

**ZONING ORDINANCE 2023-31**

**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 MINNIS\_OLD POWERLINE "PUD 41" ON PROPERTY DESCRIBED AS TAX MAP 058 PARCELS 024.00, 024.05, AND 025.02, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 41; 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 41" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 41 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 41 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 41, Minnis\_Old Powerline Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning) includes property generally identified as Tax Map 058 Parcels 024.00, 024.05, and 025.02. Exhibit A illustrates the overall Minnis\_Old Powerline 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 Minnis\_Old Powerline development. The project consists of single family detached residential units. The developer shall include any permanent retention or detention pond areas or landscaped common areas.

**Section 5. PERMITTED USES AND PROHIBITED USES.**

The PUD 41 Subdivision allows for the construction of up to 117 dwelling units in detached single-family houses and up to 16 dwelling units of attached Single-Family Townhomes. Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Residential amenities such as a community clubhouse, park shelters, benches, or tables, are allowed in the common area and will be reviewed by the Planning Director for consistency with the approved plan. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 41 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 residential uses within the PUD will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit C unless modified by agreement of the Cleveland Municipal Planning Commission. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by Developer covenants and restrictions. Billboards are prohibited.

**Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.**

**6.A. CONCEPTUAL PLAN.**

A conceptual plan (Exhibit A) for PUD 41, The Minnis\_Old Powerline Development PUD was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on June 21, 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 41 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. However, any modification may not increase the total number of dwelling units beyond 129 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 PUD development may reflect some alteration in the conceptual plan such as the exact location of

each specific residential unit and type within the designated 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, buffers with external properties, etc.).

All streets within the PUD 41 development shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed at the expense of the developer. Further specification of intersection design requirements and other infrastructure standards will be specified prior to platting. Where existing Right of Way along Old Powerline Road and Minnis Road is narrow adjacent to PUD 41 and the intention is that the ROW be at least 50 feet in width; therefore, the developer grants additional ROW to the City of Cleveland such that the ROW is at least 25 feet from the existing center line along the entire property.

#### **6.B. PLATS.**

One or more plats will be prepared for the PUD41 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, homeowner association documents, common area agreements, and the like which the Developer determines are necessary to carry out the development of PUD 41 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 41 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 PUD41 shall be those established in this ordinance. 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 Detached 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. All Residential areas must also incorporate a variety of building elements and treatments. Structures

must include articulation, change in materials or texture, windows, or other architectural features. The front façade of all structures shall contain, on average, a minimum of at least 50% of either brick or stone materials. Vinyl Siding, other than accents such as soffits and fascia, are prohibited. All foundations must be made of brick on stone. No blank walls along street elevations are allowed. Repair to the roof of any townhome with a common roofline of any adjoining unit must be addressed within the private covenant restrictions.

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. Green infrastructure techniques, such as rain gardens and permeable soils or pavements should be introduced throughout the development in effort to minimize stormwater runoff, flooding, and poor water quality.

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. Site amenities shall include uses such as pocket parks, trails as well as undeveloped and protected open spaces. These uses will be finalized as the neighborhood develops depending on current conditions.

A monument style ground sign shall be installed at the primary entrance(s) to the site. A landscaped berm no smaller than 2.5' in height shall be installed at the primary entrance(s) to provide privacy and maintain a quality appearance. The berm shall be landscaped with a mix of Trees and shrubs. Open space shall be maintained at proportion no less than 20% of the total buildable area. Site amenities, to be determined as the neighborhood develops, shall be provided by the developer once 50% the buildable lots in the development are established or under construction. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners, or an established homeowner's association. Once established the Homeowners Association shall enforce a no overnight parking within the Rights-of-way for emergency services access.

Centralized cluster mailbox units shall be provided, if required by the United States Postal service, and shall include a minimum of 2 off-street parking spaces per 50 lots. These may be combined with site amenities as provided. 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. Each lot must provide a minimum of 4 off-street parking spaces, therefore reducing on-street parking and traffic congestion.

The minimum lot width requirements for single-family detached home sites are 50 feet for up to 80% of the overall development. At no time can a lot have a minimum frontage of less than 46'. The front setback requirements are 25 feet, side setback requirements are 3' on one side and 10' on the remaining side. Each 3' side setback must be joined by a 10' setback on the adjoining lot., and rear setbacks shall be no less than 15' from the property line. Site specific 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. Townhomes must follow the City's established process requiring a site plan for construction and a final plat after 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. Retaining walls as needed for the grading of building pads should maintain a 5-foot setback. Walls greater than four feet in height must be reviewed and approved by the City of Cleveland Director of Development and Engineering Services prior to the issuance of a building permit. 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 Low Density Single Residential Zoning District shall apply for any standards this ordinance does not address.

The developer shall dedicate right-of-way and construct a deceleration lane on Minnis Road and deceleration lane shall be required before acceptance of any new street within the subdivision. The developer shall dedicate any right-of-way necessary and shall be responsible for construction of said improvements. The deceleration lane shall be curbed to City standards. The Townhome portion of the development along Minnis Road must utilize the interior access driveway as depicted on the attached preliminary site plan.

Public Utilities shall be designed outside of the curb-to-curb area, except for reasonable crossings where necessary. The Director of Planning and Community Development, or their assigns, may allow deviations to utility locations when given a reasonable explanation for the deviation.

### **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 PUD41 Minnis\_Old Powerline 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.**

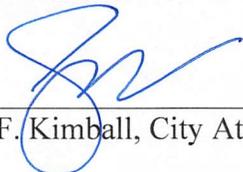
This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Where this ordinance contemplates the future approval of a site plan or the future approval of a plat by the Cleveland Municipal Planning 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 PUD41, 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 PUD41 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.

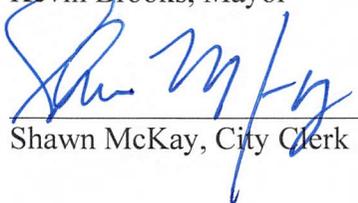
**Section 11. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.**

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

1st READING 7-11-22 pg 765  
FINAL READING 8-8-22 pg 789  
MINUTE BOOK # 30

## ZONING ORDINANCE 2022-26

**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 MINNIS\_OLD POWERLINE "PUD 41" ON PROPERTY DESCRIBED AS TAX MAP 058 PARCELS 024.00, 024.05, AND 025.02, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 41; 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 41" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 41 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 41 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 41, Minnis\_Old Powerline Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning) includes property generally identified as Tax Map 058 Parcels 024.00, 024.05, and 025.02. Exhibit A illustrates the overall Minnis\_Old Powerline 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 Minnis\_Old Powerline development. The project consists of single family detached residential units. The developer shall include any permanent retention or detention pond areas, or landscaped common areas.

### **Section 5. PERMITTED USES AND PROHIBITED USES.**

The PUD 41 Subdivision allows for the construction of up to 124 dwelling units in detached single-family houses. Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Residential amenities such as a community clubhouse, park shelters, benches, or tables, are allowed in the common area and will be reviewed by the Planning Director for consistency with the approved plan. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 41 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 residential uses within the PUD will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit C unless modified by agreement of the Cleveland Municipal Planning Commission. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by Developer covenants and restrictions. Billboards are prohibited.

### **Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.**

#### **6.A. CONCEPTUAL PLAN.**

A conceptual plan (Exhibit A) for PUD 41, The Minnis\_Old Powerline Development PUD was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on June 21, 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 41 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. However, any modification may not increase the total number of dwelling units beyond 124 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 PUD development may reflect some alteration in the conceptual plan such as the exact location of each specific residential unit and type within the designated 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, buffers with external properties, etc.).

All streets within the PUD 41 development shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed at the expense of the developer. Further specification of intersection design requirements and other infrastructure standards will be specified prior to platting. Where existing Right of Way along Old Powerline Road and Minnis Road is narrow adjacent to PUD 41 and the intention is that the ROW be at least 50 feet in width; therefore, the developer grants additional ROW to the City of Cleveland such that the ROW is at least 25 feet from the existing center line along the entire property.

#### **6.B. PLATS.**

One or more plats will be prepared for the PUD41 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, homeowner association documents, common area agreements, and the like which the Developer determines are necessary to carry out the development of PUD 41 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 41 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 PUD41 shall be those established in this ordinance. 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.

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. Structures must include articulation, change in materials or texture, windows, or other architectural features. The front

façade of all structures shall contain, on average, a minimum of at least 50% of either brick or stone materials. Vinyl Siding, other than accents such as soffits and fascia, are prohibited. All foundations must be made of brick on stone. 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. Green infrastructure techniques, such as rain gardens and permeable soils or pavements should be introduced throughout the development in effort to minimize stormwater runoff, flooding, and poor water quality.

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. Site amenities shall include uses such as pocket parks, trails as well as undeveloped and protected open spaces. These uses will be finalized as the neighborhood develops depending on current conditions.

A monument style ground sign shall be installed at the primary entrance(s) to the site. A landscaped berm no smaller than 2.5' in height shall be installed at the primary entrance(s) to provide privacy and maintain a quality appearance. The berm shall be landscaped with a mix of Trees and shrubs. Open space shall be maintained at proportion no less than 20% of the total buildable area. Site amenities, to be determined as the neighborhood develops, shall be provided by the developer once 50% the buildable lots in the development are established or under construction. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners, or an established homeowner's association. Once established the Homeowners Association shall enforce a no overnight parking within the Rights-of-way for emergency services access.

Centralized cluster mailbox units shall be provided, if required by the United States Postal service, and shall include a minimum of 2 off-street parking spaces per 50 lots. These may be combined with site amenities as provided. 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. Each lot must provide a minimum of 4 off-street parking spaces, therefore reducing on-street parking and traffic congestion. The minimum lot width requirements for single-family detached home sites are 50 feet for up to 80% of the overall development. At no time can a lot have a minimum frontage of less than 46'. The front setback requirements are 25 feet, side setback requirements are 3' on one side and 10' on the remaining side. Each 3' side setback must be joined by a 10' setback on the adjoining lot., and rear setbacks shall be no less than 15' from the property line. Site specific 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. Retaining walls as needed for the grading of building pads should maintain a 5-foot setback. Walls greater than four feet in height must be reviewed and approved by the City of Cleveland Director of Development and Engineering Services prior to the issuance of a building permit. 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 Low Density Single Residential Zoning District shall apply for any standards this ordinance does not address.

The developer shall dedicate right-of-way and construct a deceleration lane on Minnis Road and deceleration lane shall be required before acceptance of any new street within the subdivision. The developer shall dedicate any right-of-way necessary and shall be responsible for construction of said improvements. The deceleration lane shall be curbed to City standards.

Public Utilities shall be designed outside of the curb-to-curb area, except for reasonable crossings where necessary. The Director of Planning and Community Development, or their assigns, may allow deviations to utility locations when given a reasonable explanation for the deviation.

#### **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 PUD41 Minnis\_Old Powerline 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.**

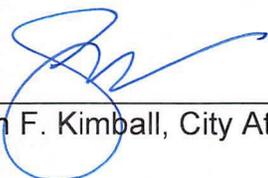
This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Where this ordinance contemplates the future approval of a site plan or the future approval of a plat by the Cleveland Municipal Planning 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 PUD41, 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.

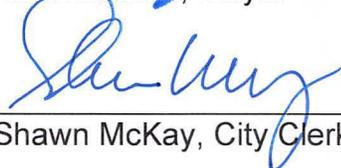
**Section 10. BINDING UPON OTHERS.** This ordinance is a law and not a contract, and as such it is generally binding upon all development and use of property in the PUD41 zoning district and is binding upon City's regulation of these activities in this location. Moreover, it shall be the duty of the 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



**ZONING ORDINANCE 2022-41**

**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 MINNIS\_OLD POWERLINE "PUD 41" ON PROPERTY DESCRIBED AS TAX MAP 058 PARCELS 024.00, 024.05, AND 025.02, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 41; 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 41" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 41 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 41 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 41, Minnis\_Old Powerline Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning) includes property generally identified as Tax Map 058 Parcels 024.00, 024.05, and 025.02. Exhibit A illustrates the overall Minnis\_Old Powerline 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 Minnis\_Old Powerline development. The project consists of single family detached residential units. The developer shall include any permanent retention or detention pond areas or landscaped common areas.

**Section 5. PERMITTED USES AND PROHIBITED USES.**

The PUD 41 Subdivision allows for the construction of up to 117 dwelling units in detached single-family houses and up to 12 dwelling units of attached Single-Family Townhomes. Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Residential amenities such as a community clubhouse, park shelters, benches, or tables, are allowed in the common area and will be reviewed by the Planning Director for consistency with the approved plan. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 41 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 residential uses within the PUD will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit C unless modified by agreement of the Cleveland Municipal Planning Commission. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by Developer covenants and restrictions. Billboards are prohibited.

**Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.**

**6.A. CONCEPTUAL PLAN.**

A conceptual plan (Exhibit A) for PUD 41, The Minnis\_Old Powerline Development PUD was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on June 21, 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 41 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. However, any modification may not increase the total number of dwelling units beyond 129 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 PUD development may reflect some alteration in the conceptual plan such as the exact location of each specific residential unit and type within the designated 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, buffers with external properties, etc.).

All streets within the PUD 41 development shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed at the expense of the developer. Further specification of intersection design requirements and other infrastructure standards will be specified prior to platting. Where existing Right of Way along Old Powerline Road and Minnis Road is narrow adjacent to PUD 41 and the intention is that the ROW be at least 50 feet in width; therefore, the developer grants additional ROW to the City of Cleveland such that the ROW is at least 25 feet from the existing center line along the entire property.

#### **6.B. PLATS.**

One or more plats will be prepared for the PUD41 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, homeowner association documents, common area agreements, and the like which the Developer determines are necessary to carry out the development of PUD 41 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 41 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 PUD41 shall be those established in this ordinance. 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 Detached 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. All Residential areas must also incorporate a variety of building elements and treatments. Structures must include articulation, change in materials or texture, windows, or other architectural features. The front façade of all structures shall contain, on average, a minimum of at least 50% of either brick or stone materials. Vinyl Siding, other than accents such as soffits and fascia, are prohibited. All foundations must be made of brick on stone. No blank walls along street elevations are allowed. Repair to the roof of any townhome with a common roofline of any adjoining unit must be addressed within the private covenant restrictions.

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. Green infrastructure techniques, such as rain gardens and permeable soils or pavements should be introduced throughout the development in effort to minimize stormwater runoff, flooding, and poor water quality.

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. Site amenities shall include uses such as pocket parks, trails as well as undeveloped and protected open spaces. These uses will be finalized as the neighborhood develops depending on current conditions.

A monument style ground sign shall be installed at the primary entrance(s) to the site. A landscaped berm no smaller than 2.5' in height shall be installed at the primary entrance(s) to provide privacy and maintain a quality appearance. The berm shall be landscaped with a mix of Trees and shrubs. Open space shall be maintained at proportion no less than 20% of the total buildable area. Site amenities, to be determined as the neighborhood develops, shall be provided by the developer once 50% the buildable lots in the development are established or under construction. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners, or an established homeowner's association. Once established the Homeowners Association shall enforce a no overnight parking within the Rights-of-way for emergency services access.

Centralized cluster mailbox units shall be provided, if required by the United States Postal service, and shall include a minimum of 2 off-street parking spaces per 50 lots. These may be combined with site amenities as provided. 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. Each lot must provide a minimum of 4 off-street parking spaces, therefore reducing on-street parking and traffic congestion.

The minimum lot width requirements for single-family detached home sites are 50 feet for up to 80% of the overall development. At no time can a lot have a minimum frontage of less than 46'. The front setback requirements are 25 feet, side setback requirements are 3' on one side and 10' on the remaining side. Each 3' side setback must be joined by a 10' setback on the adjoining lot., and rear setbacks shall be no less than 15' from the property line. Site specific 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. Townhomes must follow the City's established process requiring a site plan for construction and a final plat after 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. Retaining walls as needed for the grading of building pads should maintain a 5-foot setback. Walls greater than four feet in height must be reviewed and approved by the City of Cleveland Director of Development and Engineering Services prior to the issuance of a building permit. 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 Low Density Single Residential Zoning District shall apply for any standards this ordinance does not address.

The developer shall dedicate right-of-way and construct a deceleration lane on Minnis Road and deceleration lane shall be required before acceptance of any new street within the subdivision. The developer shall dedicate any right-of-way necessary and shall be responsible for construction of said improvements. The deceleration lane shall be curbed to City standards. The Townhome portion of the development along Minnis Road must utilize the interior access driveway as depicted on the attached preliminary site plan.

Public Utilities shall be designed outside of the curb-to-curb area, except for reasonable crossings where necessary. The Director of Planning and Community Development, or their assigns, may allow deviations to utility locations when given a reasonable explanation for the deviation.

**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 PUD41 Minnis\_Old Powerline 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.

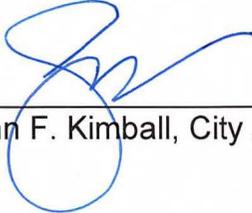
**Section 9. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.**

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 PUD41, 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.

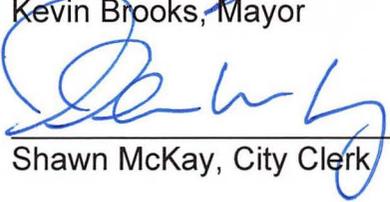
**Section 10. BINDING UPON OTHERS.** This ordinance is a law and not a contract, and as such it is generally binding upon all development and use of property in the PUD41 zoning district and is binding upon City's regulation of these activities in this location. Moreover, it shall be the duty of the 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:

  
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John F. Kimball, City Attorney

  
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Kevin Brooks, Mayor

  
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Shawn McKay, City Clerk