

ZONING ORDINANCE 2021-08

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 MILLER'S LANDING "PUD 27" ON PROPERTY DESCRIBED AS TAX MAP 034 PARCEL 025.00 (LESS 350' OF WIDTH ALONG NORTH LEE HIGHWAY), AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 27; 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 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 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 3 herein as "PUD 27" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 27 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 27 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.

PUD 27, Miller's Landing Subdivision (name may be revised during the platting process with approval of the Cleveland Municipal Planning, includes property generally identified as Tax Map 0.34 Parcels 025.00, less a width of 350' along North Lee Highway, which will remain CH zoning. Exhibit B & C illustrates the overall Miller's Landing Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.

This section is intended to provide a general description of the Miller's Landing Subdivision. The project consists of detached single-family homes on small lots with common areas located at the entrance. Exhibits B & C shows the general location of proposed infrastructure and common areas. In terms of total allowable density, the project shall not exceed one unit per 6000 square feet in any phase of development. The common open space designed within the development may include any permanent retention or detention pond areas or landscaped common area.

Section 5. PERMITTED USES AND PROHIBITED USES.

The PUD 27 Subdivision allows for the construction of up to 65 dwelling units in detached single family houses without amending this ordinance. Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Residential amenities such as a community pool, clubhouse, etc. are allowed in the event that the developer wishes to amend the conceptual plan through the Cleveland Municipal Planning Commission. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 27 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 location of particular residential uses within the Miller's Landing development will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit B & C unless modified by agreement of the Cleveland Municipal Planning Commission. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by the Developer. There are no conditional uses within the PUD 27 district. Uses other than those described as permitted or allowed herein are prohibited.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.

6.A. CONCEPTUAL PLAN.

A conceptual plan (Exhibits B & C) for PUD 27, Miller's Landing Subdivision was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on February 16, 2021. The conceptual plan consists of a site plan for the overall development however additional drawings, documents, and permits routinely required for a subdivision are expected for review and

approval prior to construction. All development within PUD 27 must be consistent with this Conceptual Plan with regard to development standards and general layout unless subsequently modified by agreement of the Cleveland Municipal Planning Commission. Additional plans, plats, and other development-related documents and permits will be necessary to carry out the construction of this project. It is recognized that the plats and site plans for the Miller's Landing Subdivision may ultimately reflect some alteration in the conceptual plan such as the exact location of each specific feature within the development. Other variations may include the width or alignment of streets, or the precise placement of buildings, but these will be generally consistent with the conceptual plan, mutually consistent with one another, and not violate any features of this ordinance as these relate to adjoining properties and infrastructure (e.g. external intersection locations and traffic improvements, buffers with external properties, etc.).

All streets within the PUD 27 Miller's Landing shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed at the expense of the developer.

6.B. PLATS.

One or more plats will be prepared for the PUD 27 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. These plats shall be consistent in general layout with the conceptual site plan.

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 development of PUD 27 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 PUD 27 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

The development standards for PUD27 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 R1 zone, from the City of Cleveland's zoning regulations.

7.A. Building Lot Size & Setbacks

The minimum lot width requirements for single-family detached home sites is 50 feet. The minimum setback requirements are 25 feet for the front, side setback requirements are 5 feet, and rear setbacks shall be no less than 20' from the property line. Individual site plans are required for all single-family residential structures in the development prior to construction and corners must be pinned by a surveyor at the foundation stage. Storage sheds and similar accessory structures, if allowed by the Developer shall be limited to yard areas behind the primary structure and are not to encroach within five feet of any property line. Covered porches, sunrooms, and other covered additions to the primary structure, if allowed by the developer are to maintain the required setbacks for the primary structure. Open patios and decks, if allowed by the Developer, may extend to within 10 feet of a rear property line. The guidelines for approval of a minor encroachment as established within the Cleveland Zoning Ordinance may be utilized to establish variations in setbacks subsequent to any Planning Commission approvals. The development standards for the R1 Single Zoning District shall apply for any standards this ordinance does not address.

Section 7.B CBU/Mail Kiosk Standards

Should the developer be required by the United States Postal Service or choose to install a Cluster Box Unit (CBU)/Mail Kiosk then the following regulations shall apply;

- a. Installation of CBUs, as well as any associated improvements (e.g. shelters, lighting, and other related amenities), hereinafter CBU related improvements, shall be the responsibility of the developer.
- b. Approval and installation of all CBU related improvements must be completed prior to the initial final plat being recorded for the development creating residential building lots.
- c. The establishment of a homeowners' association is required in developments with CBU related improvements. Maintenance of all CBU related improvements shall be the responsibility of the homeowners' association.
- d. CBU related improvements not part of a designated amenity area shall be on their own lot. Lot area does not have to meet the minimum area of the district, nor do typical setbacks or lot frontage apply as defined in this Ordinance.
- e. CBU related improvements shall be prohibited within the public right-of-way or in any utility easement unless written permission is granted by the easement holder.
- f. CBU related improvements shall not be located within the vision triangle as determined by the Transportation Division of the Development and Engineering Services Department of the City of Cleveland.
- g. A site plan for the CBUs shall be submitted simultaneous with preliminary plan submittal for review and approval. Site plans for CBU related improvements in designated amenity areas can be submitted simultaneously with a site plan for the amenity area.

Site plans for CBUs not within designated amenity areas shall include the following elements:

- a. Landscaping: Improvements shall be landscaped consistent with the requirements of this ordinance. Landscaping Requirements for Parking and Vehicular Use Areas
- b. Lighting Plan: Security lighting is required and should be designed consistent with this Ordinance
- c. Parking: These improvements shall be located in areas that will best allow for vehicle stacking or parking without creating pedestrian safety or vehicle safety issues. No less than two parking spaces servicing a proposed CBU shall be provided for.

Parking spaces may be provided in a dedicated parking area or within a bulb-out along the right- of-way, subject to approval by the Transportation Division of the Development and Engineering Services Department of the City of Cleveland. CBU related improvements that are located in designated amenity areas may utilize the off-street parking provided. Parking areas and access to the CBUs shall be compliant with current Americans with Disabilities Act (ADA) standards.

- h. CBUs and associated improvements shall be exempt from the normal setback requirements prescribed in this Ordinance.
- i. CBUs and associated improvements must be installed according to USPS standards and must meet all applicable building and fire codes.
- j. Address numbering on each dwelling unit shall comply with the adopted building code for City of Cleveland.

7.C Miscellaneous Standards

For residential areas units of identical elevation types must be separated by at least two different elevations. This will result in at least three different elevation plans per cluster. No two adjacent structures shall be built with the same building size or orientation (reverse elevations do not count as different building elevations), facade, materials, or colors. Residential areas must also incorporate a variety of building elements and treatments for single family detached and townhome style housing. Structures must include articulation, change in materials or texture, windows, or other architectural features. The front façade of all structures shall contain a minimum of at least 50% of either brick or stone materials. No blank walls along street elevations are allowed. A two inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed within each front yard area.

All lots shall be serviced by sidewalks within the subdivision. Sidewalks should be illustrated on all plats and site plans for review by city staff and any required for review by the Cleveland Municipal Planning Commission.

If a sign with the subdivision name is installed it must of the monument style and installed on a community lot. A landscaped area shall be installed along the eastern

boundary of the PUD area adjoining the CH zoning district to provide privacy and to maintain a high-quality appearance. Open space shall be maintained at proportion no less than 15% of the total buildable area. A playground, dog park, walking trail or other community area determined acceptable to the Planning Commission shall be provided by the developer once 75% the buildable lots in the development are established or under construction. The common areas and amenities must be internal to the development, accessed directly from public right-of-ways and must be practical in the application of its intended use (not in fragmented or unusable areas). All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners or an established homeowners association.

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.

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 27 Miller's Landing Subdivision. 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 by the City's Building Official). 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. 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. Where this ordinance contemplates the future approval of a 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 PUD27, 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. If the overall development layout

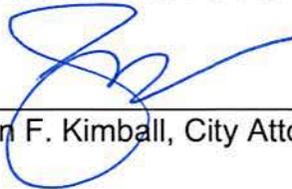
differs greater than 20% from the site plan shown in exhibit B & C then a revised conceptual plan must be reviewed by the Cleveland Municipal Planning Commission.

Section 10. 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 27 zoning district and is binding upon City's regulation of these activities in this location. Moreover, 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 current owner or any heirs, 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.

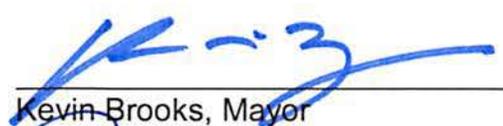
Section 11. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE. Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined 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 this 22nd day of March, 2021.

APPROVED AS TO FORM:



John F. Kimball, City Attorney



Kevin Brooks, Mayor



Shawn McKay, City Clerk

Exhibit A

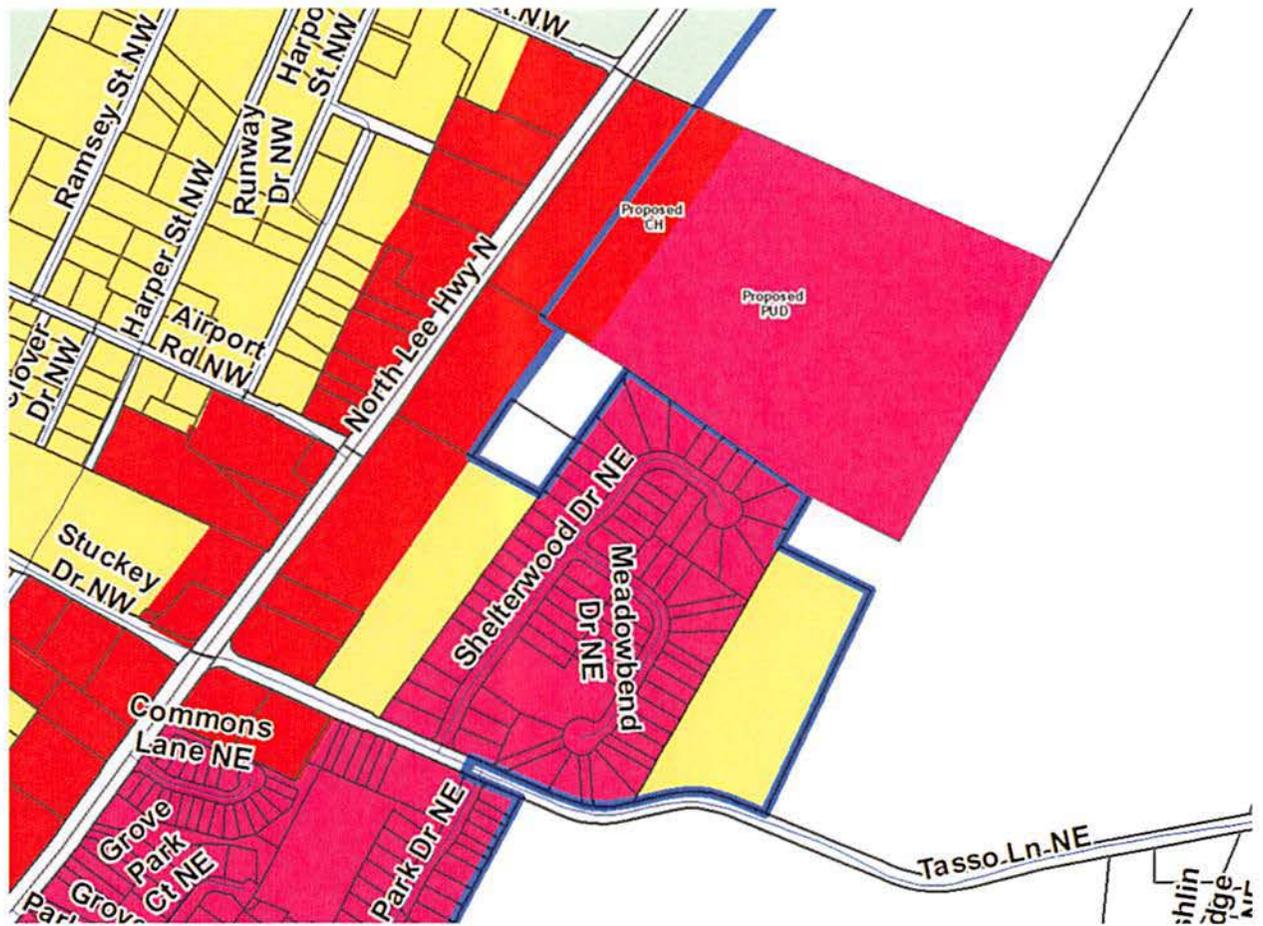


Exhibit C

Conceptual Plan 2

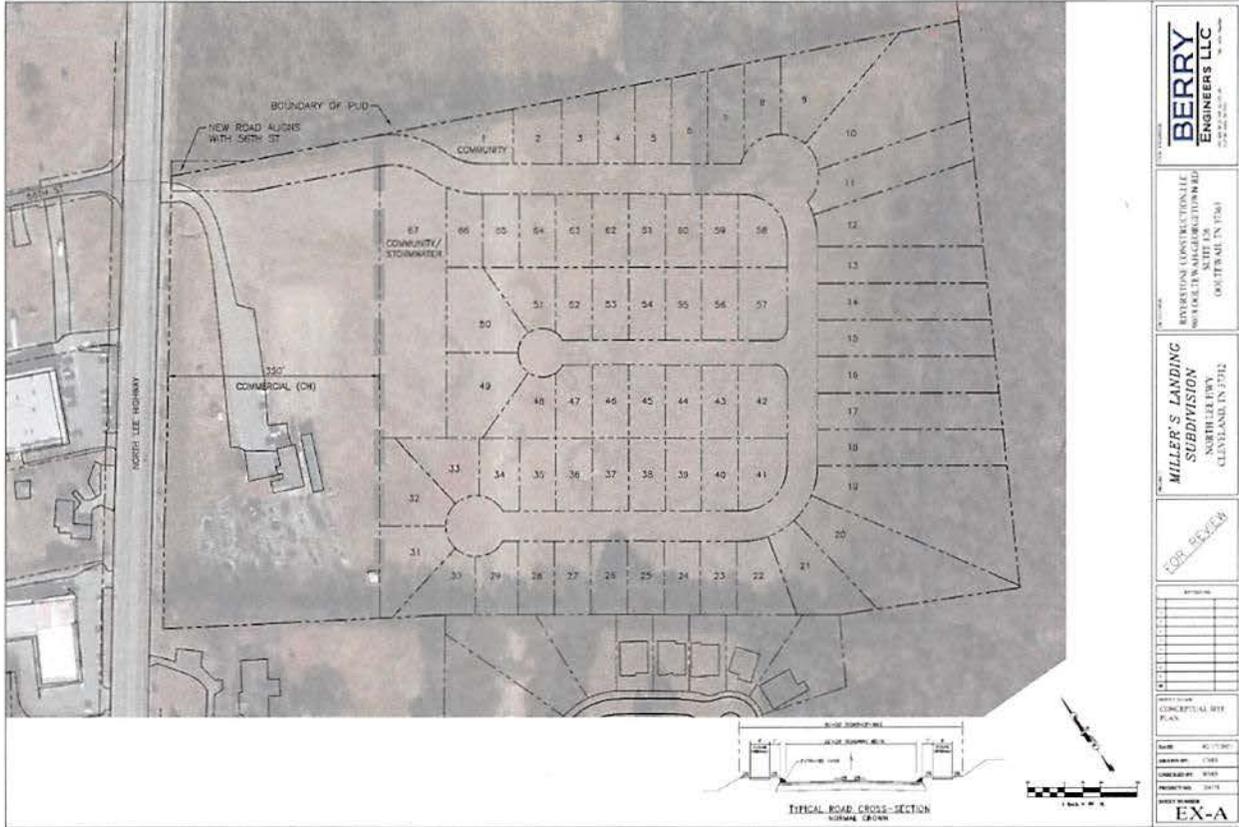


Exhibit D

Being located in Bradley County, TN also known as a portion of the property described in Deed Book 237 Page 338 in the Registers Office of Bradley County (R.O.B.C.) and being more particularly described as follows:

Beginning at the northern corner of the Holden property as recorded in Deed Book 1860 Page 516 (R.O.B.C.) at the eastern right-of-way of North Lee Highway said point being the POINT OF BEGINNING thence leaving said right-of-way South 54 degrees 47 minutes 38 seconds East, a distance of 350.06 feet to the TRUE POINT OF BEGINNING; thence North 36 degrees 16 minutes 33 seconds East, a distance of 788.20 feet to a point; thence South 66 degrees 32 minutes 41 seconds East, a distance of 967.58 feet to a point; thence South 28 degrees 48 minutes 10 seconds West, a distance of 959.72 feet to a point; thence North 60 degrees 12 minutes 14 seconds West, a distance of 299.53 feet to a point; thence North 55 degrees 04 minutes 20 seconds West, a distance of 647.67 feet to a point; thence North 54 degrees 47 minutes 38 seconds West, a distance of 123.19 feet to the TRUE POINT OF BEGINNING. All containing 20.52 acres more or less.