G, Group M, Parcels 16 thru 32. The subject property contains 4.46 acres, more or less, and is generally located along Victory Street; between Arnold Avenue and Huff Avenue. The property is more particularly described in the following legal description from Brown Surveying Company:

Legal Description

To be added

Section 4. GENERAL PROJECT DESCRIPTION.

PUD10, Victory Cove, is a planned unit development (PUD) project that is a 4.46 acre residential community development consisting of not more than 30 total dwelling units in one- and two-unit

Section 5. PERMITTED USES AND PROHIBITED USES.

The following uses, are permitted with exceptions as noted:

Residential dwelling units in structures containing one or two dwelling units; however, the total number of dwelling units to be developed within the property shall not exceed 30 for all development phases combined; and,

Accessory structures and amenities ordinarily and customarily associated with residential developments including garages, carports, storage sheds, recreational amenities (swimming pools, shuffleboard courts, basketball courts, and similar facilities intended for the enjoyment of residents and their guests), walking trails or sidewalks, landscape and garden areas, community buildings or club houses, driveway and parking facilities, mail boxes, community message boards, entry signs, and other types of signage ordinarily permitted in the R2 zoning district, streets, utilities, and drainage structures; and home occupations of the type ordinarily permitted in the R2 zoning district and subject to the same zoning restrictions that apply in the R2 zoning district. Home occupations are subject to the same home occupation permit requirements as in other residential zones.

Uses other than those described above are not permitted in the PUD10 zoning district.

Section 6. PLATTING AND DEVELOPMENT PLAN.

A development plan shown in Exhibit A, was developed by Miller-McCoy Inc. The PUD development plan will be substantially consistent, in terms of the general location and configurations of buildings and infrastructure, with the plat prepared for the project by Brown Surveying and approved by the Cleveland Municipal Planning Commission on July 24, 2012.

Section 7. FLOOD PREVENTION.

The proposed development is not within a 100-year floodplain or regulatory floodway per FEMA FIRM Map Number 47011C0119E dated February 2, 2007.

Section 8. UTILITIES.

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

Section 9. DEVELOPMENT STANDARDS

The development standards for PUD10 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 R2 zone, from the City of Cleveland’s zoning regulations. 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.

9.A. BUILDING SETBACKS AND LOT REQUIREMENTS.

The principal structure minimum building setbacks shall be:

- Front Yard: 25 feet (Conforming to R2 zoning code)
- Corner Lot Side Street: 25 feet (Conforming to R2 zoning code)
- Rear Yard: 25 feet (Conforming to R2 zoning code)
- Side Yard: 3 feet /10 feet **

**Side yard setbacks shall be a minimum of three (3) feet from the building location side property line. A minimum of ten (10) feet for one-story units and twelve (12) feet for two-story units is required on the remaining side yard. When adjoining any other zoning district, the side yard shall be minimum of twelve (12) feet in all cases. Situating units such that three (3) foot minimum side yards adjoin is prohibited. Each three (3) foot side yard must be joined by a normal side yard (10’/12’) on the adjoining lot.

The minimum required lot area will be 5,000 square feet for internal lots and 6,000 square feet for corner lots adjoining two roadways. The minimum lot width at the building setback line is to be 40 feet.

No two unit structures shall be located directly next to an existing lot that is not part of the Victory Cove Development.

9.B. BUILDING HEIGHTS

Building heights in the PUD10 development shall be limited to two stories, exclusive of any basement areas.

9.C. DESIGN OF PARKING & INTERNAL ROADWAY.

Area to provide a minimum of two (2) off-street parking spaces must be provided for each unit.

The proposed street right-of-way minimum shall be forty (40) feet. All the sidewalks shall be 5 feet wide but may be reduced to 4 feet wide to allow room for street trees. A green strip of at least 24 inches shall be provided between the sidewalks and the street, except on Victory Cove where a green strip of at least of 36 inches shall be provided.

9.D. IMPERVIOUS AREAS AND STORMWATER MANAGEMENT.

The PUD10 development is to be carried out in a manner that allows the City of Cleveland to remain in compliance with federal and state stormwater requirements. All construction within PUD10 will be carried out in a manner that complies with the City's stormwater regulations and approved by the City Engineer. All design or re-design of drainage facilities is to be performed by a Tennessee registered engineer. Total impervious surfaces, excluding streets and sidewalks on public right-of-way, within the PUD10 development are to conform to the current R2 zoning requirements of the City of Cleveland's zoning regulations, not to exceed 55%.

Section 10. 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 Victory Cove Development 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. 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 11. PUD DEVELOPMENT ORDER.

Other provisions of the PUD development process as described in the City's zoning regulations notwithstanding, the adopted PUD10 ordinance shall constitute the PUD development order for PUD10. It is understood that complete development of the property as described herein requires the rezoning of the property to PUD10 per the terms of this ordinance as well as subdivision plat approval. The developer has expressed a desire to begin grading and development of the site prior to final completion of the PUD. It is understood that any work that commences prior to final approval of this ordinance by the City Council, and plat approval by the Cleveland Municipal Planning Commission is solely at the risk of the Developer and may not be undertaken prior to the issuance of a Land Disturbance Permit by the City.

Section 12. 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 40% of the proposed housing units.

Section 13.. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.

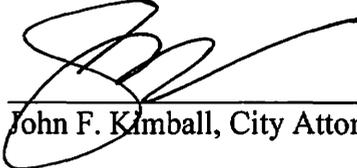
This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Revisions to plans and drawings required by this ordinance that are determined by the Planning Commission to yield improved or substantially 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. In the event that the Developer and the City of Cleveland may enter into future agreements regarding possible public facilities, infrastructure, and/or services within PUD10, an amendment to this ordinance is not required to implement such agreement pertaining to public facilities, infrastructure, or services.

Section 14. 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 PUD10 zoning district and is binding upon City's regulation of these activities in this location. The terms of this ordinance shall be binding upon the Developer and its assigns, lessees, tenants, or successors in title.

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

This Ordinance shall take effect from and after its final passage, the public welfare requiring it.

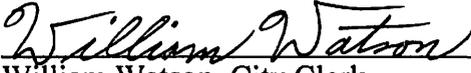
APPROVED AS TO FORM:



John F. Kimball, City Attorney



Tom Rowland, Mayor



William Watson, City Clerk

