

**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 APD 40 AT HOLLOWAY CORNER "PUD 60" ON PROPERTY DESCRIBED AS TAX MAP 065 PARCEL 001.00, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 60; 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 60" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 60 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 60 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 60, Holloway Corner Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning) includes property generally identified as Tax Map 065 Parcel 001.00. Exhibit A illustrates the overall APD 40 at Holloway Road 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 APD 40 at Holloway Road development. The project consists of a Townhome neighborhood 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 60 Subdivision allows for the construction of up to 115 residential units in single-unit or townhouse units 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 60 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.

Commercial uses to include restaurants, with or without drive-thru services, retail services such as multi-tenant structures, offices, and the like. Specifically excluded uses are climate controlled and mini-warehouse storage units, auto, tire and oil change facilities, all sex-outlet related uses, and car washes. Billboards are prohibited.

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

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

A conceptual plan (Exhibit A) for PUD 60, The APD 40 at Holloway Corner Development PUD was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on November 15, 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 60 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 115 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 60 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 PUD 60 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 60 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 60 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 60 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 Townhome residential zone from the City of Cleveland's zoning regulations.

### **7.A. Building Lot Size & Setbacks**

Townhouse building setbacks shall be 25' for the front, 15' rear setback, and 5' side setback. The front setback may be reduced to 15' for the side yard of corner lots and for units with side or rear yard parking/driveways. 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.

Single family Detached Lots; Setbacks:

Front:25'

Side: 5'

Rear: 15'

Min Lot Width: 42'

### **Section 7.B Sidewalks, Common Area, & Amenities**

1. Sidewalks shall be provided on both sides of all new streets within the subdivision, where shown on the conceptual plan. Sidewalks connections shall be made to the commercial section fronting APD40.
2. A front yard landscaped area shall be provided along the interior drive separating the commercial and residential areas of the development. This shall include landscaping throughout and a sidewalk.
3. All utilities shall be placed outside of the street except for required crossings, any crossing shall be approved by the City.
4. The minimum open space provided shall be a minimum of 20%. A portion of the open space shall be easily accessible and usable by the residents and shall include a dog park, passive parks, and walking trails.
5. A centralized cluster mailbox unit shall be provided, if required by the United States Postal service, and shall include a minimum of two off-street parking spaces per 50 units.
6. Additional overflow parking shall be provided with the mail kiosk and amenities which is in an off-street parking area.

### **7.C Miscellaneous Standards**

1. The exterior façades of all structures shall be comprised of brick, stone, 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, change 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. All residential structures shall have a minimum one car garage and 3 of street parking spaces.
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 of townhomes and in the front yard of each single-family detached home. Front driveways/parking areas of townhomes shall be separated by a minimum of one 3' planted landscape strip (not grass or stone).
5. Attempts shall be made to preserve existing trees where possible along the outer edges of the development.
6. On-street parking shall be limited to guest and temporary parking. The parking of commercial vehicles, tractor-trailer cabs, commercial equipment, mobile homes, recreational vehicles, ATVs, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles is not allowed. Parking is prohibited between the hours of 12:00am and 6:00am.

### **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 60 APD 40 at Holloway Road 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.**

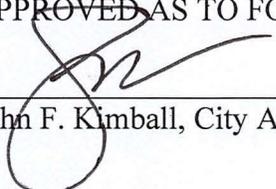
This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Where this ordinance contemplates the future approval of a site plan or the future approval of a plat by the Cleveland Municipal Planning 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 PUD44, 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.

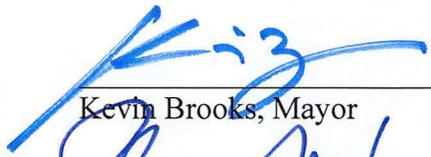
**Section 10. BINDING UPON OTHERS.** This ordinance is a law and not a contract, and as such it is generally binding upon all development and use of property in the PUD 60 zoning district and is binding upon City's regulation of these activities in this location. Moreover, it shall be the duty of the 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 APD 40 at Holloway Road Developers 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 no limited to, common areas, joint use or joint access areas, and undeveloped portions of the property that are intended for development.

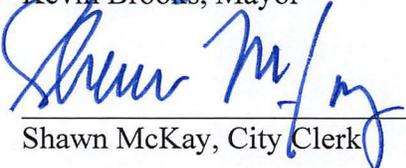
**Section 11. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE**

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 state 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

