

BE IT REMEMBERED THAT THE CITY COUNCIL OF THE CITY OF CLEVELAND, TENNESSEE MET IN A REGULAR SESSION THIS MONDAY, JULY 10, 2023 AT 3:00 P.M. AT THEIR REGULAR MEETING PLACE IN THE CLEVELAND MUNICIPAL BUILDING.

Present and presiding was Vice Mayor Avery Johnson. Also present were Councilmen Bill Estes, David May, Tom Cassada, Dale Hughes, Ken Webb, and Councilwoman Marsha McKenzie. Mayor Kevin Brooks was absent from the meeting.

Others in attendance were City Manager Joe Fivas; Shawn McKay, Assistant City Manager/CFO; Sue Zius, Administrative Coordinator; Beverley Lindsey, Assistant to the City Manager; Christy Brandon, Assistant City Clerk; City Attorney John Kimball; Police Chief Mark Gibson; Interim Fire Chief Rock Eulo; Jonathan Jobe, Development and Engineering Director; Kris Miller, IT Director; Gideon Ratcliff with Mix104.1; Michell Goldston and Dustin Tommey with City Fields, and Tim Siniard with the *Cleveland Daily Banner*.

Following the Pledge of Allegiance to the American Flag and prayer by Steve Morgan, the following business was then entered into:

WAIVE READING OF MINUTES

Councilman May moved that the City Council of the City of Cleveland waive the reading of the minutes of the Regular Session of the City Council held on June 26, 2023 and approve them as written. The motion was seconded by Councilman Webb; and upon roll call, the motion unanimously passed.

Councilman Cassada moved to excuse Mayor Brooks from today's meeting. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

SPECIAL PRESENTATIONS AND PUBLIC COMMENTS

Vice Mayor Johnson asked if anyone would like to address the Council. No one spoke.

HEARING PETITIONS AND COMMUNICATIONS

- a. **Public Hearing** – To hear public comments concerning a request by Phyllis Lindbeck for consideration of an ordinance to zone about 2.52 acres, more or less, located at 373 Kile Lane SW, from IL Light Industrial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057 Parcel 015.05 (Planning Commission: Approved 7-0; 2 absent).

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning a request by Phyllis Lindbeck for consideration of an ordinance to zone about 2.52 acres, more or less, located at 373 Kile Lane SW, from IL Light Industrial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057 Parcel 015.05. Robert Varnell stated the family would like to build an additional house on their property and therefore needs to be rezoned. Vice Mayor Johnson asked if anyone would like to speak in favor of the rezoning. No one spoke. Vice Mayor Johnson asked if anyone would like to speak in opposition of the rezoning. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

- b. **Public Hearing** – To hear public comments concerning a request by JAHOLM Holdings LLC for consideration of an ordinance to zone about .22 acres, more or less, located at 1350 Wildwood Ave SE, from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057L Group H Parcel 014.00 (Planning Commission: Approved 7-0; 2 absent).

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning a request by JAHOLM Holdings LLC for consideration of an ordinance to zone about .22 acres, more or less, located at 1350 Wildwood Ave SE, from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057L Group H Parcel 014.00. Robert Varnell stated this has been a single-family home for some time and during a sale of the property it was found the property was zoned CH and needed to be rezoned to R-2 for closing. Vice Mayor Johnson asked if anyone would like to speak in favor of the rezoning. No one spoke. Vice Mayor Johnson asked if anyone would like to speak in opposition of the rezoning. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

- c. **Public Hearing** – To hear public comments concerning a request by Steven and Elizabeth Clark for a night club permit to be located at 918 Sahara Drive and includes Tax Map 041L Group E Parcel 003.01.

Vice Mayor Johnson stated today's meeting is being held as a public hearing to hear public comments concerning a request by Steven and Elizabeth Clark for a night club permit to be located at 918 Sahara Drive and includes Tax Map 041L Group E Parcel 003.01. Robert Varnell stated this is our first applicant for the nightclub permit, they have met all the requirements and staff recommends approval. Councilman Hughes stated the last time we dealt with something similar it was close to homes, but this is surrounded by businesses. Mr. Varnell stated yes, and the requirements are 750' from a residential zoned property. Vice Mayor Johnson asked if anyone would like to speak in favor of the permit. No one spoke. Vice Mayor Johnson asked if anyone would like to speak in opposition of the permit. No one spoke. Vice Mayor Johnson declared the public hearing to be closed.

CONSENT AGENDA

Vice Mayor Johnson stated the Consent Agenda was presented during the Work Session. Councilman Hughes moved to approve the following items from the Consent Agenda. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

- a. **Final Passage - Zoning Ordinance 2023-21** – heretofore passed on first reading June 26, 2023 and found in Minute Book 31, Page 202; an ordinance to zone about 4.37 acres more or less, from unincorporated county to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 041 Parcel 005.28 (Planning Commission: Approved 7:0; 2 absent).
- b. **Final Passage - Zoning Ordinance 2023-22** – heretofore passed on first reading June 26, 2023 and found in Minute Book 31, Page 211; an ordinance to zone about 3.76 acres, more or less, of property on Freewill Rd. from unincorporated county to IL Light Industrial Zoning District and includes Tax Map 048D Group B Parcel 002.01(Planning Commission: Approved 7-0; 2 absent).
- c. **Final Passage - Zoning Ordinance 2023-23** – heretofore passed on first reading June 26, 2023 and found in Minute Book 31, Page 220; an ordinance to zone about 7.87 acres, more or less, of property located on Forrest Ave. NE from unincorporated county to IL Light Industrial Zoning District and includes Tax Map 050I Group G Parcel 001.00 (Planning Commission: Approved 7-0; 2 absent).
- d. **Final Passage - Ordinance 2023-25** – heretofore passed on first reading June 26, 2023 and found in Minute Book 31, Page 221; Amending the Cleveland Municipal Code, Title 14 Zoning Ordinance, Chapter 2, Section 1.6 Definitions to define dwellings and Section 4.6.A.3a to include a minimum square footage (Planning Commission: Approved 7:0; 2 absent).
- e. **Resolution 2023-65** – Approving the 2023 Communications Agreement between the City, Bradley County, City of Charleston, and the Bradley County Emergency Communications District.

RESOLUTION 2023-65

WHEREAS, a 2023 Communications Agreement has been prepared and is attached hereto; and

WHEREAS, the City Council of the City of Cleveland desires to enter into said Agreement with Bradley County and City of Charleston.

NOW, THEREFORE, BE IT RESOLVED that the Mayor be, and hereby is, authorized to execute the 2023 Communications Agreement for and on behalf of the City of Cleveland, Tennessee. Said Agreement is attached hereto and made a part hereof by reference. [on file in the City Clerk’s Office.]

Adopted this 10th day of July, 2023.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

- f. **Resolution 2023-66** – Supporting City Fields in their application for a Robert Wood Johnson Foundation-Funded “Community Connectors” Grant.

RESOLUTION 2023-66

RESOLUTION TO SUPPORT CITY FIELDS IN THEIR APPLICATION FOR A ROBERT WOOD JOHNSON FOUNDATION-FUNDED “COMMUNITY CONNECTORS” GRANT APPLICATION AND TO WORK AS A PARTNER IN THE SUCCESS OF THE GRANT ACTIVITES

WHEREAS, City Fields is a non-profit community development corporation with history of working with the City of Cleveland and others to bring about positive change to elevate low-income neighborhoods in Cleveland; and

WHEREAS, City Fields has been a strategic partner with the City of Cleveland in its successful grant applications to the USDOT for planning, design, and construction related to the proposed downtown connector; and

WHEREAS, City Fields is seeking the “Community Connectors” grant to increase capacity within the College Hill and Blythe-Oldfield neighborhoods to participate in vital planning efforts for the new downtown connector, and the formation of an integrated transportation, land-use, housing, and economic development approach to revitalize these neighborhoods; and

WHEREAS, the City desires to provide support for the City Fields “Community Connectors” endeavor through provision of technical support, coordination with City-sponsored planning efforts affecting the College Hill and Blythe-Oldfield neighborhoods, and City staff participation in “Community Connectors” meetings as part of a core team, including participation in a “convening” of awardees expected in Atlanta, GA in November 2023,

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Cleveland, Tennessee that:

1. The City supports the City Fields application for a “Community Connectors” grant for capacity building within the College Hill and Blythe-Oldfield neighborhoods to strengthen their capacity as planning partners in the proposed downtown connector, and in the formation of an integrated transportation, land-use, housing, and economic development approach for the neighborhoods.

2. The City staff will participate in the “Community Connectors” endeavor by providing technical support (e.g. maps, data, expertise) and coordination with City-sponsored planning efforts within these neighborhoods, and by participating in related meetings as members of a core team, including participation in an anticipated convening of awardees in Atlanta.

3. The Mayor is authorized to sign any documents necessary for the purpose of carrying out this project.

Approved this 10th day of July, 2023.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

- g. **Resolution 2023-67** – Authorizing the Mayor to sign Change Order #3 with Summers-Taylor, Inc relating to the LIC North Project (Final Balance Summary)

RESOLUTION 2023-67

WHEREAS, the City has received the attached Supplemental Agreement and/or Request for Construction Change Order Request #3 from the Tennessee Department of Transportation (hereafter “TDOT”) for the project described below; and

Project: Local Interstate Connector (LIC) on Pleasant Grove Church Road from
APD 40 to South Lee Highway
Contract Number: 100252
Project Identification Number (PIN): 114573.00
State Project Number: 06LPLM-S3-022

WHEREAS, the City Council desires to enter into the attached Supplemental Agreement and/or Request for Construction Change Order Request #3 with TDOT, and to further authorize the Mayor to execute this agreement on behalf of the City of Cleveland.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cleveland, Tennessee, in regular session assembled, that the City Council does hereby approve of the attached Supplemental Agreement and/or Request for Construction Change Order Request #3 from the Tennessee Department of Transportation for the project described herein, and it further authorizes the Mayor to execute the same on behalf of the City of Cleveland. [on file in the City Clerk’s Office.]

This 10th day of July, 2023

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

h. **Resolution 2023-68**– Approving a PILOT agreement for Project Baxter.

RESOLUTION 2023-68

**A RESOLUTION APPROVING A
PAYMENT-IN-LIEU-OF TAXES (PILOT) SCHEDULE AND DELEGATING
AUTHORITY TO ENTER INTO A PILOT AGREEMENT**

WHEREAS, the Industrial Development Board of the County of Bradley and the City of Cleveland, Tennessee (the "Board") has recommended a Payment-In-Lieu-Of-Taxes ("PILOT") schedule for Project Baxter (the "Company") which has a planned lease and improvement of an existing 50,000 square foot building within the City of Cleveland, Bradley County, Tennessee, the acquisition and installation of certain machinery, equipment and other personal property for use as a fulfillment center and related facilities in the City of Cleveland and Bradley County, Tennessee with a total capital investment of (but not limited to) \$40,000,000.00 (the "Project") in real property leasehold improvements and personal property/equipment and

WHEREAS, the Project is anticipated to result in the creation of 140 full-time positions with an average annual starting wage of \$56,835.71 for positions in the plant.

WHEREAS, the Company has requested the real property leasehold improvements and personal property acquired in connection with the Project (collectively, the "Property") qualify for an arrangement (the "PILOT Arrangement") whereby the Property shall be exempt from all ad valorem property taxes otherwise due thereon (collectively, "property taxes"), and in lieu of the property taxes, the Company shall be required to make annual payments in lieu of taxes equal to sixty-two and one-half percent (62.5%) of the real property leasehold improvements and personal property taxes otherwise due on the property during the six-year period commencing on January 1, 2024 and ending on December 31, 2029:

WHEREAS, the Board has determined that, notwithstanding the PILOT Arrangement, the Project will result in the payment of in lieu of tax payments to the City of Cleveland, Tennessee in an estimated amount of \$657,631.41 over the same six-year period;

WHEREAS, the City of Cleveland, Tennessee (the "City") has determined that the proposed PILOT Arrangement is fair, reasonable, and necessary for the continued economic development of Cleveland and Bradley County and that the payments in lieu of taxes derived from the PILOT Arrangement would be in furtherance of the Board’s purposes and

NOW THEREFORE, BE IT RESOLVED by the City Council of Cleveland, Tennessee as follows:

Section 1. The City hereby agrees to the PILOT Arrangement and hereby delegates the power and authority to the Board to negotiate a PILOT agreement with the Company to reflect the parties' respective rights and obligations in accordance with the PILOT Arrangement.

Section 2. The City hereby authorizes the Mayor to execute any and all documents necessary for the successful completion of the Project, including but not limited to, all documents related to the PILOT Arrangement.

Section 3. This Resolution shall become effective upon its adoption.

Adopted this 10th day of July, 2023.

APPROVED AS TO FORM:

/s/John F. Kimball

City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

- i. **Resolution 2023-69**– Amending the FY2024 Authorized Position List.

RESOLUTION 2023-69

**A RESOLUTION TO AMEND THE AUTHORIZED POSITIONS LIST FOR THE
FY2024 BUDGET**

WHEREAS, the City Council of the City of Cleveland has previously established and adopted the FY2024 City Budget; and

WHEREAS, the City Budget contains the “Authorized Employees By Fund, Department, and Position Classification”; and

WHEREAS, the DES Director, the Public Works Director, and the City Manager are recommending that the City Council approve a change in the authorized positions for adding one new Redevelopment Coordinator in the DES Department and eliminating one Public Service Worker in the Public Works Department as set forth in the City Manager’s memorandum to the Mayor and City Council dated July 10, 2023 which is attached hereto; and

WHEREAS, the DES Director and the City Manager want to change the title of the Director of Buildings, Facilities and Capital Projects to the Director of Building and Project Development.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF CLEVELAND:**

Section 1. That the document entitled “Authorized Employees by Fund, Department, and Position Classification” located on pages 86 through 89 of the FY2024 City Budget is hereby amended to reflect the changes included in the attached memorandum.

That this Resolution shall become effective from and after its approval by the Cleveland City Council.

Adopted this 10th day of July, 2023

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

TO: Mayor and City Council
FROM: Joe Fivas, City Manager
DATE: July 10, 2023
RE: Authorized Position Update

SUMMARY:

This item is an amendment to the Authorized Position List. The amendment keeps the same number of employees for the City, but shifts positions to allow for a new Redevelopment Coordinator position to be created. This position will assist with our expanding redevelopment efforts, land banking coordination, grant writing, project management, and long-range planning.

COMMITTEE FINDINGS:

No Committee or Board action.

FISCAL ANALYSIS:

N/A

RECOMMENDATION:

City staff recommends approval of this update to Authorized Position List.

- j. **Motion** – Authorizing the Mayor to sign a Memorandum of Understanding between the Cleveland Police Department and the Cleveland City Schools for School Resource Officers.
- k. **Motion** – Approving a Nightclub Permit for Pokey’s Restaurant.
- l. Appointment – *Library Board* – Vanessa Hammond for a 3-year term to expire July 2026.

UNFINISHED BUSINESS

There was no unfinished business.

REPORTS OF COUNCIL MEMBERS

Councilman Webb had no report at this time.

Vice Mayor Johnson stated the Legislative Session held last Friday was a good event. It was nice to meet and discuss issue in our community.

Councilwoman McKenzie reported the ribbon cutting at Mosby Park was a nice event and thanked everyone for making it happen.

Councilman Estes echoed comments regarding Mosby Park re-grand opening. He then reminded everyone of the upcoming City Fields BBQ and a Back to School Bash, where donations will be accepted to help purchase supplies.

Councilman Cassada had no report at this time.

Councilman May stated at the last meeting we discussed the electric and water services for the Cherokee Hotel, and also a water leak. He asked that while the street cuts are there, it would be nice to get everything fixed. Mr. Jobe stated yes, Cleveland Utilities is working to get what they need done before paving. They are also working on a price for underground electric from 1st Street NE to 1st Street SE.

Councilman Hughes stated Mosby Park is a plus for the Inman Street area. It is a beautiful park. He thanked staff for the marvelous job. Michell Goldston planted the trees in Mosby Park over twenty years ago. He then echoed Vice Mayor Johnson’s comments about the Legislative meeting, which was very informative.

NEW BUSINESS AND ORDINANCES

- a. **Zoning Ordinance 2023-27** – Zoning about 2.52 acres, more or less, located at 373 Kile Lane SW, from IL Light Industrial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057 Parcel 015.05 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-27

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the portion of property described herein be, and the same is hereby, rezoned from IL Light Industrial Zoning District to R-2 Low Density Single and Multi-Family Zoning District.

Approximately 2.52 acres, more or less, located at 373 Kile Lane as shown on the attached map.

For reference, the same property is being shown on Tax Map 057 Parcel 015.05, in the Assessor’s Office for Bradley County, Tennessee

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

Exhibit A



Councilman Webb moved that Zoning Ordinance 2023-27 be approved on first reading. The motion was seconded by Councilman May; and upon roll call, unanimously passed.

- b. **Zoning Ordinance 2023-28** – Zoning about .22 acres, more or less, located at 1350 Wildwood Ave SE, from CH Highway Commercial to R-2 Low Density Single and Multi-Family Zoning and includes Tax Map 057L Group H Parcel 014.00 (Planning Commission: Approved 7-0; 2 absent).

Zoning Ordinance 2023-28

BE IT ORDAINED by the City Council of the City of Cleveland, in regular session assembled that the portion of property described herein be, and the same is hereby, rezoned from CH Highway Commercial Zoning District to R-2 Low Density Single and Multi-Family Zoning District.

Approximately 0.22 acres, more or less, located at 1350 Wildwood Ave. as shown on the attached map.

For reference, same property is being shown on Tax Map 057L Group H Parcel 014.00, in the Assessor’s Office for Bradley County, Tennessee

BE IT FURTHER ORDAINED that all Ordinances in conflict herewith are repealed to the extent of said conflict.

BE IT FURTHER ORDAINED that this Ordinance shall take effect from and after its passage on final reading, the public welfare requiring it.

APPROVED AS TO FORM:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

Exhibit A



Councilman May moved that Zoning Ordinance 2023-28 be approved on first reading. The motion was seconded by Councilman Hughes; and upon roll call, unanimously passed.

- c. **Zoning Ordinance 2023-24** – An ordinance to zone about 8.00 acres more or less, from R-3 High Density Single and Multi-Family Zoning to PUD45 Planned Unit of Development Zoning and includes Tax Map 041E Group C Parcels 006.00, 007.00, 013.00, 014.00, 015.00, and 016.00 (Planning Commission: Denied 7-0; 2 absent).

ZONING ORDINANCE 2023-24

AN ORDINANCE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO ESTABLISH A PLANNED UNIT OF DEVELOPMENT (PUD) TO BE KNOWN AS PEERLESS ROAD CHURCH OF GOD “PUD 45” ON PROPERTY DESCRIBED AS TAX MAP 041E GROUP C PARCELS 006.00, 007.00, 013.00, 014.00, 015.00, AND 016.00, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 45; 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 an development standards for the property described herein through the adoption of the 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 45” subject to the provisions described in each section of this ordinance. The

permitted uses in the PUD 45 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 45 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 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 45, Peerless Road Church of God (name may be revised during the platting process with approval of the Cleveland Municipal Planning Commission) includes property generally identified as Tax Map 041E Group C Parcels 006.00, 007.00, 013.00, 014.00, 015.00, and 016.00. Exhibit A illustrates the overall Peerless Road Church of God 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 Peerless Road Church of God Development. The project consists of a church facility and associated structures that support the function of the church. The developer shall include any permanent retention or detention pond areas or landscaped common areas.

Section 5. PERMITTED USES AND PROHIBITED USES.

The PUD 45 development allows for the existing Church facility and associated uses. Such uses include professional office, child day care, residential uses consistent with current standards associated with the activities of the Church. Other amenities such as a clubhouse, park shelters, benches, or tables, are allowed on the property and will be reviewed by the Planning Director for consistency with the approved plan. Nothing herein should be construed as prohibiting the Church membership from making further refinements to the development plan of PUD 45 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 be minimal and serve as a function of the Church related activities.

Section 6. CONCEPTUAL PLAN AND RELATED REQUIREMENTS.

6.A. CONCEPTUAL PLAN.

A conceptual plan (exhibit A) for PUD 45, Peerless Road Church of God Development, was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on June 20th, 2023. The conceptual plan consists of a survey of the existing lots and the abandonment of each lot line to create one seamless lot. However additional drawings, documents, and permits routinely required for development are expected for review and approval prior to construction. All development within PUD 45 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.

Other variations may include the width or alignment of driveways, 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.).

6.B. PLATS.

One or more plats will be prepared for the PUD 45 property by the Developer for approval in accordance with the City of Cleveland, Tennessee subdivision regulations. These plat(s) 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, homeowner association documents, common area agreements, and the like which the Developer determine are necessary to carry out the development of PUD 45 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 45 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 45 shall be those established in this ordinance. Where development standards are not otherwise included in this ordinance, the standards shall be those in the PI Professional Institutional District, from the City of Cleveland's zoning regulations.

A monument style ground sign may be installed at the primary entrance to the site. The ground sign may contain a LED Electronic reader board not to exceed 60 square feet. Landscaping, where acceptable, must be installed to screen the LED sign from off-site residential structures. If a LED Electronic Reader board is utilized, it will be turned off between the hours of 10:00pm and 7:00am as to not impact residential areas surrounding the property. All landscaping areas will be approved by the Director of Planning and Community Development.

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.

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 45 Peerless Road Church of God 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. Building 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 play 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 45, an amendment to this ordinance is not required to implement such detailed block plan, site plan, 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 45 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 “Trustees of the Church of God Property” 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 ordinance 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:

/s/John F. Kimball
City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

Councilman Estes stated there were several items related to this ordinance that were not presented to the Planning Commission and feels it should be sent back for a full discussion of the facts. Councilman Cassada confirmed the current zone is R-3. Mr. Varnell stated yes, they have multiple uses on the property, that is why we are presenting to change the zoning to a PUD category which would allow us to specifically identify what they are doing. It can be changed at any time with City Council approval. Councilman Hughes stated he didn’t want to delay this again. Councilman Estes stated there are other places with similar signs and we haven’t heard anything on it. There are enough variables, and we should let city staff get it right for everyone going forward. This is not about Peerless Road, but the process is important. Councilman May moved that Zoning Ordinance 2023-24 be approved on first reading. The motion was seconded by Councilman Hughes. Upon roll call, Councilman May, Councilman Hughes, Councilman Webb, Vice Mayor Johnson, Councilwoman McKenzie, and Councilman Cassada voted aye. Councilman Estes voted no. He added the reason for his no vote is not the outcome of the zoning but the process by which the City took place. The motion carries 6-1.

ANNOUNCEMENTS

Vice Mayor Johnson announced the following:

- a. The July 24 City Council Meeting will be cancelled.
- b. The next City Council meeting will be held on Monday, August 14, 2023.

ADJOURNMENT

There being no further business, Vice Mayor Johnson adjourned the meeting at 3:29 p.m.

Mayor

City Clerk