

ZONING ORDINANCE 2024-47

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 FREEWILL ROAD "54" ON PROPERTY DESCRIBED AS TAX PARCEL 041 047.01 and 047.02, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 54; 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 54" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 54 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 54 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 a 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 54, Freewill Road (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 041 Parcels 047.01 and 047.02. Exhibit A illustrates the overall Westland Drive Conceptual Plan for the subject property.

Section 4. GENERAL PROJECT DESCRIPTION AND DEVELOPMENT DENSITY.

This section is intended to provide a general description of Westland Drive. The project consists of townhomes, detached single family homes, and a clubhouse with a central amenity area. Exhibits A shows the general location of proposed infrastructure and common areas. In terms of total allowable density, the project shall not exceed 100 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 54 Subdivision allows for the construction of up to 100 residential units without amending this ordinance. Permitted uses are Single family detached dwellings. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 54 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 Freewill Road 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. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by the Developer. There are no conditional uses within the PUD 54 district. Uses other than those described as permitted or allowed herein are prohibited.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.

6.A. CONCEPTUAL PLAN.

A conceptual plan (Exhibit A) for PUD 54, Freewill Road was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on August 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 PUD 54 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 Freewill Road 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 PUD 54 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 54 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 54 to function as described herein. This requirement must be fulfilled when 75% of the buildable lots are built. The City of Cleveland assumes no responsibility to review these documents, or to determine their adequacy to these purposes, or to enforce any of their provisions, or to otherwise be a party to them.

Section 7. DEVELOPMENT STANDARDS

The development standards for PUD 54 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 R1 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.

7.A. Building Lot Size & Setbacks

Single Family Detached Lots:

Setbacks:

Front: 25'

Side: 5'

Rear: 15'

Min Lot Width: 75'

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 7.8 Sidewalks, Common Area, & Amenities

1. Sidewalks shall comply with the sidewalk ordinance. Additional Right-of-way may be required to ensure that the road meets the required 70' width (35' from center line). A right turn deceleration lane must be installed in the initial phase of the construction and be built within the Right-of-way.
2. The community open space shall be an accessible and usable, yet natural area.
3. 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.
4. A bus stop shelter shall be placed in cooperation with Cleveland City Schools, this may be combined with the mail kiosk.

7.C Miscellaneous Standards

1. The exterior primary (front) facades of all structures shall comprise brick, stone, wood, composite, or fiber cement board materials (no vinyl siding on primary/front elevation except for accents such as soffits & fascia). All other elevations may include Vinyl Siding. All foundations shall be brick or stone for their entirety.
2. Residential buildings must incorporate a variety of building elements and treatments for single family detached housing. Structures must include articulation, changes in materials or texture, windows, or other architectural features.
4. 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.
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 PUD 54 Freewill Road. The Developer and its assigns or successors in title shall carry out the construction on the project site in compliance with all applicable ordinances of the City of Cleveland, Tennessee, and also in compliance with applicable federal and state laws. Buildings shall be designed and constructed in accordance with adopted building codes and shall not be occupied until final inspections are complete and certificates of occupancy have been issued (permission for limited use of building after substantial completion by the City's Building Official). Failure to develop, use, or maintain the subject property other than in conformity with all of the requirements of this ordinance is unlawful and shall be deemed a violation of the City's zoning ordinance and a nuisance subject to the penalties described in the zoning ordinance and any increased fine as may be allowed by state law.

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

This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Where this ordinance contemplates the future approval of a site plan or the future approval of a plat by the Cleveland Municipal Planning Commission, and where this ordinance contemplates the future refinement of plans to conform with permitting requirements or conditions of approval necessitated by staff review, and where the Developer and the City of Cleveland may enter into future agreements regarding possible public facilities, infrastructure, and/or services within PUD 54, 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.

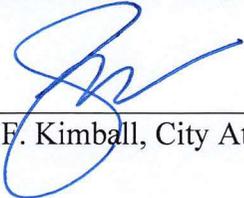
Section 10. BINDING UPON OTHERS.

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 PUD 54 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.

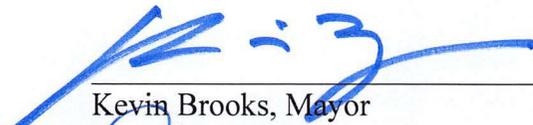
Section 11. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.

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 passage and upon the execution of the development order as described above, the public convenience and necessity requiring it.

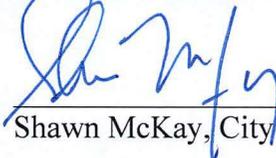
APPROVED AS TO FORM:



John F. Kimball, City Attorney



Kevin Brooks, Mayor



Shawn McKay, City Clerk



CIVIL ENGINEER
BERRY
ENGINEERS LLC
 CLEVELAND, OHIO
 CLEVELAND, OHIO 43115
 TEL: (419) 794-0400

DEVELOPER

PROJECT
RESIDENTIAL S/D
 FREEWILL ROAD
 CLEVELAND, TN

PRELIMINARY

REVISIONS	
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SHEET NAME:
CONCEPTUAL SITE PLAN

DATE: 07/10/2024

DRAWN BY: BMB

CHECKED BY: CMB

PROJECT NO.: #####

SHEET NUMBER:
SP-1