

ZONING ORDINANCE 2022-11

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 OCOEE CROSSING CENTRAL COMMERCIAL "PUD 38" ON PROPERTY DESCRIBED AS TAX MAP 42H C PARCELS 001.14, 001.11, AND 001.12, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 38; 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 38" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 38 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 38 district are 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 38, Ocoee Crossing Central Commercial Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning) includes property generally identified as Tax Map 42H C Parcels 001.14 and 001.12. Exhibit A illustrates the overall Ocoee Crossing Central Commercial 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 Ocoee Crossing Central Commercial development. The project consists of multiple commercial buildings, to include one or more restaurants. Exhibit A shows the general location of proposed infrastructure and common parking areas. The developer shall include any permanent retention or detention pond areas, or landscaped common areas.

Section 5. PERMITTED USES AND PROHIBITED USES.

The PUD 38 allows for the construction of single-tenant structures and multi-unit Commercial structures. Specific uses including restaurants (with or without Drive-up facilities), hotels, supermarkets, department stores, commercial recreation/entertainment facilities, shopping centers with multiple tenants, professional offices, service business such as dry cleaners, personal service businesses such as barbers, beauty salons, nail salons, are allowed by right. Prohibited uses include self-storage, car wash's, oil change facilities, convenience stores with gas pumps, and vehicle sales. If any residential units are desired though the development of the PUD they will be required to be placed above retail units on 2nd or 3rd floors of a structure.

Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 38 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 commercial uses within the Ocoee Crossing Central Commercial 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. Conditional uses within the PUD 38 district shall be dictated by the underlying Commercial General (CG) zoning. Uses other than those described as permitted or allowed herein are prohibited. Billboard signs are prohibited.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.

6.A. CONCEPTUAL PLAN.

A conceptual plan (Exhibit A) for PUD 38, The Ocoee Crossing Central Commercial Development was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on April 19, 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 PUD38 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 Ocoee Crossing Central Commercial development may ultimately reflect some alteration in the conceptual plan such as the exact location of each specific commercial structure typology within the commercial 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.).

6.B. PLATS.

One or more plats will be prepared for the PUD38 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 38 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 38 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 PUD38 shall be those established in this ordinance. Where development standards are not otherwise included in this ordinance, the standards shall be those in the CG zone, from the City of Cleveland's zoning regulations. 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. All stormwater detention/retention areas will be screened from the public ROW. With the minimized setback for the Champy's location there will need to be construction of a retaining wall along Ocoee Crossing Place road frontage, said wall will be constructed a Mountain Stone material. Redi Rock or similar is not allowed.

Architectural standards for the Site shall be consistent with the surrounding previously developed commercial property utilizing brick and stone materials. The proposed restaurant shall follow the existing architectural style of Champy's Restaurant locations already constructed throughout the area (see exhibit "C" for references).

All building shall be serviced by sidewalks within the development. Sidewalks should be illustrated on all plats and site plans for review by city staff. Sidewalk connections shall be made at all entrances to Ocoee Crossing, including the existing drive aisle connecting to Food City.

The minimum setbacks and lot width requirements for Commercial sites shall be as follows:

1. Front Setback – 5'
2. Rear Setback – 5'
3. Side Setback – 5'

Parking lot standards shall be as follows:

1. Parking lots shall be divided with landscaped islands separated by no more than 12 spots.
2. Parking standards shall be in conformance with exhibit A, with a shared parking principal in place for the entire development allowing for flexibility of development. A minimum of 3 parking spots at the front of Champy's proposed site shall be designated for "pick-up" or take-out customers only.

Open patios and decks, if allowed by the Developer, may extend to within 4 feet of a 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 CG Commercial 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 PUD38 Ocoee Crossing Central Commercial 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 PUD38, 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 A 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 PUD38 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 Morgan Lane Development 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

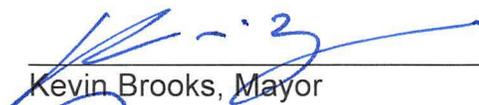
their heirs, assigns, or successors in title. The term "Developer" is also intended to include any holding company or other entity established for the ongoing operation and maintenance of the development of the subject property including, but not limited to, common areas, joint use or joint access areas, 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.

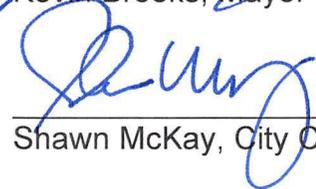
APPROVED AS TO FORM:



John F. Kimball, City Attorney

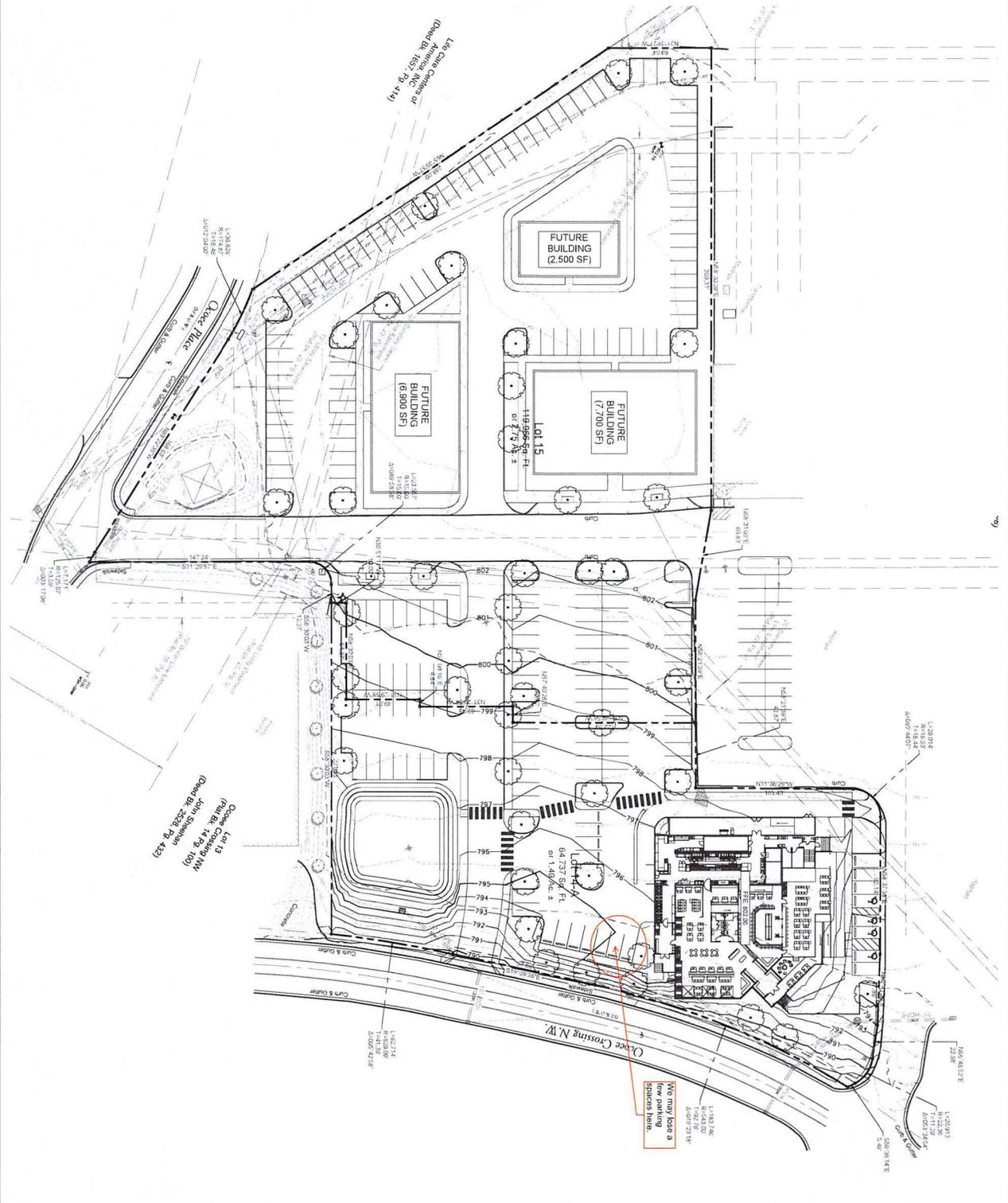


Kevin Brooks, Mayor



Shawn McKay, City Clerk

SITE DATA:
 PROPERTY INFORMATION: 300 E. 20th St. #100
 44113
 CLEVELAND, TN 37315
 LOT SIZE: 11.32 AC (491,100 SF)
 ZONING: CM (COMMERCIAL HIGHWAY)
 PROJECT ENGINEER: ASHBY CONSULTING, INC.
 714 CHERRY ST. N. #200
 423 303 7000
 ZONING INFORMATION: COMMERCIAL OFFICE BUILDING
 PROPOSED COMMERCIAL OFFICE BUILDING



No.	Revision/Issue	Date
2	STAFF COMMENTS	04-07-2022
1	STAFF COMMENTS	03-25-2022

CHAMPY'S FAMOUS FRIED CHICKEN
 A
PLANNED COMMERCIAL DEVELOPMENT
 836 ISABELLA LN | SMYRNA, TN

ASA
 INTERNATIONAL CONSULTING, INC.
 714 CHERRY ST. N. #200
 CLEVELAND, TN 37315
 423.303.7000
 www.asaconsulting.com

C1.0

SITE PLAN
 SHEET NO.
 PROJECT NO. 22-0044
 DATE 03-21-2022
 SCALE AS SHOWN
 DESIGNED BY ASA
 DRAWN BY ASA
 CHECKED BY ASA
 TITLE