

# STANDARD VARIANCE APPLICATION FORM

Please type or print clearly.

Calendar number

Date submitted

3337  
2/20/14

## Contact information:

Applicant(s)

KERTES ENTERPRISES INC

Phone/fax/e-mail

216-831-9110

/ 216-292-3529

RSKERTESZ@KERTESENTERPRISES.COM

Address of subject property

P.D.# 686-01-103

AND 686-01-001

12800 CEDAR RD

Mailing address of applicant

3439 WEST BAINBRIDGE RD WOODMERE OH 44122

Applicant's representative, if any

RANDY KERTESZ AND Richard Siegfried

Phone/fax/e-mail

Randy, (See Above)

Rick - 440-247-3990

RSIEGFRIED@RSCAARCHITECTS.COM

Address of representative

10 N. MAJESTY, CHAGRIN FALLS, OH 44022

Property owner, if different from applicant

CITY OF CLEVELAND HTS

Phone/fax/e-mail

Address of property owner

Brief summary of variance request (please attach **detailed** statement of practical difficulty):

Variance requests to construct a Residential Unit Bldg on the combined property

Supporting documentation (check all that apply):

- ☐ Completed Application (17 copies)
- ☐ Detailed statement of practical difficulty (17 copies)
- ☐ Proof of ownership, option, or lease agreement (1 copy)
- ☐ Floor plan (17 copies, drawn to scale)
- ☐ Site plan (17 copies, drawn to scale)
- ☐ Elevations (17 copies)
- ☐ Application fee check no. \_\_\_\_\_



Applicant's signature

Randy Kertes

Date 2-17-2014

**Kertes Enterprises, Inc.**  
3439 W. Brainard Road, Suite 260  
Woodmere, Ohio 44122  
(216) 831-9110

RECEIVED

MAR 11 2014

February 19, 2014

City of Cleveland Heights  
Department of Planning and Development  
Attn: Richard Wong  
40 Severance Circle  
Cleveland Heights, OH 44118

Re: S.W. Corner Cedar and Coventry  
P.P# 686-01-103 and 686-01-001  
Variance Request & Conditional Use Request

Dear Mr. Wong,

This letter, along with the attached information, is to be considered a request from Kertes Enterprises, Inc., for the necessary approvals by the Board of Zoning Appeals and Planning Commission for the necessary variances and approvals to be considered for a Planned Residential Development for the above referenced property. Chapter 1155 Planned Residential Development is an allowed use within a residential district. The code encourages the use of a planned residential development in order to achieve several objectives.

I have attached a copy of the Planned Residential Development Section 1155 for reference, rather than restate each of the objectives. This Development meets the purpose of the section as without higher density than the two single family homes currently permitted as described in this letter, is impractical and economically infeasible. The proposed Development utilizes many green and sustainable standards in design, product selection, and energy efficiency. It is our intent to meet and achieve the certification by the NAHB National Green Building Standard.

This type of residential development in this area would add diversity of housing not currently found in this particular neighborhood. We believe it is an economical and efficient use of the land by adjoining the two sublots into one parcel and developing four condominium units in a building that emulates a large duplex which is common to the area as well as the two existing corners at this intersection.

In conclusion, after extensive meetings with your planning department, we feel that we have fine-tuned the proposal, and will create a unique and viable development meeting the Planned Residential Development objectives in what has been a vacant property for many, many years.

**BACKGROUND INFORMATION**

This site is the southwest corner of Cedar and Coventry. The property currently consists of two parcels zoned single family. Although the site has been zoned for single family, the properties

have never been occupied by a single family residence. The property was originally the site of a real estate office that managed the sales of the original housing development for the homes and lots in the area when they were first developed. The real estate office was torn down several years ago and the parcels are vacant. They are currently owned by the City of Cleveland Heights. It is currently an extremely high traffic intersection with nonconforming uses on all the other three corners.

The southeast corner is Saint Anne's Church, and the two corners to the north are each occupied by a duplex. To our south is a single family development on a private drive with four homes. To the west is a duplex located on the corner. All four corners at this intersection have never been used as a conforming use in the zoning district.

Although originally one parcel, the City approved a lot split establishing two parcels for the property. It is our intent to consolidate the two parcels into a single parcel to be used for a four unit attached single family condominium. This project will be established as a Planned Residential Development (PRD) which is a conditional use allowed for single family AA district. The areas not occupied by the actual structure, will be under common ownership by the condominium association.

The building will have two and a half floors above grade with an access to an optional roof deck from each of the units. Each home will have two covered indoor parking places (in an attached garage) and an additional guest parking place for a total of 11 off street parking places. See site plan attached. By making this an attached single family condominium, it allows for a consolidated green space to the west of the property buffering the neighboring duplex home, and not having a garage at the rear of the property as is common in the neighborhood. All landscaping and buildings would be built to the City zoning and building requirements, with the exception of the variances we currently seek.

The variance and the conditional use application are being submitted after extensive meetings with the Planning Department to prepare the proposed application for Development.

#### Variance No. 1

The Developer, Kertes Enterprises, Inc., and Project Architect, RSA Architects LLC, have determined that a variance would be required from section 1155.05 development standards (see copy attached). In order to accommodate the four unit building, a variance is required for density and/or lot size. Our proposed density of four units on a project site (.3347 acres) equals 11.95 dwelling units per acre which is greater than the allowed units per acre. Thus we request a 3.55 DU/AC variance.

#### Variance No. 2

Section 1155.04 minimum land area, the minimum land area required in this district is three acres. The new land area will require a variance, as our total site is .3347 total acres. Our request is a 2.67 acre variance.



### Variance No. 3

The next variance we require is from section 1155.05, is our setbacks. The setbacks as required under section 1155.05, would not allow the construction of the proposed building on this site. A Variance request would be necessary if based on the home to the South's front yard setback on Coventry. The required setback is 50'-2". Our side yard is setback on Coventry is 27'-3", thus we will need 22'-11". However, we aligned the building on Coventry to mirror the homes on Coventry to the north that have the side of the homes and not the front of the homes on Coventry.

### STATEMENT OF PRACTICAL DIFFICULTIES

Although we are asking three separate variances, the practical difficulties regarding the construction of this proposed development relate to each of the variances requested.

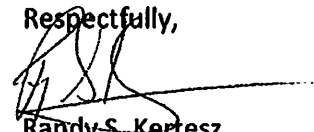
- a. There are many special conditions and circumstances that are unique to this particular site. Currently, the property is across the street from three existing non-conforming uses as well as an existing non-conforming use directly to the west. The intersection at Cedar and Coventry is an extremely high traffic intersection and curb cuts on Cedar Road would be impractical. Whether backing out or pulling out onto Cedar, the proximity to the signal at the intersection signal makes this an impracticality. Thus a single curb cut has been shown on Coventry as far to the south as practical to allow entrance into the roadway. As stated earlier, this property has never been developed into a residential site. It was previously a non-conforming use with a real estate office. A previous proposal, by a different developer, asked that the property be split into two parcels. Thus the property is currently two parcels and building an individual single family home as it is currently zoned on the middle parcel, is almost an impossibility due to setbacks, curb cuts, and other factors. The corner parcel which was part of the original single parcel could not have a curb cut on Cedar and would require one on Coventry. Based upon the setbacks required both on Coventry and on Cedar, the building site on either lot would be impractical and extremely small, making it highly impractical if not impossible to construct a single family residence on each lot that would be saleable in today's market.
- b. The property in question if it were built as two single family homes as it is currently zoned would probably be unsaleable and well as Impractical. The Developer and the Architect have determined that based upon the market a minimum four unit Condominium would create the Synergy and Commonality and Sense of Community that would be best suited for this parcel. The uniqueness of the proposed building, with the large private spaces (decks) to the rear of each unit as well as a larger common green space would make the property more attractive to the market and more marketable.
- c. The variance requested for lot area is substantial. However, based upon the surrounding parcels already developed, the parcel size is fixed. Being able to construct the four units on this parcel does require a lot area and density variance. As to the requested setback variance, our proposal lines up with the property on our block to the west and since the property on the south is a front yard, and ours is a side yard, we have lined the building up with the side yards of the two corners across the street to the

north. The difficulties listed in A above would relate to the practicality of a saleable development.

- d. The essential character of the neighborhood would not be altered by the granting of this variance as this is the final corner at this intersection to be built, proposed as a conditional use classified as a Planned Residential Development. Also, by constructing this building on the corner, it helps to scale down of the massing from the Church located directly across the street on the southeast corner, as vehicles travel to the west to where a duplex currently exists and then to the single family neighborhood.
- e. It is the developer's opinion that the variance would not adversely the delivery of governmental services such as water, sewer, and trash pickup.
- f. The initial proposal for this development was made after reviewing a Planned Residential Development by the City of Cleveland Heights for development of this parcel. Our Development, having been selected, with the City of Cleveland Heights and the developer having knowledge of the current zoning restrictions, has known that variances and/or other consideration to accommodate the development would be required.
- g. There are no special conditions circumstances that exist as a result of actions by the owner of the property.
- h. The impractical construction and sale of two single families on these lots as previously stated cannot be alleviated through some other method than a variance to allow a four unit attached single family condominium to be constructed.
- i. The developer and project designer feel that the spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variances to allow the property to be developed.
- j. The granting of this variance would not confer the applicant any special privilege that could be denied by this regulation to other properties or structures or buildings in the same district. This is the last undeveloped parcel at this intersection or in close proximity in the district. Any other proposal would require the demolition of an occupied /already constructed home. Driving east and west several blocks from this proposed development, there are no other parcels with this unique character remaining undeveloped.

The variances requested are shown on the attached drawings submitted for this development. As part of this submission, we have also shown our preliminary proposed landscape drawing for the parcel that we would effectively screen the parcel from the adjoining homes to the south and the home to the west, to minimize any impact. If further information is necessary, do not hesitate to contact the undersigned.

Respectfully,



Randy S. Kertesz  
President  
Kertes Enterprises, Inc.

## CHAPTER 1155 Planned Residential Development

1155.01	Purpose.	1155.05	Development standards.
1155.02	Approval criteria.	1155.06	Procedures.
1155.03	Permitted uses.	1155.07	Phasing.
1155.04	Minimum land area.	1155.08	Bond or escrow agreement.

### CROSS REFERENCES

Planned development objectives - see P. & Z. Ch. 1141

PDO Planned Development Overlay District - see P. & Z. Ch. 1147

#### 1155.01 PURPOSE.

A Planned Residential Development (PRD) may be conditionally permitted in an AA, A, B or MF-1 Residential District in accordance with the standards and regulations set forth in this chapter. These regulations are intended to encourage the use of Planned Residential Developments in order to achieve the following objectives:

- (a) To provide density incentives that will encourage new residential development.
- (b) To allow creativity, variety and flexibility in design as necessary to implement the various goals and objectives set forth in the City's Strategic Plan and this chapter, including the creation of new developments that are more sustainable and minimize negative impacts to the environment.
- (c) To encourage the development of housing types which are not generally found in Cleveland Heights such as cluster housing and townhouse developments.
- (d) To promote economical and efficient use of land through unified development.
- (e) To permit the application of modern planning techniques in the development of such residential areas.
- (f) To ensure that the proposed Planned Residential Development occurs in a unified manner in accordance with a development plan prepared by either the City or the property owner.

(Ord. 20-2012. Passed 5-21-12.)

#### 1155.02 APPROVAL CRITERIA.

A Planned Residential Development shall be approved by the Planning Commission as a conditional use. In addition to the general review criteria for conditional uses set forth in Chapter 1151, the Planning Commission shall review a proposed PRD giving particular consideration to the following:

- (a) Uses within the proposed PRD shall be located so as to reduce any adverse influences and to protect the residential character of areas both within and adjacent to the PRD;
- (b) Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land;
- (c) Significant buffer zones with adequate landscaping shall be provided between single family dwellings and multiple-family dwellings;
- (d) Roadway systems, service areas, parking areas, entrances, exits, and pedestrian walkways within the PRD shall be so designed as to have access to public, primary and secondary streets without creating traffic hazards or congestion;
- (e) The layout of parking areas, service areas, entrances, exits, yards, courts, landscaping, signs, lighting, noise or other adverse influences shall be designed and located to protect the residential character within and adjacent to the PRD;
- (f) All drainage systems and utilities shall be located underground.  
(Ord. 20-2012. Passed 5-21-12.)

#### 1155.03 PERMITTED USES.

As part of a Planned Residential Development, the uses and dwelling types permitted in each residential district are those denoted by the letter P below:

		<u>Zoning District</u>			
		<u>AA</u>	<u>A</u>	<u>B</u>	<u>MF-1</u>
(a)	Standard single-family subdivision	P	P	P	
(b)	Cluster single-family	P	P	P	
(c)	Two-family (attached side-by-side)	P	P	P	P
(d)	Townhouses		P	P	P
(e)	Apartments				P
(f)	Accessory recreational and community facilities for use by residents of PRD	P	P	P	P

(Ord. 20-2012. Passed 5-21-12.)

#### 1155.04 MINIMUM LAND AREA.

The gross area of a tract of land proposed to be developed in a PRD in the respective zoning districts shall be no less than the number of acres specified as follows:

- (a) Three (3) acres in an AA or A Single-Family Residential District.
- (b) Two (2) acres in a B Two-Family Residential District.
- (c) One and one-half (1.5) acres in an MF-1 Multiple Family Residential District.  
(Ord. 20-2012. Passed 5-21-12.)

**1155.05 DEVELOPMENT STANDARDS.**

A PRD approved as a conditional use shall comply with the purpose and approval criteria in Sections 1155.01 and 1155.02 and may vary from the standard requirements of the district as follows:

- (a) Maximum Density. The maximum density of a PRD in a particular zoning district shall be:
  - (1) 3.2 dwelling units per acre in an AA District;
  - (2) 6.7 dwelling units per acre in an A District;
  - (3) 8.4 dwelling units per acre in a B District;
  - (4) 14.9 dwelling units per acre in an MF-1 District.The total number of units permitted shall be calculated by multiplying the total land area, exclusive of public streets existing at the time the plan is submitted, by the maximum density allowable per acre.
- (b) Yard Requirements. The front, side and rear yard requirements may be varied to accommodate a variety of structural patterns, clustering designs, and housing types, provided that for projects adjacent to substantially developed single-family neighborhoods, buildings located within fifty (50) feet of such single-family property shall maintain the established building line of the adjacent property.
- (c) Height Regulations. The height of buildings and structures in the AA, A and B Districts shall not exceed the height limits specified in the respective district regulations. In the MF-1 District, buildings and structures shall not exceed thirty-five (35) feet in height.
- (d) Additional Standards. Additional site specific development requirements formulated to achieve the objectives of this chapter shall be established at the time the conditional use request and Development Plan are reviewed. Any dimensional specifications adopted with such plan become binding land use requirements for the PRD and shall supersede those contained in the district regulations.  
(Ord. 20-2012. Passed 5-21-12.)

**1155.06 PROCEDURES.**

The procedures for the approval of a PRD shall comply with the administrative provisions set forth in Sections 1115.08 and 1115.09, including the submission of a Development Plan. It is suggested that the applicant with preliminary sketches confer informally with the Planning Commission regarding basic concepts of the proposed PRD, prior to submitting the formal Development Plan pursuant to Section 1115.09.  
(Ord. 20-2012. Passed 5-21-12.)

**1155.07 PHASING.**

If the development is to be implemented in phases, each phase must have adequate provision for access, parking, storm water management and other public improvements to serve the development in accordance with the applicable criteria set forth. Where the overall development of an entire PRD site will require more than twenty-four (24) months to complete, such developments shall be required to be phased. Each phase shall be provided with temporary or permanent transitional features, buffers, or protective areas in order to prevent damage to completed phases, to future phases, and to adjoining property.  
(Ord. 20-2012. Passed 5-21-12.)



**1155.08 BOND OR ESCROW AGREEMENT.**

As a prerequisite to the issuance of a conditional use permit under this chapter for any project involving new construction on a one and one-half (1.5) acre parcel or larger, the applicant shall file with the Planning Commission within ten (10) days after approval of the Development Plan a surety bond or escrow agreement to insure the construction of the project within the period specified in Section 1115.08 or as extended or changed by the Planning Commission. The bond or escrow shall be enforceable by or payable to the City in a sum at least equal to the estimated costs of all of the site improvements (streets, drives, walks, walls, storm and sanitary sewers, landscape planting, ornamental features not on a building, and terraces, but not buildings) for the entire project. The bond or escrow shall be in a form and with surety and conditions approved by the Director of Law. In the event of default under such bond or escrow, the City may use the sum defaulted to construct such site improvements to the extent of the funds available. (Ord. 20-2012. Passed 5-21-12.)

**LETTER OF INTENT**

This Letter of Intent is entered into by and between the City of Cleveland Heights and Kertes Enterprises, Inc. (the "Parties") this 18 day of December, 2013.

WHEREAS, the City owns vacant property on the southwest corner of Cedar Road and Coventry Road (the "Property") in Cleveland Heights.

WHEREAS, in April 2013 the City published a request for proposal for development of the Property.

WHEREAS, Kertes is interested in purchasing and developing the property as set forth in its response to the request for proposal, a copy of which is attached hereto and incorporated herein.

WHEREAS, the City Council and Kertes are interested in entering into a nonbinding Letter of Intent to move toward sale and development of the Property in the manner depicted in the Kertes's proposal (the "Project"); however, the proposal submitted by Kertes would require significant variances from provisions of the City's current Zoning Code governing the Property and would require subdivision approval.

WHEREAS, both the City and Kertes are reluctant to incur the expenses which would be involved in entering into a development agreement until it is known whether the required variances and subdivision approval will be obtained.

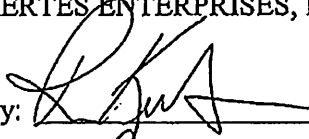
NOW, THEREFORE, the City and Kertes agree to the following terms and conditions in order to move forward with the proposed Project:

1. Within sixty (60) days of the date this Letter of Intent is approved by the Parties, Kertes will make application to the both City's Planning Commission and the City's Board of Zoning Appeals for approval of necessary variances and for subdivision approval required for the Project. The applications shall be in form and contain such information as is determined by the City Planning Director to be necessary for submission of the applications to the Board of Zoning Appeals and the Planning Commission.
2. In the event the requested variances and subdivision approval are obtained from the Board of Zoning Appeals and the Planning Commission, the Parties agree to negotiate in good faith the terms of a development agreement for development of the Property which agreement would include the following terms:
  - (a) Kertes would pay the City for the Property an amount based upon the Property's appraised value but taking into consideration the estimated Project costs.
  - (b) There would be a due diligence period of 180 days during which Kertes would prepare detailed conceptual plans for the City's review and approval and Kertes would obtain Project cost estimates which would be shared with the City.
  - (c) Contingent upon Community Reinvestment Area approval from the Ohio Development Services Agency, the City would grant reasonable tax abatement for the residential units based upon the estimated Project costs and expected market conditions. Upon current information, it is anticipated that tax abatement would be 100% for five (5) years.

(d) There would be no financing contingency.

This document is only a "Letter of Intent" which is nonbinding and outlines the Parties desire to negotiate a "Development and Purchase Agreement" that will supersede this document and will be binding upon the execution thereof.


KERTES ENTERPRISES, INC.

By:  \_\_\_\_\_

Its: 119 \_\_\_\_\_

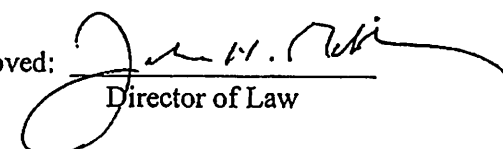
Date: 12/23/12 \_\_\_\_\_

CITY OF CLEVELAND HEIGHTS, OHIO

By:  \_\_\_\_\_

Its: Tanisha R. Briley  
City Manager \_\_\_\_\_

Date: 12/20/2013 \_\_\_\_\_

Approved:  \_\_\_\_\_

Director of Law

## CEDAR-COVENTRY TOWNHOMES

Number of Units:	4
Square Footage per Unit:	3447
Number of Bedrooms per Unit:	3
Amenities per Unit:	<ul style="list-style-type: none"><li>- Master bedroom includes mezzanine loft and roof deck access</li><li>- 305 SF Bonus Room on Lower Level</li><li>- 2 car garage</li><li>- Porch and walk-up entry at main living level and balcony at master bedroom</li></ul>

### Sustainable Design Features:

#### Site

- Walkable Neighborhood, approximately ½ mile to Coventry and Cedar-Lee shopping/entertainment district, parks, and public transportation access
- Erosion controls to be utilized during construction
- Drought-tolerant landscaping and no permanent irrigation system
- Permeable paving in driveways
- Light-colored, high-albedo materials for sidewalks and patios
- Permanent stormwater controls to manage runoff from home
- Nontoxic pest controls (all exterior wood at least 12" above soil, external joints sealed with caulking and pest-proof screens, landscaping 24" from home minimal)

#### Water

- Graywater system for water closets
- Low flow lavatories and water closets

#### Energy

- Geothermal heating
- Radiant floors
- Energy Star Appliances
- Meet ASHRAE standards for exhaust, air ventilation

#### Materials

- Light-colored, high-albedo roofing
- Regionally sourced wood cladding, Hardie board, and concrete
- Energy Efficient Windows
- Low VOC materials for interior finishes