

**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 ADKISSON DRIVE MULTI-FAMILY "PUD 43" ON PROPERTY DESCRIBED AS TAX MAP 033L GROUP C PARCEL 010.00, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 43; 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 43" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 43 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 43 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 43, Adkisson Drive Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning) includes property generally identified as Tax Map 033L Parcel 010.00. Exhibit A illustrates the overall Adkisson Drive Multi-family 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 Adkisson Drive development. The project consists of a multi-family apartment complex which includes a clubhouse, pool, and other amenities. The developer shall include any permanent retention or detention pond areas or landscaped common areas.

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

The PUD 43 Subdivision allows for the construction of up to 320 residential units in single-unit or multi-unit structures not exceeding four stories. 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 43 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 "A" 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. The developer reserves the right to propose commercial uses on the property currently zoned Commercial General (CG) within the City of Cleveland as depicted on Exhibit B with the exception of the following uses: Gasoline sales and service, vehicle sales, rental, service, and repair of new or used automobiles, boats, buses, farm equipment, motorcycles, trucks, recreational vehicles, and mobile homes, flea markets, mini-warehouse facilities or any conditional uses listed. Billboards are prohibited with the exception of the existing billboard located on the property.

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

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

A conceptual plan (Exhibit A) for PUD 43, The Adkisson Drive Multi-family Development PUD was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on October 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 43 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 320 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 or access drives within the PUD 43 development shall be constructed with adequate width 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.

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

One or more plats will be prepared for the PUD43 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 43 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

43 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 PUD43 shall be those established in this ordinance. Where development standards are not otherwise included in this ordinance, the standards shall be those in the R3 Multi-family residential zone or if developed commercially will be those in the GC General Commercial zone, from the City of Cleveland's zoning regulations.

For residential areas, the overall residential development is not to exceed a gross density of 320 maximum units. The front façade of all structures shall contain, on average, a minimum of at least 25% 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 minimum 30 two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed throughout the development. 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 structures shall be serviced by sidewalks within the development which will connect to Adkisson Drive. The entire frontage of the development shall have sidewalks installed by the developer. Sidewalks should be illustrated on all plats and site plans for review by city staff.

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 along 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 25% of the total buildable area. Site amenities shall be provided by the developer once 50% the structures in the development are established or under construction and shall include a pool and clubhouse. 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. All stormwater detention/retention areas will be screened from the public ROW.

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.

Driveway entrances to the site shall be developed with adequate turning radii for entering and exiting vehicles, including delivery vehicles. Internal traffic circulation and parking on sites, delivery access, service access for solid waste pick-up, etc., and fire and emergency access must be maintained in the site design and specifically addressed in site planning for individual developments. With the PUD 43 site being served by a public transit service, stopping of transit vehicles for entering or exiting passengers shall be outside the designated fire lane unless otherwise approved by the City's fire department. Parking standards shall be comparable to other developments of like nature and in no case have less than 1.5 spaces for every dwelling unit of multi-family developments. All other parking standards shall be the same as required by the City of Cleveland.

The developer shall dedicate right-of-way and construct a left turn lane and a right turn deceleration lane on Adkisson Drive. The developer shall dedicate any right-of-way necessary and shall be responsible for construction of said improvements.

#### **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 PUD43 Adkisson Drive 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.**

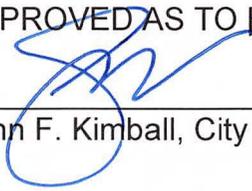
This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Where this ordinance contemplates the future approval of a site plan or the future approval of a plat by the Cleveland Municipal Planning

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 PUD43, 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.

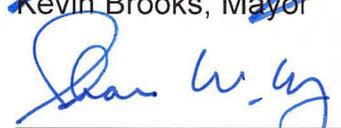
**Section 10. BINDING UPON OTHERS.** This ordinance is a law and not a contract, and as such it is generally binding upon all development and use of property in the PUD43 zoning district and is binding upon City's regulation of these activities in this location. Moreover, it shall be the duty of the 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