

ORDINANCE NO: 2017-08

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 13" ON PROPERTY DESCRIBED AS TAX MAP 34 PARCEL 64.03, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 13; MAKING VIOLATIONS OF THE ORDINANCE UNLAWFUL AND PROVIDING FOR PENALTIES; ESTABLISHING LISTS OF PERMITTED USES AND PROHIBITED USES; ESTABLISHING DEVELOPMENT STANDARDS AND PROCESSES AND RELATED REQUIREMENTS; STATING RESPONSIBILITY FOR COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS; PROVIDING FOR ERRORS AND OMISSIONS; 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 or any subsequent owners, shall hereinafter be referred to as "Developers" and; 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 "PUD 13" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 13 zoning district are those uses outlined in this ordinance. The location of existing facilities and the next phase of proposed redevelopment within the PUD 13 Bradley Square development will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit A. There are no conditional uses within the PUD 13 district. The development standards for the PUD13 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. OVERALL**

**3.A PROPERTY DESCRIPTION.** PUD 13, Bradley Square, includes property generally identified as Tax Map 34 Parcel 64.03. The subject property contains 74.28 acres, more or less, and is generally located between Paul Huff Parkway and North Lee Highway. The property is more particularly described in deed book 2007 page 995 as recorded in the Bradley County Register of Deeds. Property is further illustrated in Exhibits A and B.

**3.B EXISTING CONDITIONS AND PURPOSE.** PUD13 is intended to facilitate the redevelopment of a portion of the existing Bradley Square Mall facility. The portion of the building which housed the former K-Mart facilities and approximately an additional 80' of the existing mall building will be demolished. This area will primarily be redeveloped into a parking area while the existing parking area directly to the west of the former K-Mart facility will be redeveloped into a new retail complex. This entire area will be located on a separate 15.17-acre parcel.

**Section 4. PERMITTED USES.**

**4.A PERMITTED USES.** The following uses are permitted with exceptions as noted:

Except as otherwise provided, commercial and residential uses allowed by right within the CH Commercial Highway Zoning District are permitted within PUD13.

For any future phases which may include residential uses, 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 are permitted.

Home occupations may be permitted subject to the requirements of the zoning ordinance regarding home occupations; however, nothing herein is to prohibit the Developer from further restricting the type and character of home occupations allowed.

Uses other than those described above are not permitted in the PUD13 zoning district.

**4.B PROHIBITED USES.** No use shall be permitted in Bradley Square 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. Any "second hand" store, "surplus" store, or pawn shop.
- b. Any mobile home park, trailer court, labor camp, junkyard, or stockyard; provided, however, this prohibition shall not be applicable to the temporary use of construction trailers during periods of construction, reconstruction or maintenance.
- c. 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.
- d. Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation.
- e. Any automobile or truck body shop repair operation.
- f. Any veterinary hospital or animal raising or boarding facility with outdoor facilities; provided, however, this prohibition shall not be applicable to pet shops.
- g. 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.
- h. 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.
- i. Any gambling facility or operation, including but not limited to: off-tract or sports betting parlor; table games such as blackjack or poker; slot machines, video poker/blackjack/keno machines or similar devices; or bingo hall. Notwithstanding the foregoing, this prohibition shall not be applicable to government sponsored gambling activities or charitable gambling activities, so long as such activities are incidental to the business operation being conducted by the Occupant.
- j. Except home occupations described in the City of Cleveland's zoning regulations where these are not otherwise prohibited by private restrictions.

**Section 5. PLATTING AND DEVELOPMENT PLAN.** A Conceptual Development Plan ("CDP") prepared by Hodges Architecture is shown as Exhibits A, C and D and the PUD will be developed in accordance with that plan. PUD13 will utilize the existing infrastructure where feasible including, but not limited, to existing drainage and storm water facilities as approved by the City Engineer. In addition, existing utilities and internal street networks will be utilized to access internal lots and provide cross access with appropriate recorded easements as necessary. The major lots shown on the CDP will be platted in accordance with City regulations. Future redevelopment of other areas within the PUD boundary which are not shown on the site plan but consistent with this ordinance will be reviewed and approved by the Planning Commission.

**Section 6. FLOOD PREVENTION.** The proposed development is not within a 100-year floodplain or regulatory floodway per FIRM Community Panel Number 47011C0136E dated February 2, 2007.

**Section 7. UTILITIES.** Any changes to water, sanitary sewer, and electric utilizes are to be designed and installed as approved by Cleveland Utilities who are to receive all necessary easements for the maintenance of these utilities and these easements are to be indicated on the plat(s). Street lighting will be as approved by Cleveland Utilities in accordance with normal City standards. Any additional or upgraded lighting will be at the cost of the Developer for installation, maintenance, and operation. Other utilities may be provided as planned by the developer and accommodated within utility easements.

**Section 8. TRANSPORTATION FACILITIES AND RELATED ISSUES.** Primary traffic circulation will be addressed by the existing ring road illustrated on Exhibits A & B. The site will maintain access to the public street network through the existing access locations onto North Lee Hwy and Paul Huff Parkway. Future ingress or egress points which are not contemplated by the attached site plans will be reviewed by staff and approved by the Planning Commission consistent with existing City policy. No other street improvements from the Developer are required. The developer and subsequent owners are to keep the "ring road" free from obstruction by parked vehicles or other obstructions at all times such that accessibility for emergency vehicles can be maintained. On-site parking shall be provided for in accordance with the attached site plan. Any future redevelopment within the PUD13 boundary must provide adequate parking through evidence provided by the developer and approved by the City Transportation Engineer. Any future redevelopment of the site which may include residential uses shall provide pedestrian facilities including sidewalks or bicycle lanes as appropriately feasible.

**Section 9. IMPERVIOUS AREAS, STORMWATER MANAGEMENT, LANDSCAPING & GENERAL APPEARANCE. T**

**9.A STORMWATER MANAGEMENT** The PUD13 development is to be carried out in a manner that allows the City to remain in compliance with federal and state stormwater requirements. All construction within PUD13 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.

**9.B IMPERVIOUS AREA.** Total impervious area within the PUD13 boundaries shall not to exceed 75% of the total land area.

**9.C LANDSCAPING.** Landscaping in PUD13 must be continuously maintained in good repair by the developer and subsequent owners. Developer or designee is to provide for a program of regular maintenance for the common areas including mowing, pest/weed control, removal of litter and debris, and regular maintenance and replacement of dead or diseased plants. Landscaping will be in accordance with a City-approved landscape plan consistent with the requirements of City ordinances as to the types and amounts of plant materials, and taking into account the overall project design and the developer's proposals for tree preservation and replacement.

**GENERAL APPEARANCE** All areas within the boundary of PUD13 shall be developed aesthetically consistent with the renderings shown in exhibit C. All facades shall be developed with high quality materials including brick or stone and no metal buildings shall be allowed. All areas for refuse collection must be constructed of material consistent with the primary structures.

**Section 10. BUILDING SETBACKS.** Buildings shall maintain a setback minimum of 50' from property lines adjoining either Paul Huff Parkway or North Lee Highway right-of-way. Building setbacks on internal lot lines, including lines along internal drives and private roads, may have a zero lot line but must meet all requirements applicable within the adopted building code. In addition, any structure with a setback of less than 15' must be approved by the City Transportation Engineer to ensure safe and adequate sight distances. Setbacks for property lines adjoining all other external lot lines shall maintain a 20' setback.

**Section 11. TREE PRESERVATION.** The existing tree growth adjoining residential areas including Sequoia Grove to the north shall be maintained in its current condition and shall not be disturbed or removed. The tree preservation and replacement for the project will be consistent with the requirements of the City's tree preservation ordinance.

**Section 12. SIGNAGE.** All future ground sounds must be consistent in size and scale with the existing signage as approved by permit number 13-721 recorded in the records of the office of the City of Cleveland Building Inspections Division. Any lighting of the aforementioned sign shall be installed so as to minimize glare and light on the surrounding roadway and other property. This does not preclude the installation of decorative features, such as decorative pillars, with small decorative signs of four square feet or less bearing the name or emblem of the development. This also does not preclude informational kiosks or other small signs less than four square feet inside the development. No sign advertising a business shall be placed inside the development so as to be visible from outside the development but this prohibition is not intended to preclude otherwise lawful real estate signs advertising the properties within the development.

Wall signs shall not exceed 30% of the area of the façade they are located on.

**Section 13. COMPLIANCE WITH OTHER APPLICABLE LAWS AND PERMITTING REQUIREMENTS.** The Developer, and its assigns or successors in title, is responsible for obtaining all federal, state, and local permits required for the construction of the proposed PUD. The Developer and its assigns or successors in title shall carry out the construction on the project site in compliance with all applicable ordinances of the City of Cleveland, Tennessee, and also in compliance with applicable federal and state laws. Buildings shall be designed and constructed in accordance with adopted building codes and shall not be occupied until final inspections are complete and certificates of occupancy have been issued. Failure to develop, use, or maintain the subject property other than in conformity with all of the requirements of this ordinance is unlawful and shall be deemed a violation of the City's zoning ordinance and a nuisance subject to the

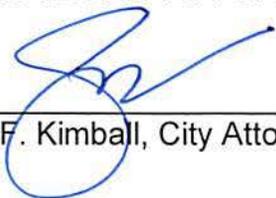
penalties described in the zoning ordinance and any increased fine as may be allowed by state law.

**Section 14. 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 which are consistent with this ordinance and attached exhibits, and that yield improved or substantially similar quality of results affecting the public, can be approved by review of City staff without amending the PUD ordinance or review by the Planning Commission. Future revisions or redevelopment of the site not contemplated within the attached exhibits but consistent with the ordinance may be approved by a simple majority vote of the Planning Commission. Other minor errors and omissions in this ordinance can be corrected or resolved as necessary by the Planning Commission to substantially comply with ordinance. Where not addressed specifically in this ordinance, the property shall comply with the CH Commercial Highway development standards.

**Section 15. 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 PUD13 zoning district and is binding upon City's regulation of these activities in this location. This ordinance shall be binding upon the Developer and its assigns, lessees, tenants, or successors in title unless amended by a future ordinance. Compliance with this ordinance and Development Order shall be a condition of all deeds, leases, or other instruments that convey a right to own or occupy all or a portion of the subject property. Moreover, it shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance.

**Section 16. 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

  
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Tom Rowland, Mayor

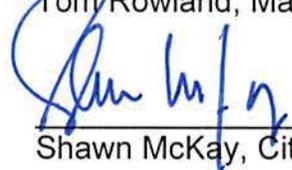
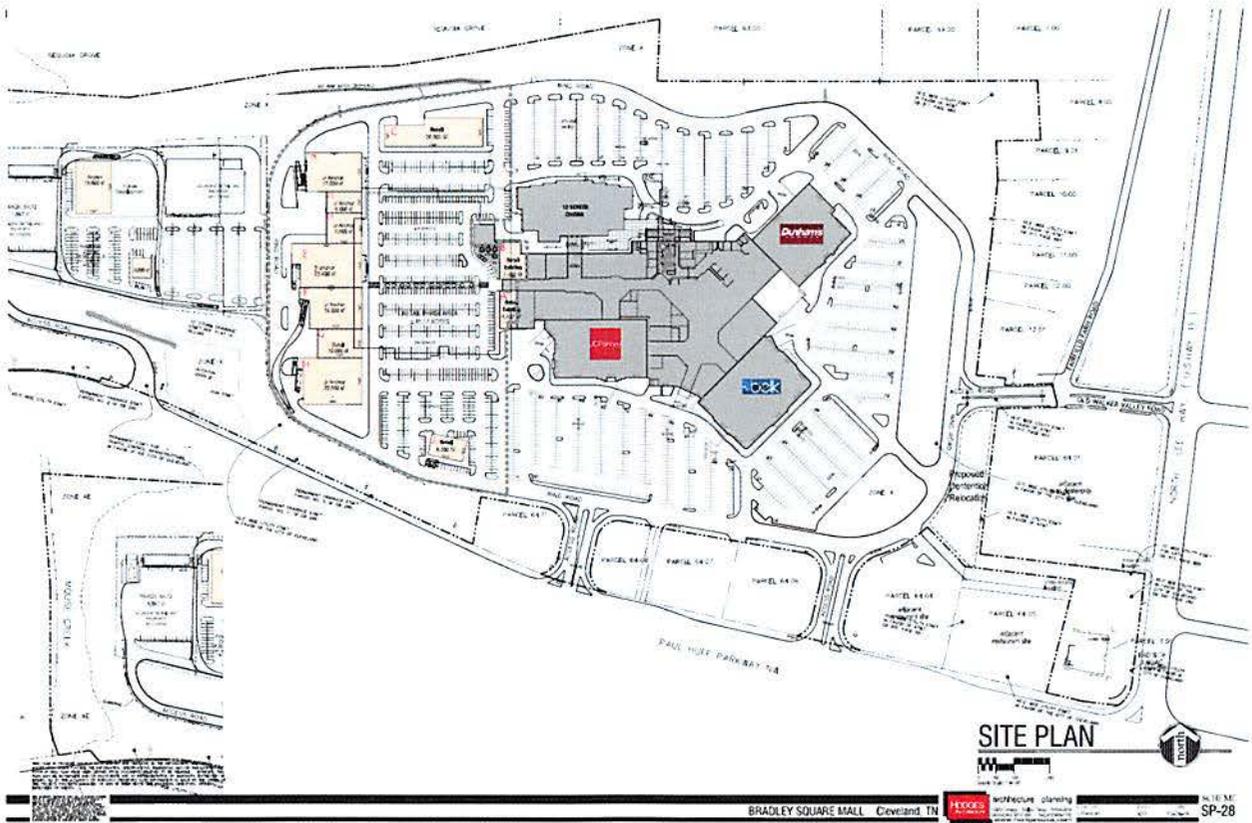
  
\_\_\_\_\_  
Shawn McKay, City Clerk

Exhibit A



BRADLEY SQUARE MALL Cleveland TN  
HOOBS architecture planning  
DATE: 05/11/11  
SP-28

Exhibit B

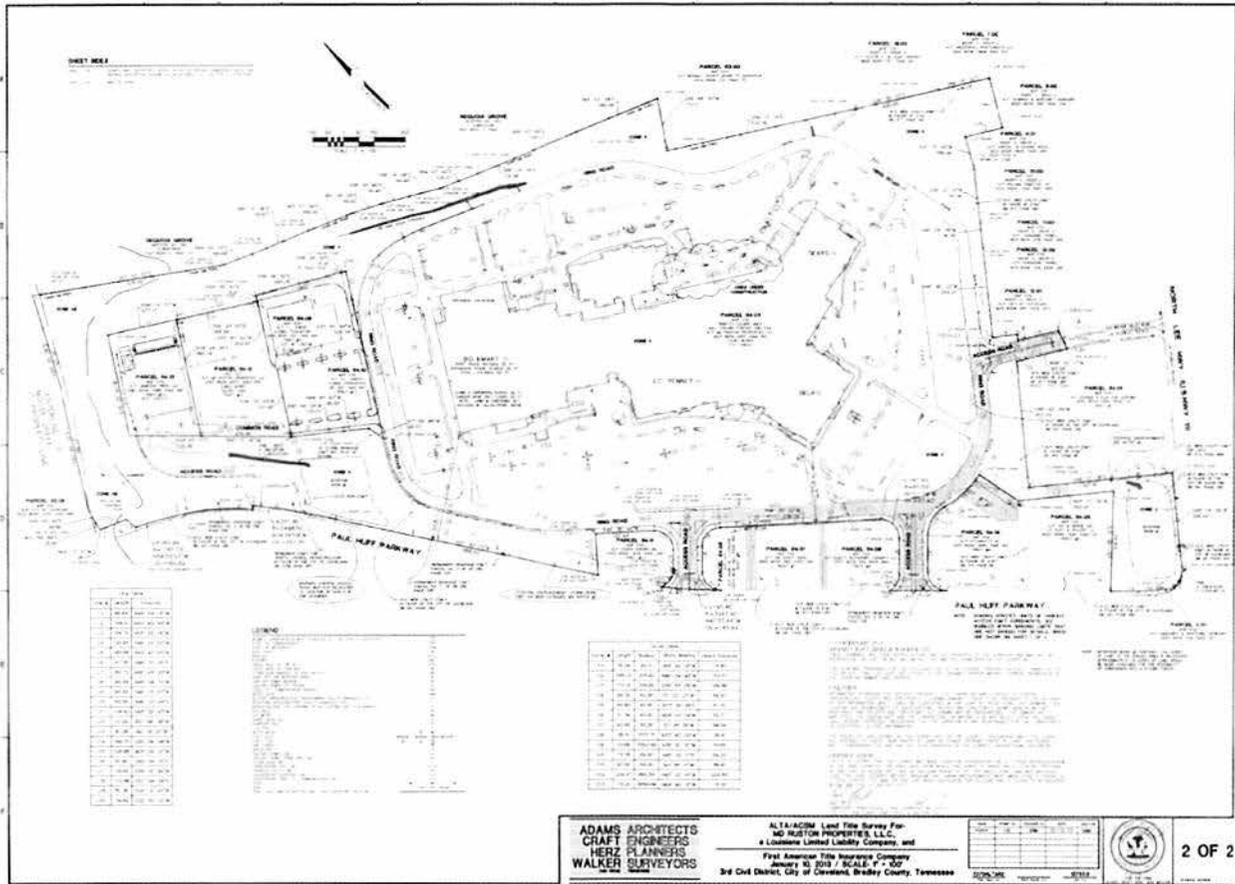


Exhibit C



01 SCHEMATIC ELEVATION DESIGN

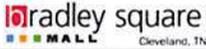


 BRADLEY SQUARE MALL

Exhibit D





 **Bradley square**  
MALL Cleveland, TN

11004 01. 02.22.2016

**ORDINANCE NO 2019-33**

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 21 ZONING DISTRICT ESTABLISHED BY ORDINANCE 2017-08 BY AMENDING THE PROVISIONS OF SECTION 12 REGULATING THE USE OF OUTDOOR SIGNS AND RETAINING ALL OTHER FEATURES OF ORDINANCE 2017-08 IN FULL FORCE AND EFFECT.

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

WHEREAS the City zoned certain property as PUD11 by Ordinance 2017-08 which ordinance contains the zoning district and standards and conditions for the development, operation, and maintenance of the property; and

WHEREAS the City amended the ordinance for PUD11 to be known as PUD21 by Ordinance 2019-09 and which ordinance did not change any of the standards or conditions for the development, operation, and maintenance of the property; and

WHEREAS, at its meeting on June 18, 2019 the Cleveland Municipal Planning Commission recommended additional changes to Ordinance 2017-08 to address changes in PUDS sought by the current owner(s) regarding the allowance of outdoor signage, 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: Section 12 of Ordinance Number 2017-08, which established the standards for outdoor signage within what is now known as PUD21, are hereby replaced with the following language:

Section 12. SIGNAGE. All future ground sounds must be consistent in size and scale with the plans shown in exhibit A. Any future changes to the signage plan may be approved by staff for any sign altered by no more than 20% of the proposed exhibit. Any additional changes may be approved by a simple vote of the Cleveland Municipal Planning Commission without further review by City Council.

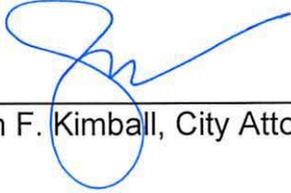
Any lighting of the aforementioned sign shall be installed so as to minimize glare and light on the surrounding roadway and other property. This does not preclude the installation of decorative features, such as decorative pillars, with small decorative signs of four square feet or less bearing the name or emblem of the

development. This also does not preclude informational kiosks or other small signs less than four square feet inside the development. No sign advertising a business shall be placed inside the development so as to be visible from outside the development, but this prohibition is not intended to preclude otherwise lawful real estate signs advertising the properties within the development.

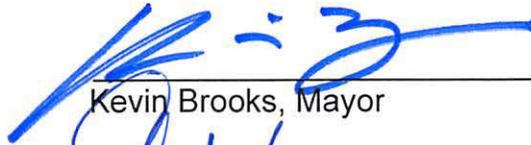
Wall signs shall not exceed 30% of the area of the façade they are located on.

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

APPROVED AS TO FORM:



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

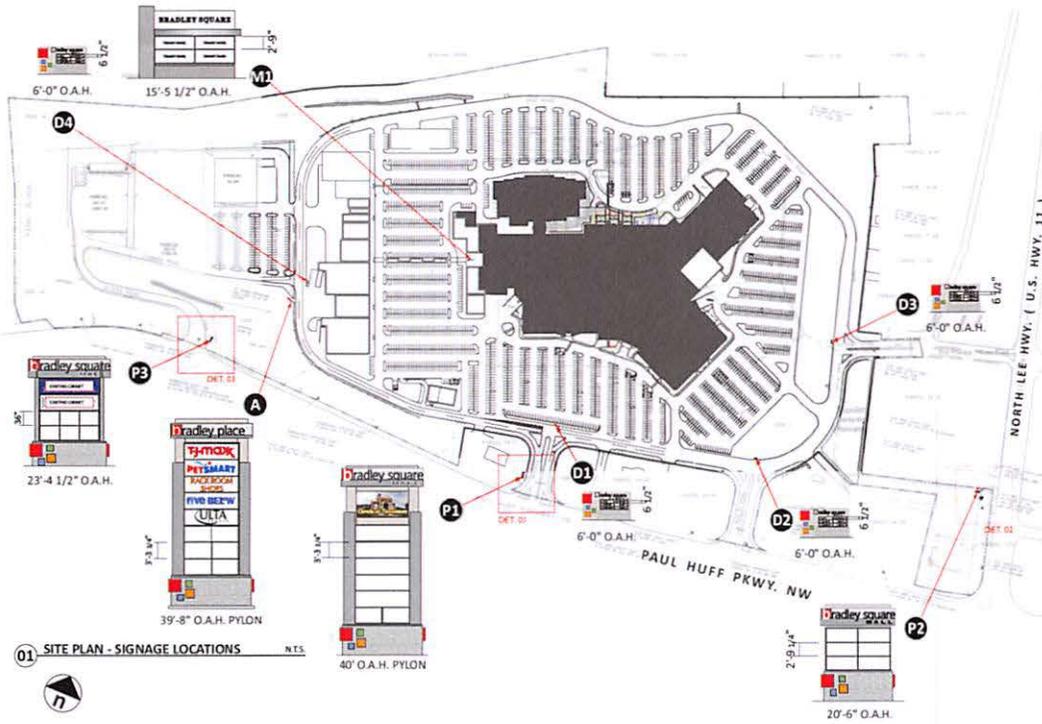


\_\_\_\_\_  
Kevin Brooks, Mayor



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Shawn McKay, City Clerk

Exhibit



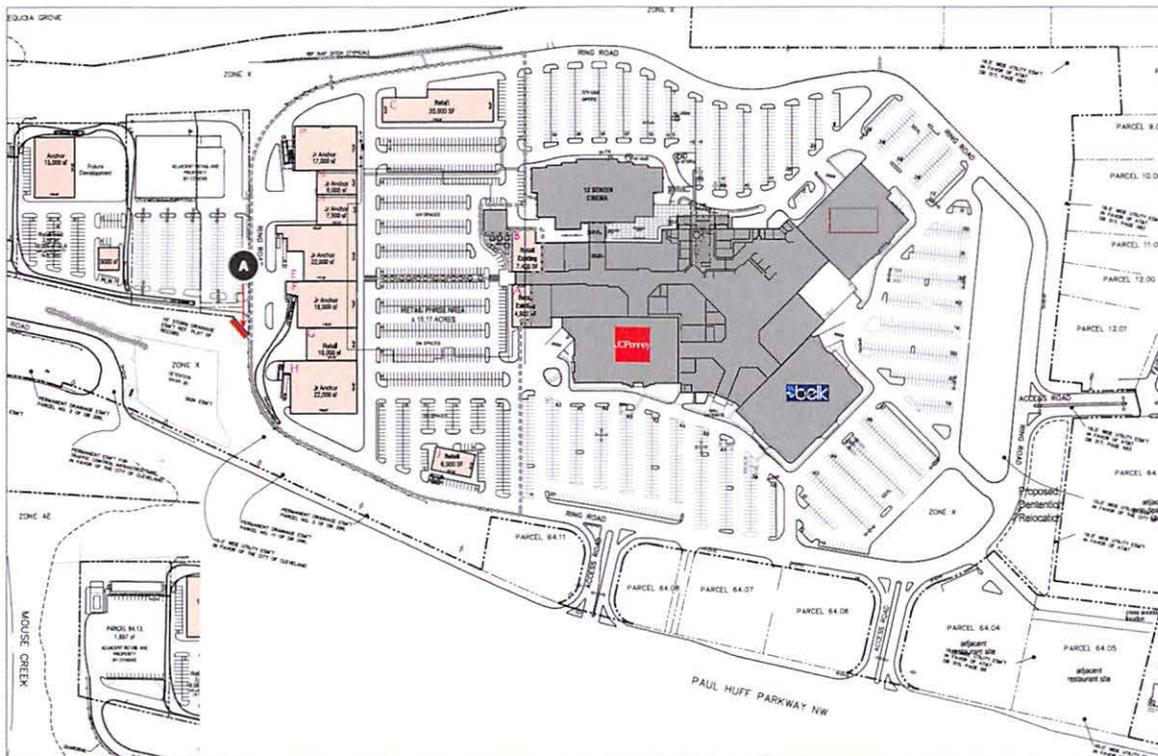
01 SITE PLAN - SIGNAGE LOCATIONS N.T.S.

**Bradley Square**  
 CHANDLER  
 chandlerdesigns.com

|                 |  |
|-----------------|--|
| Design #        | 181016 - Big Louie's Entry                                       |
| Sheet           | 1 of 1   |
| Client          | Bradley Square Mall<br>200 Sgt. Paul Huff Pkwy.<br>Cleveland, TN |
| Account Rep.    | 1744 MARCH 24<br>art to owners                                   |
| Designer        | P. AGUIAR  |
| Date            | 06-05-19   |
| Approval / Date |  |
| Client          |  |
| Sales           |  |
| Estimating      |  |
| Art             |  |
| Engineering     |  |
| Landscape       |  |
| Revision / Date |  |

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**FINAL ELECTRICAL CONNECTION BY CUSTOMER**



ARCHITECTURAL SITE PLAN

NORTH  
 N.T.S.