

**ORDINANCE NO: 2013-29**

AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 TO ESTABLISH A PLANNED UNIT DEVELOPMENT (PUD) ZONING DISTRICT KNOWN AS "PUD 11" ON CERTAIN PROPERTY ON CERTAIN PROPERTY LOCATED ON GEORGETOWN ROAD AND VILLA DRIVE (Tax Map 33 Parcel 87.00) AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 11; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING A LIST OF PERMITTED USES; ESTABLISHING CONDITIONS FOR MITIGATION OF NOISE AND VIBRATION; ESTABLISHING SITE PLAN REQUIREMENTS; ESTABLISHING REQUIREMENTS FOR TRAFFIC CIRCULATION ON AND ADJACENT TO THE SITE AND PARKING, FIRE LANES, AND SERVICE AND DELIVERY VEHICLES; ESTABLISHING REQUIREMENTS FOR IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING, TREE PRESERVATION, BUFFERING, LIGHTING; ESTABLISHING REQUIREMENTS FOR GENERAL APPEARANCE, SIGNAGE AND OUTDOOR DISPLAYS; ESTABLISHING REQUIREMENTS FOR LITTER AND SOLID WASTE CONTROL AND DRAINAGE STRUCTURE MAINTENANCE; STATING RESPONSIBILITY FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; REQUIRING PROPER SUBDIVISION AND SITE PLANNING; REQUIRING A PUD DEVELOPMENT PLAN; PROVIDING FOR TIME LIMITS AND POSSIBLE REVERSION TO THE FORMER ZONING CLASSIFICATION; PROVIDING FOR ERRORS AND OMISSIONS AND POSSIBLE FUTURE REVISIONS TO THE PUD; COMMUNICATING THE BINDING EFFECT OF THE ORDINANCE UPON OTHERS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

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

WHEREAS City's 1995 future land use plan is indefinite about the land uses in the area addressed in this PUD ordinance; and

WHEREAS the adjacent roadway Georgetown Road (SR 60) is expected to be widened to a five-lane facility and there is a traffic light adjacent to the site at the Georgetown Road Villa Drive intersection, some relatively more intensive land uses can reasonably be anticipated along the Georgetown Road corridor; and

WHEREAS it is the desire of the property owner(s), hereinafter "Developers", to put forward such a plan for orderly development and to rezone the property in accordance with the PUD process, 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 "PUD 11". PUD 11 comprises two distinct development areas, one allowing commercial uses subject to the limitations of this ordinance, and the other allowing residential uses subject to the provisions of this ordinance. The permitted uses in the PUD 11 zoning district are those uses outlined in this ordinance. There are no conditional uses within the PUD 11 district. The development standards for the PUD 11 district are those outlined in this ordinance. Where the PUD 11 Ordinance is silent as to a particular development standard, the standard applicable in the CH Commercial Highway zoning district, if there is any such standard, shall be applied in the commercial development area. Where the PUD 11 Ordinance is silent as to a particular development standard, the standard applicable in the R3 Multi-family Residential zoning district, if there is any such standard, shall be applied in the residential development area. The respective commercial and residential development areas of PUD 11 are as further described herein and as illustrated in the PUD development plan.

**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.** Note: legal description below of the REZONING AREA is provided by Developer. Legal description to be based upon survey by Brown Surveying Company that is included as "EXHIBIT A".

**REZONING AREA:**

**Section 4. PERMITTED USES.** This section describes the uses permitted in the commercial development area of PUD 11 and the uses permitted in the residential development area of PUD 11. Uses not included in the categories of uses described herein as allowed uses are not allowed.

**COMMERCIAL DEVELOPMENT AREA**

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

- 4413 Automotive Parts, Accessories, and tire stores
- 442 Furniture and home furnishings stores
- 443 Electronics and appliance stores
- 444 Building material and garden equipment and supplies dealers

- 445 Food and beverage stores
- 446 Health and personal care stores
- 447 Gasoline Stations
- 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 Footware and leather goods repair
- 8121 Personal care services
- 81292 Photofinishing
- 81221 Funeral Home and Funeral Services
- 8123020 Drycleaning and Laundry Services (except coin-operated)
- 813 Religious, Grantmaking, Civic, Professional, and Similar Organizations
- 92 Public administration

## RESIDENTIAL DEVELOPMENT AREA

Residential development in single-unit or multi-unit structures not exceeding three stories is allowed. The overall residential development is not to exceed a gross density of 12 units per acre within the residential development area. Residential development may consist of a variety of structure types. Innovative features, such as zero lot-line housing and “granny flats”, are allowed. Congregate living facilities, such as nursing homes, are allowed. Common area amenities typically associated with residential developments, such as community pools, tennis courts, club houses, and the like, are allowed. Residential development is to be consistent with a master plan for the residential

development area. Nothing herein is to prohibit the Developer from introducing further private restrictions upon the type and density of development that may occur within the residential development area.

## **Section 5. NOISE AND VIBRATION MITIGATION.**

Noise and vibrations are to be managed during the construction and operation phases of PUD 11. During construction, construction-related noise, vibrations, and traffic in the PUD 11 zoning district shall be managed so as to not unduly interfere with the nearby residential uses. 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. Developer and all businesses in the PUD 11 zoning district shall mitigate potential noise or vibration problems from the site by prompt compliance with any City request to adjust volume, frequency, time, or duration of any noise or vibration that the City determines would be bothersome to a reasonable person off-site. Developer and businesses in the PUD 11 zoning district shall affirmatively manage all activities on the site so as to mitigate any noise or vibration that the City determines to likely be bothersome to reasonable person off-site. If after previous requests to Developer and/or any business located in the PUD 11 zoning district concerning noise or vibrations, City determines that there is a continued persistent pattern of noise or vibration emanating from the PUD 11 district, Developer and/or any business in the PUD 11 zoning district must undertake specific appropriate management actions requested by City to mitigate the problem including, but not limited to, the following actions if applicable: reducing or eliminating outdoor music, private security to eliminate cruising or loitering on-site, etc.

## **Section 6. SITE PLANNING AND DEVELOPMENT COORDINATION**

### **6.A. Conceptual Site Plan for PUD**

A conceptual site plan for PUD 11 has been prepared by Brown Surveying Company (see EXHIBIT A) and presented by Developer to the Cleveland Municipal Planning Commission on April 23, 2013. This site plan is general in nature, identifying the location of the commercial development area in the northern part of the PUD 11 property adjacent to Georgetown Road, and the residential development area further to the west along Villa Drive. The conceptual site plan identifies the location of proposed entrances onto the adjacent roadways as well as right-of-way needed for turn lane improvements in these adjacent roadways. The conceptual site plan identifies an area or areas for stormwater detention based upon the anticipated impervious area within the development. The conceptual site plan indicates a landscaped buffer area between the commercial development area and the residential development

area, as well as a landscaped buffer between the residential development area and the adjacent single-family residence.

#### 6.B. Detailed Site Plans for PUD Development

A detailed site plan, consistent with the conceptual site plan, is required prior to development of any portion of the site with new commercial or residential buildings. The detailed site plan will meet the normal site plan requirements of City for commercial development in the commercial development area of PUD 11 and will be reviewed in accordance with the normal process except that Planning Commission approval of the site plan shall be required. In the residential development area, the detailed site plan shall begin with a master plan for the residential development that indicates the locations of streets and/or driveways (residential structures are not intended to be served individually by driveways directly accessing Villa Drive), parking areas, common amenities, service areas (e.g. dumpster locations, maintenance buildings, etc.), stormwater detention areas, landscaped areas, signage, and the locations of residential structures and numbers of units. The master plan will also include a preliminary plat, grading and drainage plan (must meet stormwater requirements), street plan utility plans, and landscape plan will be submitted. Nothing herein is intended to prohibit the development of the residential development area in phases or by different developers. The PUD is not intended require unnecessary complications in the development process for the residential development area, so depending upon the type and complexity of the residential development that is ultimately proposed, the detailed site planning requirements may be altered as necessary and utilize processes normally used outside the PUD process (e.g. single-family cluster subdivision, townhome subdivision, etc.). It is intended however that the resulting residential development would be coordinated and would share common access and internal traffic circulation.

### Section 7. ACCESS, TRAFFIC CIRCULATION, PARKING, FIRE LANES, SERVICE AND DELIVERY VEHICLES.

#### 7.A. Access

The City of Cleveland, the Tennessee Department of Transportation (TDOT) and other parties have entered into an agreement to provide for access management along the SR 60 corridor including this section of Georgetown Road. The DOT right-of-way plans call for a five-lane facility with sidewalks and bike lanes along Georgetown Road. The aforementioned plans also call for additional right-of-way and improvements to Villa Drive to a distance of over 400 feet west of the Georgetown Road/Villa Drive intersection. Sufficient right-of-way will exist to accommodate a third lane, which will be needed to accommodate left turns from Villa Drive onto Georgetown Road and to accommodate turning movements in and out of the PUD 11 site. It is intended that the commercial development area will have access to and from Georgetown Road but that this access will be a

shared access to serve whatever is proposed to be developed along the approximately 600 to 700 feet of Georgetown Road frontage (early coordination with TDOT is advised). The TDOT improvements will provide a pavement width sufficient for three lanes on Villa Drive to about 150 feet south of the intersection (to the Southern heritage Bank entrance) but the paving for the third lane would have to be constructed by others in the remainder of the right-of-way acquired by TDOT along Villa Drive.

#### 7. B. Traffic Circulation, Parking, Fire Lanes, Deliveries, etc.

Driveway entrances to the site shall be developed with adequate turning radii for entering and exiting vehicles, including delivery vehicles. Internal traffic circulation and parking on sites, delivery access, service access for solid waste pick-up, etc., and fire and emergency access must be maintained in the site design and specifically addressed in site planning for individual developments within PUD 11. In the event that the PUD 11 site is served by a public transit service, stopping of transit vehicles for entering or exiting passengers shall be outside the designated fire lane unless otherwise approved by the City's fire department. Any drive-through window facilities that are developed on the site, including the outparcels, shall comply with City standards with respect to vehicle stacking, etc. and shall be designed so as to minimize potential conflicts with other vehicles and pedestrians. Where transit stop areas or bicycle parking areas are provided in PUD 11, these areas will not count against impervious area limits. Parking standards shall be as otherwise required by City zoning regulations, subject to a decrease of up to 20% that may be granted by the Planning Commission in consideration of factors such as pedestrian, bicycle, and transit access, shared parking arrangements, enhanced landscaping, innovative stormwater management practices, and the like.

### Section 8. IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING, TREE PRESERVATION, BUFFERING, LIGHTING.

#### 8.A. Impervious Areas

An impervious area calculation is to be included in detailed site plans for the PUD 11 area. The impervious area of the site is understood to include the foot prints for all structures on the site as well as other paved or concrete areas that do not readily absorb water, generally that which is not greenspace. The impervious area limit is 75% in CH-zoned commercial areas and 65% in R3-zoned residential areas and these should serve as guidelines for PUD 11. A large volume of water moves across this site from the ridge north of Georgetown Road and TDOT plans would increase the size of the pipe under Georgetown Road from 18" to 48". The area around this conveyance presents an opportunity for greenspace within the site. Innovative approaches to providing greenspace may be considered in the detailed site plan, such as permanent open space easements on adjacent undeveloped property.

#### 8.B. Stormwater Management

Development within the PUD11 area must meet the City's stormwater regulation requirements. In conjunction with each detailed site plan for development within PUD 11, a drainage plan must be prepared by a professional engineer and approved by the City Engineer prior to development of the site. For purposes of stormwater management, the PUD 11 area will be regarded as an area under a common plan of development and a Notice of Intent (NOI) is required before development of any portion of the site.

#### 8.C. Landscaping

Landscaping serves a variety of purposes and it is a requirement of both the zoning regulations and the stormwater management regulations. Landscaping fulfills a Best Management Practice (BMP) requirement of the stormwater regulations. A landscaping plan shall be submitted with all detailed site plans for the PUD 11 area. The landscaping for the site shall be in accordance with a landscape plan prepared by a Tennessee registrant (engineer, architect, or landscape architect) and approved by the City. The design, installation, and maintenance of the landscaping shall meet the requirements of this ordinance and the City's regulations regarding landscaping. Landscaping shall be provided adjacent to all roadways abutting the site and internal areas within the parking lots and adjacent to buildings. Landscaping shall be professionally installed and maintained in perpetuity by the Developer and all heirs, assigns, and successors in title. Maintenance shall include irrigation, fertilization, pest and disease control, mowing, raking, replacement of dead or diseased plants, and other such activities as may be appropriate to a high quality professionally maintained landscape.

#### 8.D. Tree Preservation

The subject property is essentially a field that has been in pasture for a very long time and it is not forested so much in the tree preservation ordinance would not be applicable. The water conveyance across the site, however, does have more dense vegetation and its western area is classified as a blue line stream by TDEC. Maintaining or enhancing quality of the stream area inside and outside the blue line designation with appropriate vegetated buffer, including trees, would be of value in the development of this site and should be addressed in the site planning process as part of the landscape plan.

#### 8.E. Buffering

The City has a buffering ordinance that is to protect less intensive land uses, e.g. residential, from more intensive land uses, e.g. commercial, that locate on adjacent properties. Buffering for residential properties external to the PUD shall

at a minimum adhere to the requirements of the buffering ordinance within the zoning regulations; however, the Planning Commission may approve alternative transitional buffering arrangements for residential property for which there has been a documented non-residential land use planning effort. Developer and all heirs, assigns, and or successors in title shall take particular care to provide and maintain a densely landscaped buffer that mitigates the intrusion of noise, light, and the view of the proposed commercial development in adjoining residential areas.

#### 8. F. Lighting

As part of each detailed site plan for development in PUD 11, a plan shall be provided for the exterior lighting of buildings, parking lots, signs, etc., that demonstrates the buffering of adjacent residential areas, and the mitigation of glare or distraction for adjacent roadways. Outdoor lighting for parking and sidewalk areas are to minimize light intrusion into nearby residential areas; and other exterior lighting and lighted surfaces are to be designed so as to minimize shining or reflecting into the aforementioned residential areas. Exterior lighting will also be designed in a way that mitigates any glare that would be encountered by motorist on adjacent roadways. Where it is necessary to maintain lighting for security, this lighting will be designed such that escape of lighting onto adjoining residential property is minimized. The lighting plan should include sufficient photometric detail to determine compliance with this ordinance.

### Section 9. GENERAL APPEARANCE, SIGNAGE, AND OUTDOOR DISPLAYS.

#### 9.A. General Appearance

Development within the PUD 11 area is to have a high quality appearance. In the commercial development area, it is intended that the level of architectural amenity and detail, including quality and cost of materials and craftsmanship, will meet or exceed that found in the nearby professional office development and bank on Georgetown Road. The residential development area should achieve the highest quality appearance possible for the price level of units to be produced. Specific designs, color choices, and materials are not prescribed by this ordinance but it is expected that the quality of appearance would be consistent with better quality and comparably priced commercial areas and residential areas found in other communities. Illustrative proposed building elevations and landscaping plans will be considered together by the Planning Commission in order to determine that the proposed development is consistent with these general appearance requirements.

## **9.B. Signage Plan**

When a detailed site plan is prepared for a development within the PUD 11 area it is to include a signage plan for primary signs, such as ground signs and wall signs. The signage plan is to identify the type, size, and general location of the proposed sign(s). The signage plan will demonstrate conformity with the City's sign regulations where those are not otherwise modified by this section.

Conformity with sign regulations means those regulations governing permit requirements, setbacks, maintenance, materials, lighting, motion or animation, etc. Type A and Type B portable signs, but not Type C portable signs, as defined in the City's zoning ordinance are permitted in the commercial development area in the manner otherwise allowed in the CH zoning district but not more than two portable signs (three for buildings on corner lots) for each principal building in PUD 11 is to be within 50 feet of the Georgetown Road or Villa Drive right-of-way. For each principal building in the commercial development area, one (1) ground is allowed per street frontage not exceeding 150 square feet per sign (corner properties may distribute 300 square feet among one or two ground signs). Ground sign areas need to be landscaped. Roof signs are not allowed in PUD 11. Wall signs in the PUD 11 area will not exceed 20% of the area of the wall or façade on which the sign is located. It is intended that buildings and landscaping within the PUD 11 commercial development area, to the extent feasible, would obscure the visibility of the associated signage from existing and proposed residential development accessing Villa Drive.

## **9.C. Outdoor Displays**

Outdoor displays of merchandise and outdoor storage of goods and merchandise, including but not limited to materials stored in trailers or shipping containers, is prohibited within 50 feet of any right-of-way. In no event shall any display or storage of merchandise be configured so as to impede the visibility of motorists within or adjacent to the subject property.

## **Section 10. LITTER, SOLID WASTE, AND DRAINAGE STRUCTURE MAINTENANCE.**

The method of solid waste disposal for each use throughout the project site shall be as approved by the City's Director of Public Works. Dumpsters shall be on a concrete pad and shall be screened by a masonry enclosure. Storage for inedible fats or greases shall likewise be enclosed and, if adjacent to a dumpster, shall be separated from the dumpster by a concrete block wall. Litter and debris shall be removed from the parking lots and grounds throughout the project site on a regular basis such that these materials do not accumulate noticeably on-site or migrate to surrounding property. Removal of litter and debris shall include the removal of such materials from drainage structures and other areas where accumulations may occur. Maintenance of drainage structures including removal of sediment, debris, and intrusive vegetation, such that these drainage structures

continue to function as designed shall be the continuing responsibility of the developer, or its assigns or successors in title, and shall include effective control of algae, mosquitoes, and other such concerns as may occur with wet stormwater detention areas; such control by the developer will be monitored by the City and shall include technically appropriate means that may include mechanical aeration, application of chemicals, and/or other means. Mechanical sweeping of the parking lot and driveway areas shall be performed regularly by the Developer to control dirt, litter, and debris.

## **Section 11. SETBACKS AND BUILDING HEIGHTS**

Building setbacks for the commercial development area of PUD 11 shall be as designated for the CG zoning district except as otherwise approved herein. Specifically, these are: front 40' plus 2' for each 10' or fraction thereof of building height over the first 10'; and side and rear 10' plus 3' for each 10' or fraction thereof of building height above the first 10'. Buildings in the PUD 11 commercial development area are limited to two stories. Setbacks in the PUD 11 residential area are to generally conform to the requirements of the R3 zoning district but may be modified to match the requirements of the City's townhome subdivision requirements, or another pattern proposed in the master development plan and approved by the Planning Commission. Building height in the residential development area is limited to three stories. Commercial and residential building height limits exclude any basement areas, parapet walls, or roof top mechanical equipment.

## **Section 12. 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 shopping center and for construction on the outparcels and other construction on or adjacent to the site for which the Developer is responsible. In the event that there are state or federal agency permit requirements arising from PUD development of this site, such as the off-site mitigation for impacts on a blue-line stream as required by the Tennessee Department of Environment and Conservation (TDEC), the Developer is responsible for those permit requirements. If a state or federal agency causes the City of Cleveland to incur costs to comply with any permit requirements for the PUD development of this site, the Developer shall reimburse those costs to the City. 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 13. SUBDIVISION AND SITE PLANNING OF OUTPARCELS.**

The aggregation of existing parcels into the development sites needed for the various developments within PUD 11 is anticipated to require the subdivision or re-subdivision of land. In order to accomplish this, the Developer is required to prepare a preliminary and final plat for approval by the Cleveland Municipal Planning Commission, and record the final plat(s) once approved. The platting of land into the proper parcels is a necessary precursor to the approval of the detailed site plan for the portion of PUD 11 in question. Such plat(s) should include the provision of right-of-way for any proposed future road improvements that are planned as the PUD 11 project progresses. Platting is to be carried out in accordance with the adopted subdivision regulations.

#### **Section 14. PUD DEVELOPMENT PLAN.**

The conceptual site plan and related drawings attached hereto or referenced herein as well as the terms and conditions of this ordinance comprise the development plan for the PUD. Detailed site plans as referred to in this ordinance are required to carry out the PUD 11 development and will be considered as part of the development plan when these are subsequently approved by the Planning Commission. It is understood that the owners of the individual properties within the development are each responsible for the compliance of their respective properties with the terms of this ordinance. The owners of the respective properties are expected to work cooperatively toward the achievement of the common development plan for this PUD but a violation by one landowner will not constitute a violation by another landowner. However, joint responsibility may be established for jointly used and maintained facilities that may be incorporated into the detailed site plan(s).

#### **Section 15. TIME LIMITS AND POSSIBLE REVERSION TO FORMER ZONING.**

The developer must have carried out a substantial development of this project within five years from the effective date of this ordinance or the City may cause the property to revert to its former zoning classification without liability for any damages. Substantial development shall be interpreted to mean commencement of construction on at least one commercial building (hotel, restaurant, etc.) within the PUD 11 area.

## **Section 16. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.**

This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. The Planning Commission has specific authority to review and approve detailed site plans for the development of PUD 11. Minor revisions to detailed site plans that affect a quantity or dimension by less than 30%, or which substitute a material for one of like or better quality in 30% or less of the project area, or which increase functionality by adding a feature desired in PUD 11 (e.g. sidewalk, transit stop, bike racks, etc.) can be approved through the staff site plan review committee with the consent of the City Manager and the Planning Commission Chairperson. Errors and omissions in the PUD 11 development plan that do not constitute a material change in the development plan can be corrected in the same manner as a minor revision.

## **Section 17. BINDING UPON OTHERS.**

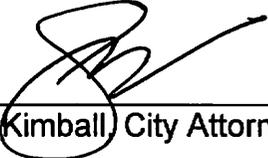
It shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance. Wherever this ordinance establishes a duty, responsibility, or right for the Developer, the term "Developer" is intended to encompass the purchaser(s) of the subject property and any assigns or successors in title, or any owners of record of the subject property as of the effective date of this ordinance and their heirs, assigns, or successors in title. The term "Developer" is also intended to include any holding company or other entity established for the ongoing operation and maintenance of the development of the subject property including, but not limited to, common areas, joint use or joint access areas, and undeveloped portions of the property that are intended for development. The term "Developer" is intended to include persons or firms or entities acquiring title to the subject property for the purpose of owning land and/or buildings in the PUD 11 development which they may use for a business location or rental property. The term "Developer" also applies to leaseholders who have the right to make tenant improvements on the property. It is understood that persons and entities coming under the definition of "Developer" may at some point divest themselves of their property interests in PUD 11 such that they are no longer responsible for complying with terms of this ordinance.

## **Section 18. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.**

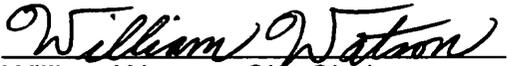
Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance

shall take effect upon after passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

Approved as to form:

  
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John F. Kimball, City Attorney

  
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Tom Rowland, Mayor

  
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William Watson, City Clerk

