

**ZONING ORDINANCE NO: 2020-14**

**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 HENSLEY RD NW PROPERTY "PUD 22" ON PROPERTY DESCRIBED AS TAX MAP 41 PARCEL 55.01, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 22; 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 22" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 22 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 22 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 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 22, Hensley Rd Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning, includes property generally identified as Tax Map 41 Parcels 55.01. Exhibit C illustrates the overall Hensley Rd 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 Hensley Rd Development. The project consists of a mixture of detached single-family homes on small lots and attached single-family dwellings in multi-unit townhome structures. The attached multi-unit townhome units may constitute no more than 20 percent of the overall units within the greater development. Exhibit C shows the general location of proposed infrastructure and common areas. In terms of total allowable density, the project shall not exceeding one unit per 4000 square feet for lots containing single-family detached homes; two units per 7500 square feet on lots containing two-unit structures; and three units per 10,000 square feet on lots containing three-unit structures. The developer shall include common open space designed within the development, including any permanent retention or detention pond areas or landscaped common area.

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

The PUD 22 Subdivision allows for the construction of up to 125 dwelling units in detached single family houses and multi-unit townhome structures with up to four dwelling units per building. Streets, sidewalks, drainage structures, fire hydrants, utilities, and the like are allowed. Residential amenities such as a community pool, clubhouse, etc. are allowed in the event that the developer wishes to amend the conceptual plan through the Cleveland Municipal Planning Commission. Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 22 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 Hensley Rd NW development will comport with the descriptions of the constituent parts of the development which are conceptually described within Exhibit C unless modified by agreement of the Cleveland Municipal Planning Commission. Home occupations permitted in Cleveland's zoning ordinance are allowed unless prohibited by the Developer. There are no conditional uses within the PUD 22 district. Uses other than those described as permitted or allowed herein are prohibited.

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

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

A conceptual plan (Exhibit C) for PUD22, The Hensley Rd Development was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on March 17, 2020. 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 PUD22 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. Plats for any multi-family residential units must be reviewed by the Planning Commission however any modification may not increase the total number of dwelling units beyond 125 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 Hensley Rd NW development may ultimately reflect some alteration in the conceptual plan such as the exact location of each specific residential development typology within the 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 and traffic improvements, buffers with external properties, etc.).

All streets within the PUD22 Hensley Rd NW development shall be constructed with adequate ROW to accommodate the installation of sidewalks which shall be installed at the expense of the developer. Existing Right of Way along Hensley Rd is narrow adjacent to PUD 22 and the intention is that the Hensley Rd ROW be at least 50 feet in width; therefore the developer grants additional ROW to the City of Cleveland such that the ROW is at least 25 feet from the existing center line of Hensley Rd along the entire property so as to make room for future city improvements to the Hensley Rd roadway including sidewalks. Exhibit A shall be modified to reflect the additional ROW along Hensley Rd.

### **6.B. PLATS.**

One or more plats will be prepared for the PUD22 property by the Developer for approval in accordance with the City of Cleveland, Tennessee subdivision regulations. These plats will describe and dedicate public streets any other public properties; identify lots; and identify easements that are necessary for various purposes within the development such as utilities, access, maintenance, and conservation, etc. These plats shall be consistent in general layout with the conceptual site plan.

## **6.C. PRIVATE DEVELOPMENT DOCUMENTS.**

The Developer shall prepare and implement such master covenants, restrictions, condominium association documents, common area agreements, and the like which the Developer determines are necessary to carry out the development of PUD 22 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 22 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 PUD22 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 R2 zone, from the City of Cleveland's zoning regulations.

For residential areas units of identical elevation types must be separated by at least two different elevations. This will result in at least three different elevation plans per cluster. No two adjacent structures shall be built with the same building size or orientation (reverse elevations do not count as different building elevations), facade, materials, or colors. Residential areas must also 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. The front façade of all structures shall contain a minimum of at least 50% of either brick or stone materials. No blank walls along street elevations are allowed. A two inch caliper hardwood shade tree which is determined acceptable to the City's Urban Forester shall be installed within each front yard area.

All lots shall be serviced by sidewalks within the subdivision. Sidewalks should be illustrated on all plats and site plans for review by city staff and any required for review by the Cleveland Municipal Planning Commission.

A monument style ground sign shall be installed at all entrances to the site. A landscaped berm no smaller than 8' in height shall be installed along Hensley Rd to provide privacy and to maintain a high-quality appearance. Open space shall be maintained at proportion no less than 15% of the total buildable area. A playground or other community area determined acceptable to the Planning Commission shall be provided by the developer once 75% the buildable lots in the development are established or under construction. All common areas, facilities and landscaping shall be kept in good repair by the developer, future owners or an established homeowners association.

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 Setbacks

The minimum setbacks and lot width requirements single-family detached home sites is 46 feet (townhome sites shall comply with existing city townhome regulations for lot width), front setback requirements are 20 feet, side setback requirements are 5 feet, and rear setbacks shall be no less than 15' from the property line. Individual site plans are required for all single-family residential structures in the development prior to construction and corners must be pinned by a surveyor at the foundation stage; townhome must follow the City's established process requiring a site plan for construction and a final plat subsequent to construction. Storage sheds and similar accessory structures, if allowed by the Developer 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 developer are to maintain the required setbacks for the primary structure. Open patios and decks, if allowed by the Developer, may extend to within 10 feet of a rear property line or a lesser distance if required by the developer. 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. The development standards for the R2 Low Density Single and Multi-family Residential Zoning District shall apply for any standards this ordinance does not address.

### **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 PUD22 Hensley Rd 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 PUD22, 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 C 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 PUD22 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 CTP Properties of Chattanooga, TN 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.

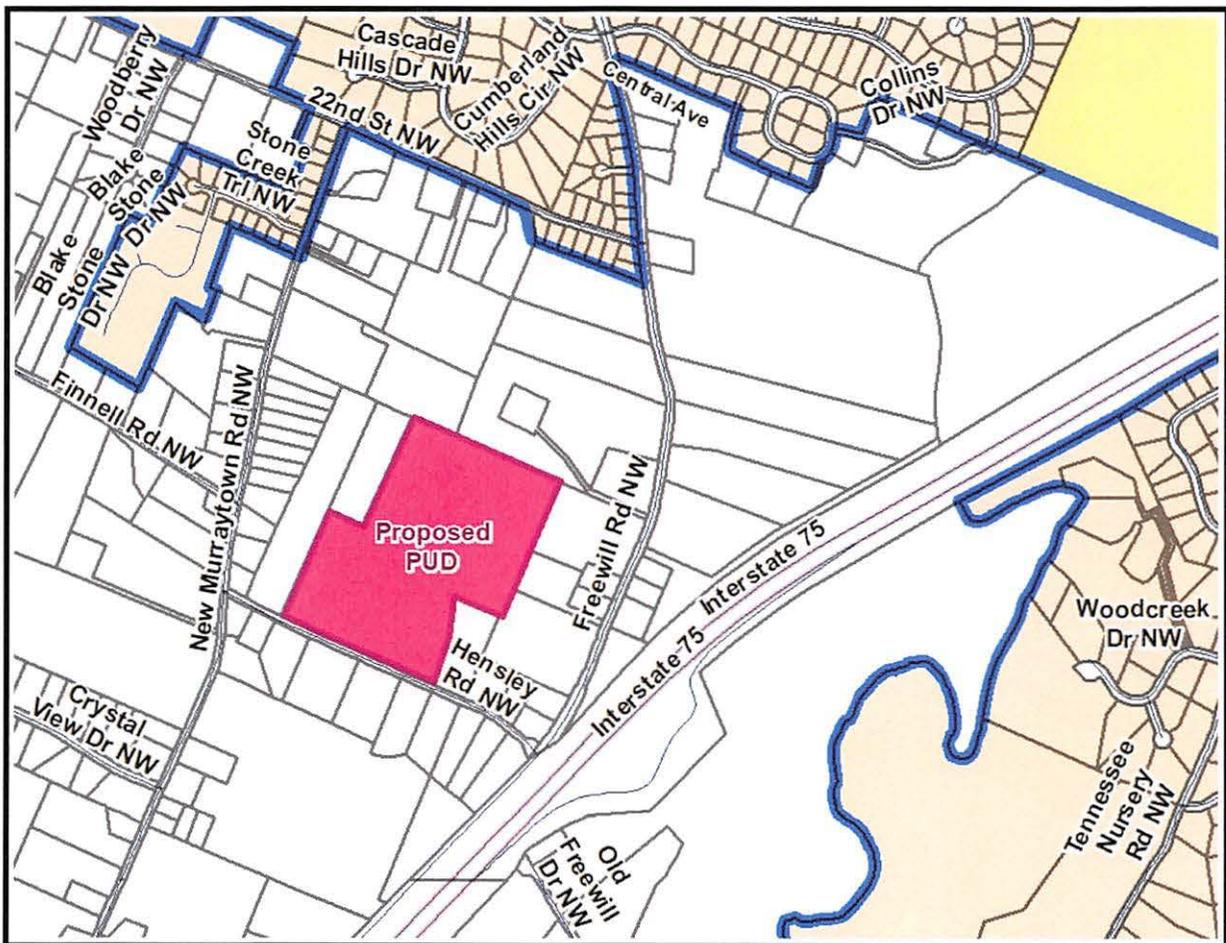
APPROVED AS TO FORM:

John F. Kimball, City Attorney

Kevin Brooks, Mayor

Shawn McKay, City Clerk

Exhibit A



## Exhibit B

### Legal Description

Beginning at the southeast corner of the lands of Greer, as recorded in the BCROD deed book 1323 page 240, said point lying in the northern ROW of Hensley Rd; thence in a south easterly direction with the northern ROW of Hensley Rd 906.5 feet, more or less, to an iron pin located at the southwest corner of lot 1 of the Garner Hensley Road Property Plat, as recorded in BCROD plat book 37 page 5; thence north 16 degrees 0 minutes 14 seconds east, 260.82 feet to an iron pin; thence north 12 degrees 23 minutes 5 seconds east, 200.97 feet to an iron pin; thence south 65 degrees 23 minutes 37 seconds east, 279.06 feet to an iron pin; thence in a northerly direction with the western lines Mooneyham (Book 2407 page 808), Mooneyham (book 2704 page 806), and Bebb ( book 1490 page 513) 843 feet, more or less, to the northwest corner of the lands of Bebb; thence in a northwesterly direction with the southern line of the lands of Tinsely (book 2286 page 795) and Smith (book 2390 page 71), 873 feet, more or less, to the north east corner of the lands of Greer; thence with the lands of Greer in a southerly direction 670.14 feet to a point; thence in a westerly direction with the lands of Greer 217 feet to a point; thence in a southerly direction with the lands of Greer 669.7 feet to the point of beginning.

## Exhibit C

### Conceptual Plan

#### LEGEND:

40'	40 FOOT WIDE LOTS	- 32
50'	50 FOOT WIDE LOTS	- 60
60'	60 FOOT WIDE LOTS	- 27
	TOTAL LOT COUNT	- 119

#### SETBACK REQUIREMENTS:

- FRONT YARD: 25'
- SIDE YARD: 10'
- REAR YARD: 15'

