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MINUTE BOOK # 32

## Zoning Ordinance 2024-54

**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 NEWMAN FARMS “PUD 56” ON PROPERTY DESCRIBED AS TAX PARCEL 064 001.04, 064 002.00, 056 083.00, AND 056 084.00, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 56; 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 56” subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 56 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 56 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 56, Newman Farms Property (name may be revised during the platting process with approval of the Cleveland Municipal Planning), includes property generally identified as a portion of Tax Parcels 064 001.04, 064 002.00, 056 083.00, and 056 084.00. Exhibit B illustrates the overall Newman Farms 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 Newman Farms Property. The project consists of detached single-family homes and townhouses. Exhibits B shows the general location of proposed infrastructure and common areas. In terms of total allowable density, the project shall not exceed 600 total units. The common open space designed within the development may include any permanent retention or detention pond areas or landscaped common areas.

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

The PUD 56 Subdivision allows for the construction of up to 600 residential units without amending this ordinance. The conceptual plan is divided into 4 different development areas. The Permitted use within each Development area consists of single-family detached dwellings and single-family attached dwellings. Development area 1 includes Townhouses as a permitted use.

Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 56 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 Newman Farms property 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 and Cleveland City Council. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by the Developer. There are no conditional uses within the PUD 56 district. Uses other than those described as permitted or allowed herein are prohibited. Billboards are not permitted.

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

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

A conceptual plan (Exhibits B) for PUD 56 , Newman Farms Property was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on September 17, 2024. The conceptual plan consists of a site plan for

the overall development. Additional drawings, documents, and permits routinely required for a subdivision are expected for review and approval prior to construction. All development within PUD 56 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 and Cleveland 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 Newman Farms Property 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 56 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 56 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 56 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 PUD 56 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 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

### Lot Requirements:

Front (all other streets):	25'
Side:	5'
Rear:	15'
Min Lot Width:	46' – maximum 20%
	60' – minimum of 27%

### Townhouse Lot Requirements:

Front:	25'
Side:	10' (min 20' between structures)
Rear:	15'

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.
2. Green space shall be provided as shown on Exhibit B. Specifically, this includes a 30' exterior buffer.
3. A minimum of 50% of the open/green space shall be usable and include a pool and club house and associated recreational uses such as playground or tennis court. Amenities must be installed before the 100<sup>th</sup> building permit is issued.
4. One or more Centralized cluster mailboxes units shall be provided, if required by the United States Postal service, and shall include a minimum of 2 of off-street parking spaces for every 50 developable lots.
5. All utilities shall be placed outside of the street except for required crossings, any crossing shall be approved by the City through the site review process.

## 7.C Miscellaneous Standards

1. For all development areas, 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).
2. Each single-family detached homes elevation visible from the Right-of-way must differ in type, size, and style. No two adjacent elevations may be identical.

3. In an effort to protect existing ground cover, minimize impacts to wetland areas, and promote higher quality neighborhoods, Mass grading of the site shall be minimized no more than 75% of the development areas, the remaining 25% shall follow the natural slope of the land with the exception of runoff swells and ensuring there are suitable soils. Slopes may not be steeper in any area than a 4:1 ratio on any private (non-HOA) lots.
4. All foundations shall be brick or stone.
5. All detached residential buildings must include a minimum of 2 car garage. Townhouses must include a minimum of a 1 car garage.
6. Overflow/guest parking shall be provided in the Townhouse section of the development.
7. Front driveways/parking areas of townhouses shall be separated by a minimum of 3' planted landscape strip (not grass or stone).
8. Residential buildings must incorporate a variety of building elements and treatments. Structures must include articulation, changes in materials or texture, windows, or other architectural features for all facades of the structure.
9. A monument style ground sign with landscaped entrance shall be installed for each entrance to the site.
10. The primary access corridor utilizes Johnson School Road and Mason Road. The corridor begins where Johnson School Road intersects Brymer Creek Road, at the south end of the proposed development. It proceeds north along Johnson School Road to Mason Road, and continues north along Mason Road through a future extension, continuing north, to Stone Lake Road. This corridor shall be improved to 50' ROW (24' paved) generally, and 70' ROW (38' paved) where turn lanes and deceleration lanes are provided at each section's entrance. A landscaped street yard with street trees, generally 2" caliper trees, 35' on-center, shall be provided along this corridor. The Developer, and its assigns or successors in title of the parcels that are the subject of these annexation and rezoning applications shall only be responsible for installing landscaping and street trees along this corridor on parcels that they own or control and along the right of way that is adjacent to parcels they own or control. A Type D City of Cleveland Buffer, located against the ROW, will be provided for rear-loading townhomes located on the east side of Mason Road. Road improvements must be installed before the 100th building permit is issued. Type D buffer for townhomes shall be installed before Certificate of Occupancy for referenced townhomes may be issued. If the Developer, and its assigns or successors in title of the parcels that are the subject of these annexation and rezoning applications are not able to (i) purchase the land necessary to connect the current terminus of Mason Road to Stone Lake Road from an adjacent property owner or owners, or (ii) obtain an easement through an adjacent parcel or parcels sufficient for the construction of said road extension / connection, then the Developer, and its assigns or successors in title of the parcels that are the subject of these annexation and rezoning requests shall

provide and set aside (and convey if necessary) the right of way necessary in order for the connection to Stone Lake Road to be made in the future (and to make any other improvements that the City deems necessary on their parcels for the connection to be made in the future). Providing said right of way, and providing for the future connection to Stone Lake Road, shall satisfy this condition in the event the Developer, and its assigns or successors in title of the parcels that are the subject of these annexation and rezoning applications are not able to purchase the land necessary for said connection and/or unable to obtain an easement through adjacent parcels for said connection and future road.

11. Primary access to the development area must be provided to Stone Lake Road through one of the neighboring properties, or by Brymer Creek Road and Johnston School Road at South Lee Highway. If immediate access is unavailable to the Stone Lake Road to the North a traffic impact study must be completed (by a City of Cleveland approved and licensed engineer) to analyze what improvements are needed at both the Brymer Creek/South Lee Highway and Johnston School Road/South Lee Highway intersections in consultation with the City and The Tennessee Department of Transportation. These improvements must at a minimum include turn lanes/deceleration lanes along Lee Highway and adequate turning movements off of Brymer Creek and Johnston School Road. The improvements will also include bringing the existing roads to City Standards from Lee Highway to the development area within the existing Right-of-way. The Developer, and its assigns or successors in title of the parcels that are the subject of these annexation and rezoning requests shall donate and/or convey any additional right of way necessary for said road improvements at no charge or cost to the City or the Tennessee Department of Transportation, but shall not be required or responsible for obtaining or acquiring any additional right of way from other property owners along Johnson School Road and/or Brymer Creek Road.
12. A two-inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed in the front and back yard of each lot. For Townhouses the tree shall be placed between each building.
13. Attempts shall be made to preserve the existing tree canopy. No buffers are required internally to the PUD area. A 30' buffer shall be provided on the exterior of the development.

## **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 56 Newman Farms Property. 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.**

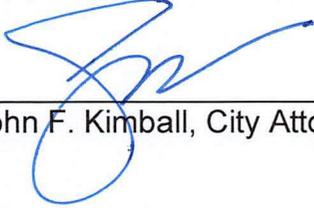
This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Where this ordinance contemplates the future approval of a site plan or the future approval of a plat by the Cleveland Municipal Planning 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 56, 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 PUD 56 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.

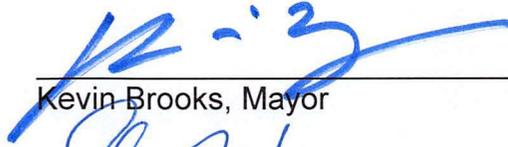
**Section 11. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.** Where this ordinance is in conflict with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined 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:



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John F. Kimball, City Attorney



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Kevin Brooks, Mayor



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Shawn McKay, City Clerk

## **Exhibit A**

**Exhibit B**  
**Conceptual Plan**

