

ZONING ORDINANCE 2022-05

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 401 DURKEE ROAD SUBDIVISION NW PROPERTY "PUD 33" ON PROPERTY DESCRIBED AS TAX MAP 58 PARCAL 034, 034.01, 004, 055, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 33; 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 33" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 33 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 33 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 33, 401 Durkee Road Subdivision Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning, includes property generally identified as Tax Map 058 Parcel 034,034.01, 004, 005. Exhibit A illustrates the overall 401 Durkee Road Subdivision 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 401 Durkee Road Subdivision Development. The project consists of a mixture of detached single-family homes on small lots and attached single-family dwellings in multi-unit townhome structures. Lots for attached multi-unit townhome units may constitute no more than 55 percent of the overall subdivision lots within the greater development. Exhibit A shows the general location of proposed infrastructure and common areas. 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.

Section 5. PERMITTED USES AND PROHIBITED USES.

The PUD 33 Subdivision allows for the construction of up to 315 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, outlined by developer in site plan, such as community pool, clubhouse, playground, walkways, and greenspace are required and must be approved by Planning Commission. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 33 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 401 Durkee Road Subdivision development will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit A unless modified by agreement of the Cleveland Municipal Planning Commission and City Council. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by the Developer. There are no conditional uses within the PUD 33 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 33, 401 Durkee Road Subdivision Development was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on January 18, 2022. 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 33 must be generally consistent with this Conceptual Plan with regard to development standards and general layout unless subsequently modified by agreement of the Cleveland Municipal Planning Commission. 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 315 units 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 401 Durkee Road Subdivision development may 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 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 33 401 Durkee Road Subdivision development 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 33 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. The City and the developer shall consider exact street designs and locations which facilitate slower traffic speeds which shall be approved during the platting process.

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 33 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 33 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 PUD 33 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 single family residential units of identical elevation types must be separated by at least two different elevations on the same side of the street. This will result in at least three different elevation plans per cluster. No two adjacent single family residential home structures shall be built with the substantially similar elevations, façade, or similar color schemes. (reverse elevations do not count as different building elevations). 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 a minimum of three articulations, change in materials or texture, windows, or other architectural features. All foundations must be made of brick on stone. Not including any dormer or gables, the front façade of all structures shall be of brick, stone or cement fiber board materials. Twenty-five percent of the aggregate square footage of the front facades of all homes and townhomes must be of a brick or stone material, exclusive of all garages, doors and windows. 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, and three for each townhome.

The developer shall dedicate right-of-way adequate to serve as a 75-foot deceleration lane as well as a center turn lane on Old Powerline Road entrance and Durkee Road entrance. Build out of the center turn lane and deceleration lane along Durkee Road shall be constructed by the City of Cleveland when appropriate in the future. The developer shall dedicate right-of-way while going through the Platting Process. The City will provide Street Lights within the development after the roadways have been accepted as City Streets.

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.A. Building Setbacks

The minimum setbacks and lot width requirements single-family detached home sites is 46 feet (townhome sites shall comply with existing city townhome regulations for lot width), front setback requirements are 20 feet, side setback requirements are 10 feet and 3 feet on the remaining side with no less than 13' between all principal structures. Rear setbacks shall be no less than 25' from the property line adjoining external lot lines and 15' for all other rear setbacks. 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.

7.B Sidewalks and Amenities

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.

A monument style ground sign shall be installed at all entrances to the site. The areas adjoining Durkee Road shall either be provided with a tree preservation plan or a type B buffer for any area not adequate for preservation. Open space shall be maintained at proportion no less than 15% of the total buildable area. Community facilities, including a swimming pool with clubhouse, playground 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 area around any community clubhouse and pool must include a double buffer with a minimum 6' tall privacy fence if adjoining any residential areas not within the PUD 33 boundary. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners or an established homeowners association.

A centralized cluster mailbox unit shall be provided for the United States Postal Service. The area around the cluster mailbox unit shall be landscaped and four off street parking spaces shall be provided. A school bus area that includes a small shelter and safety area at the Durkee Road entrance shall constructed for children waiting for school bus.

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 33 401 Durkee Road Subdivision 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

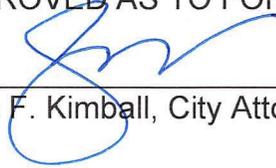
ordinance contemplates the future refinement of plans to conform with permitting requirements or conditions of approval necessitated by staff review, and where the Developer and the City of Cleveland may enter into future agreements regarding possible public facilities, infrastructure, and/or services within PUD 33, 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 PUD 33 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 Trust Homes of 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.

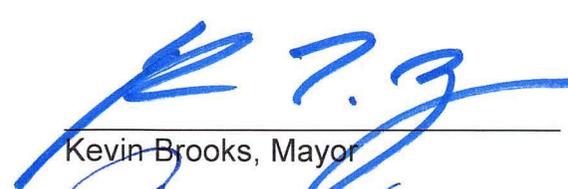
Section 11. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE. Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined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

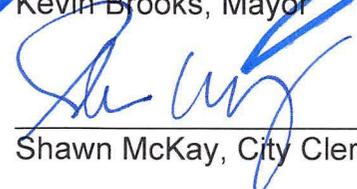
APPROVED AS TO FORM:



John F. Kimball, City Attorney



Kevin Brooks, Mayor



Shawn McKay, City Clerk

Exhibit A

As shown in Planning Commission Packet

