

Ordinance 2024-09

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 TC RESIDENTIAL “PUD 48” ON PROPERTY DESCRIBED AS TAX PARCEL 034 020.00, 034 020.002, AND A PORTION OF TAX PARCEL 034 020.01, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 48; 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 48” subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 48 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 48 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 48, TC Residential (name may be revised during the platting process with approval of the Cleveland Municipal Planning, includes property generally identified as a portion of Tax Map 042 Parcels 058.00. Exhibit B illustrates the overall TC Residential 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 TC Residential. The project consists of townhomes, detached single family homes, and a clubhouse with a central amenity area. Exhibits B shows the general location of proposed infrastructure and common areas. In terms of total allowable density, the project shall not exceed 300 total units. The common open space designed within the development may include any permanent retention or detention pond areas or landscaped common area.

Section 5. PERMITTED USES AND PROHIBITED USES.

The PUD 48 Subdivision allows for the construction of up to 300 residential units without amending this ordinance. The conceptual plan is divided into 5 different development areas. Permitted uses within Area 1 are Townhomes, multifamily dwellings with two or more units per structure, and single family detached dwellings. Permitted uses within Areas 2, 3, & 4 are single family detached dwellings. Permitted uses within Area 5 are Townhomes, multifamily dwellings with two or more units per structure, single family detached dwellings, clubhouse and related amenities. Climate controlled storage is permitted within the clubhouse if contained completely within the primary structure and architecturally consistent with neighborhood. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 48 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 TC Residential development will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit B unless modified by agreement of the Cleveland Municipal Planning Commission. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by the Developer. There are no conditional uses within the PUD 48 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 (Exhibits B) for PUD48, TC Residential was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on February 20, 2024. 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 PUD48 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 TC Residential may ultimately reflect some alteration in the conceptual plan such as the exact location of each specific feature within the development. 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 PUD48 property by the Developer for approval in accordance with the City of Cleveland, Tennessee subdivision regulations. These plats will describe and dedicate public streets and 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 48 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 48 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 PUD48 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 and townhouse regulations from the subdivision ordinance. 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 Lot Size & Setbacks

Area 1:

Setbacks:
 Front: 25'
 Side: 5'
 Rear: 15'
Min Lot Width: 20' townhomes, 50' all other uses

Area 2:

Setbacks:
 Front: 25'
 Side: 5'
 Rear: 15'
Min Lot Width: 40'

Area 3:

Setbacks:
 Front: 25'
 Side: 5'
 Rear: 15'
Min Lot Width: 50'

Area 4:

Setbacks:
 Front: 25'
 Side: 10'
 Rear: 15'
Min Lot Width: 75'

Area 5:

Setbacks:
 Front: 25'
 Side: 5'
 Rear: 15'
Min Lot Width: 18' townhomes, 50' all other uses

No setback is required for shared walls of townhouse units. Storage sheds and similar accessory structures, if allowed by the Development restrictions, 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 development restrictions, are to maintain the required setbacks for the primary structure. Open patios and decks may extend to within 10 feet of a rear property line. 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.

Section 7.B Sidewalks, Common Area, & Amenities

1. Sidewalks shall be provided on one side of all new streets within Areas 1, 3, 4, & 5. Sidewalks may be omitted along the three short culdesac roads within Area 2.
2. Area 5 shall contain a clubhouse with community amenities.
3. A 100' strip of land on the west side of Area 3 is excluded from the PUD as it will be purchased by adjacent property owners for buffering purposes and absorbed by these existing parcels.
4. A centralized cluster mailbox unit shall be provided, if required by the United States Postal service, and shall include a minimum of four off-street parking spaces. The Clubhouse may be utilized for this purpose.

7.C Miscellaneous Standards

1. The exterior façades of all structures shall be comprised of brick, stone, wood or fiber cement board materials (no vinyl siding except for accents such as soffits & fascia). All foundations shall be brick or stone.
2. Residential buildings must incorporate a variety of building elements and treatments for single family detached and townhome style housing. Structures must include articulation, changes in materials or texture, windows, or other architectural features. Repair to the roof of any townhome with a common roofline of any adjoining unit must be addressed within the private covenant restrictions.
3. Townhomes with front driveways shall have a garage.
4. A minimum of two off-street parking spaces per dwelling units is required.
5. A two inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed at the property lines between freestanding buildings. Front driveways/parking areas shall be separated by a minimum of one 3' planted landscape strip (not grass or stone).
6. Attempts shall be made to preserve existing trees along the perimeter of the development and along stream buffers, however, the city tree preservation requirements are not otherwise applicable. No buffers are required internal to the PUD area.
7. All utilities shall be placed outside of the street except for required crossings, any crossing shall be approved by the City.

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 PUD48 TC Residential. 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.

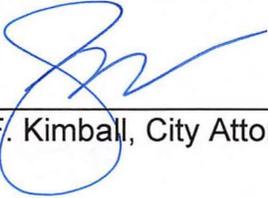
This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Where this ordinance contemplates the future approval of a site plan or the future approval of a plat by the Cleveland Municipal Planning 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 PUD48, 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 PUD48 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 the current owner or any heirs, assigns, or successors in title, or any owners of record of the subject property as of the effective date of this ordinance and their heirs, assigns, or successors in title. The term "Developer" is also intended to include any holding company or other entity established for the ongoing operation and maintenance of the development of the subject property including, but not limited to,

common areas, joint use or joint access areas, and undeveloped portions of the property that are intended for development.

Section 11. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE. Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining portions of this ordinance shall remain in full force and effect. This ordinance shall take effect upon after passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

APPROVED AS TO FORM:



John F. Kimball, City Attorney



Kevin Brooks, Mayor



Shawn McKay, City Clerk

Exhibit B
Conceptual Plan



<p>SHEET NUMBER EX-B</p>	<p>DATE: 12/01/2023 DRAWN BY: DMB CHECKED BY: CMB PROJECT NO.: 23037</p>	<p>SHEET NAME: PUD CONCEPTUAL PLAN</p>	<p>PRELIMINARY</p>	<p>PROJECT: RESIDENTIAL SUBDIVISION NORTH LEE HWY CLEVELAND, TN</p>	<p>DEVELOPER:</p>	<p>CIVIL ENGINEER BERRY ENGINEERS LLC <small>63 BRIDAL STREET NW CLEVELAND TN 37311 TEL: (615) 965-8800</small></p>
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