

ZONING ORDINANCE 2022-04

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 MICHIGAN AVE RD AND WILKINSON RD PROPERTY DEVELOPMENT "PUD 32" ON PROPERTY DESCRIBED AS A PORTION OF TAX MAP 43 PARCEL 12.00, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 32; 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 32" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 32 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 32 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 32, Michigan Ave Rd and Wilkinson Rd Property Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning, includes property generally identified as Tax Map 43 a portion of Parcel 12.00. Exhibit C includes a survey of the PUD 32 boundary.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.

This section is intended to provide a general description of the Michigan Ave Rd and Wilkinson Rd Property Development. The project is residential in nature and would allow a mixture of detached single-family homes on small lots and smaller number of attached single-family dwellings in multi-unit townhome structures. Lots for attached multi-unit townhome units may constitute no more than 25 percent of the overall subdivision lots within the greater development. Exhibit B shows the general location of developable areas however the exact infrastructure and common areas shall be determined through the preliminary plat process. In terms of total allowable density, the project shall not exceed one unit per 4000 square feet for lots containing single-family detached homes; two units per 7500 square feet; three units per 10,000 square feet, and four units per 12,500 square feet. The developer shall include common open space designed within the development, including any permanent retention or detention pond areas or landscaped common area equal to 10 percent of subdivision.

Section 5. PERMITTED USES AND PROHIBITED USES.

The PUD 32 Subdivision allows for the construction of up to 400 dwelling units in detached single family houses and multi-unit townhome structures with up to four dwelling units per building. 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 32 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. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by the Developer. There are no conditional uses within the PUD 32 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 (Exhibit B) for PUD 32, Michigan Ave Rd and Wilkinson Rd Property Development was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on December 14, 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. The Conceptual Plan shows the general developable areas within the PUD 32 boundaries however the final development shall have fewer connections to existing public streets, more connectivity between development areas and the general layout shall be shown on a preliminary plat for the entire area to be reviewed and approved by Cleveland Municipal Planning Commission through the platting process. Plats for any multi-family residential units must be reviewed by the Planning Commission, however, any modification may not increase the total number of dwelling units beyond 400 without a revision to the PUD ordinance approved by the City Council. 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 Michigan Ave Rd and Wilkinson Rd Property Development will ultimately reflect some alteration in the conceptual plan such as the exact location of each specific residential development typology within the residential areas. Other variations will include the width or alignment of streets, or the precise placement of buildings and proposed common areas and features. Connections from the subdivision to the existing public street network shall be limited to Wilkinson Rd and no driveway shall be connected to Michigan Ave Rd.

All streets within the PUD 32 Michigan Ave Rd and Wilkinson Rd Property Development shall be constructed with adequate ROW and curb to accommodate the installation of sidewalks on one side of the street, and the ROW shall be 40 feet wide. The developer will have three options to provide walking areas for the recreational benefit of the residents of the subdivision. The builders shall choose one of these three options. The first option is for the builder to construct sidewalks on one-side of the street for any stretch of continuous roadway that is over 500 linear feet. The second option is for the HOA to construct a paved walking path with the minimum linear length of 3500 feet in the recreational open space areas and a minimum width of five feet. This length also includes the paved pathway that connects the neighborhood to the actual open space areas. This paved pathway needs to be constructed when the neighborhood reaches 90% of the buildout of the platted lots, or have a bond in place with the City to secure the construction of these pathways. The builders will substantially fund this pathway when it creates the HOA. The third option is for the builder to make a payment to the City Sidewalk Fund of \$3500.00 per every 100 linear feet of required sidewalk by City staff in option one at 75% of the build-out of the platted lots.

The developer shall dedicate 10 feet of right away along Wilkinson Road from Michigan Avenue to Brock Road. The subdivision is allowed three entrances onto Wilkinson Road, but the Planning Commission may provide a fourth entrance if there are demonstrated geographical hardships.

6.B. PLATS.

One or more plats will be prepared for the PUD 32 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. A preliminary plat shall be prepared for the entire development and not for individual phases. Final plat approval may be granted for the various phases within the PUD 32 development.

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 32 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 32 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.A. DEVELOPMENT STANDARDS

The development standards for PUD32 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.

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. Repair to the roof of any townhome with a common roofline of any adjoining unit must be addressed within the private covenant restrictions. 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. In 80% of the homes, all foundations and front facades must be 15% brick on stone on any street facing sides of residences. Not including any dormer or gables, the front façade of all structures shall be of brick, stone, premium vinyl, or cement fiber board materials. No blank walls along street elevations are allowed. One 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 streets shall be serviced by sidewalks ROW within the subdivision, unless the linear length is reduced pertaining to the construction of walking trails. For school bus purposes, sidewalks shall be provided, where possible in compliance with Americans with Disability Act requirements, on one side of the street from the main entrances of the subdivision for 100 linear feet. All sidewalks must be 5 feet in width and separated from the street by a 3-foot grass strip. Any proposed 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.

A monument style ground sign shall be installed at all entrances to the site. Open space shall be maintained at proportion no less than 15% of the total buildable area. Community facilities, such as a swimming pool with clubhouse, playground, walking trails, or other community area determined acceptable to the Planning Commission shall be provided by the HOA once 90% the buildable lots in the development are established or under construction. The plan shall show how all residents can ADA walking access to the walking trail area at a minimum of three locations. The area around any community clubhouse and pool must include a double buffer with a minimum 6' tall privacy fence. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners or an established homeowner's 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.

7.B. Building Setbacks

The lot width requirements for single-family detached home sites is 75 feet (townhome sites shall comply with existing city townhome regulations for lot width) 85% of the lots and 50 feet for 15% of the lots, front setback requirements are 25 feet, side setback requirements are 7.5 feet, and rear setbacks shall be no less than 15' 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; townhome must follow the City's established process requiring a site plan for construction and a final plat subsequent to construction. 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 or a lesser distance if required by the developer. 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 R2 Low Density Single and Multi-family Residential Zoning District shall apply for any standards this ordinance does not address.

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 PUD32 Michigan Ave Rd and Wilkinson Rd Property Development. 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.

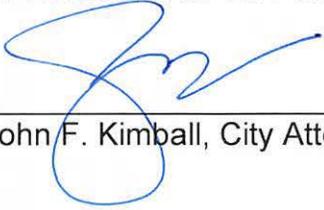
This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Where this ordinance contemplates the future approval of a site plan or the future approval of a plat by the Cleveland Municipal Planning 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 PUD32, 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 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 PUD32 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 4 Star LLC 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.

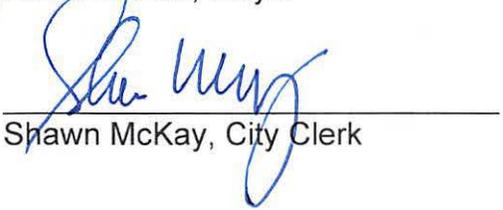
APPROVED AS TO FORM:



John F. Kimball, City Attorney



Kevin Brooks, Mayor



Shawn McKay, City Clerk

Exhibit A

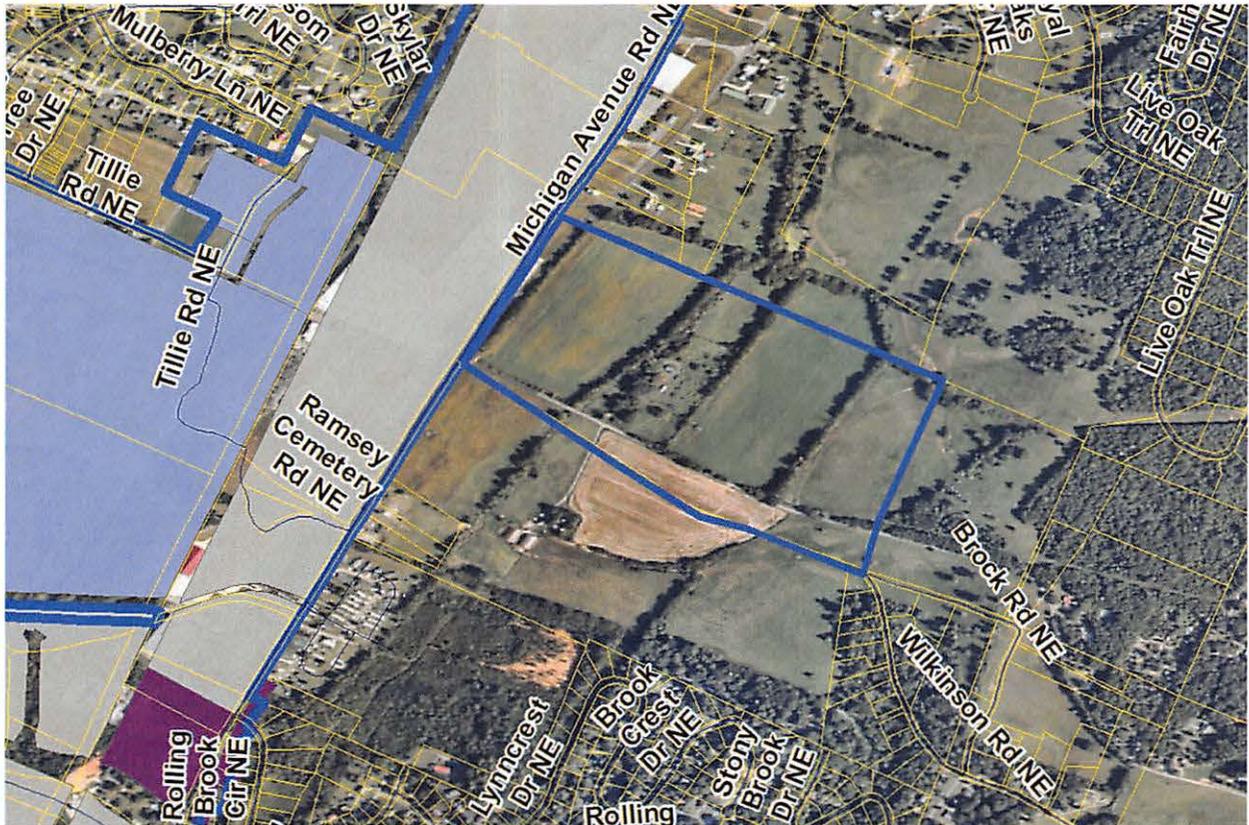


Exhibit B
Conceptual Plan

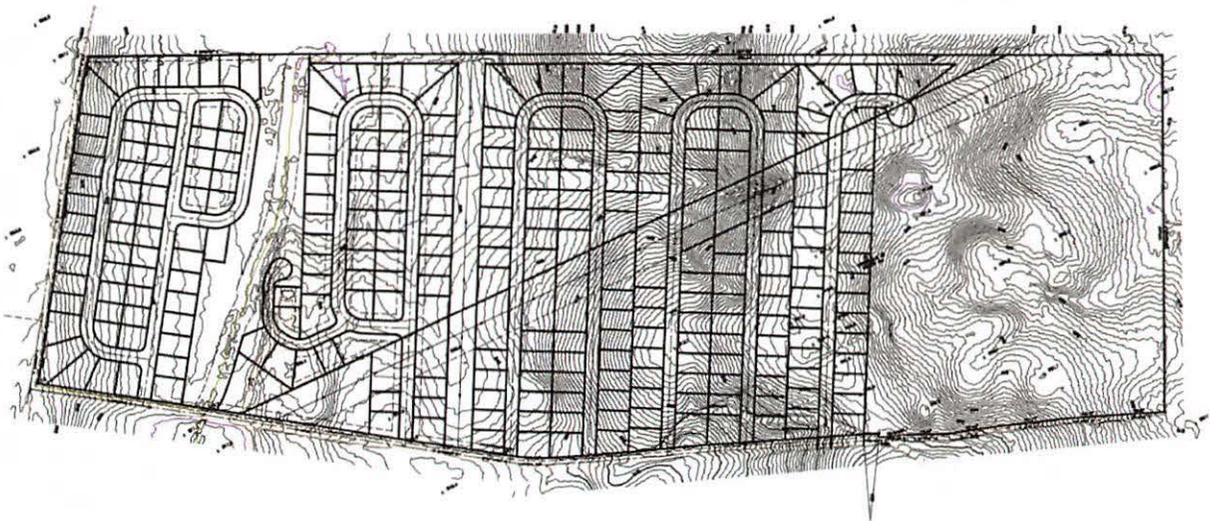


Exhibit C

