

**ZONING ORDINANCE 2025-08**

**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 HARDWICK FARMS WESTSIDE "PUD 40" ON PROPERTY DESCRIBED AS TAX MAP 034 PARCEL 055.00 AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 40; 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 40" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD40 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD40 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 40, Hardwick Farms Westside Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning), includes property generally identified as follows:

Tax Map 034 Parcel 055.00

Exhibit C illustrates the overall Hardwick Farms Westside 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 Hardwick Farms Westside PUD. The project will provide up to 180 units of new housing in a mix of sizes and unit types including detached single-family homes and attached single-family townhomes. The attached townhome units will constitute no more than 20% percent of the allowable 180 allowable units or no more than 36 townhome units. Exhibit C depicts a likely distribution of unit types, location of proposed infrastructure and common areas. In terms of total allowable density across the site, the project shall not exceed 3.0 units per acre. The developer shall include common open space which may include uses such as a neighborhood parks, playgrounds, pools, tennis courts, and walking trails. Developers shall also include permanent retention or detention pond areas, and landscaped entrance and common areas. The typical street section will include sidewalks and landscaped area with street trees.

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

The PUD 40 Subdivision allows for the construction of up to 180 dwelling units in detached single-family houses and single family attached townhome structures.

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 an approved plan.

Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 40 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 Hardwick Farms Westside PUD 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 Developer covenants and restrictions. The proposed commercial uses on the portion of the property currently zoned Commercial Highway (CH) within the City of Cleveland as depicted on Exhibit B with the exception of the following uses: Gasoline sales and service, vehicle sales, rental, service, and repair of new or used automobiles, boats, buses, farm equipment, motorcycles, trucks, recreational vehicles, and mobile homes, flea markets, mini-warehouse facilities/climate-controlled storage or any conditional uses listed. Uses other than those described as permitted or allowed herein are prohibited. Billboards are prohibited.

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

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

A conceptual plan (Exhibit C) for PUD40, The Hardwick Farms Westside PUD, was prepared for submission to the Cleveland Municipal Planning Commission for consideration in the regular meeting on September 20th, 2022. A revision was provided and brought to the Planning Commission for review on 1/21/2025 to include an additional access point on Sequia Drive and a proposed commercial development area. 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 40 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 180 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 Hardwick Farms Westside 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 within the PUD 40 Hardwick Farms Westside development shall be constructed with adequate ROW 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. Where existing Right of Way along Sequoia Road is narrow adjacent to PUD 40 and the intention is that it 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 along the entire property.

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

One or more plats will be prepared for the PUD40 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 40 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 40 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 40 shall be those established in this ordinance. Where development standards are not otherwise included in this ordinance, the standards shall be those in the R1 zone, from the City of Cleveland's zoning regulations.

For Single Family Detached residential areas units of identical elevation types must be separated by at least two different front 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 style (reverse elevations do not count as different building elevations), facade, materials, or colors. All 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 average of at least 50% of either brick or stone materials as calculated throughout the development. Vinyl Siding, other than accents such as soffits and fascia, are prohibited. All foundations must be made of brick or stone. No blank walls along street elevations are allowed. Repair to the roof of any townhome with a common roofline of any adjoining unit must be addressed within the private covenant restrictions.

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. For

Townhomes the tree shall be placed in between each structure. The driveways and parking areas for each Townhome shall be separated by a minimum of 2.5-foot planted landscape strip, therefore allowing for placement of trees or other landscaping. Green infrastructure techniques, such as rain gardens and permeable soils or pavements should be introduced throughout the development in effort to minimize stormwater runoff and improve water quality.

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. Sidewalks shall also be constructed along the Sequoia Drive and North Lee Highway at the developer's expense. A walking trail shall connect throughout the subdivision to each potential phase as it develops and can be included and connected to the Mouse Creek Greenway System as further improvements have been made outside the scope of this development. The proposed Greenway along the northern property line/flood zone areas are to be deeded in easement or fee simple to the City for eventual connection to the overall Greenway System. Other site amenities such as a pool, tennis court, playground, pocket parks, as well as open

spaces can be added for the benefit of the development. These uses will be finalized as the neighborhood develops depending on current conditions. The developer shall deed property at the corner of North Lee Highway and Sequoia Drive for a future right-turn-lane and will contribute to the traffic light at that intersection.

A monument style ground sign shall be installed at all of the primary entrance(s) to the site. A landscaped berm no smaller than 2.5' in height shall be installed along the Sequoia Drive to provide privacy and maintain a quality appearance. The berm shall be landscaped with a mix of Trees and shrubs.

The existing Tree's planted within the State ROW may remain in place. Open space shall be maintained at proportion no less than 20% of the total buildable area. Site amenities, to be determined as the neighborhood develops, shall be provided by the developer once 50% 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 homeowner's association. Once established, the Homeowners Association shall enforce a no overnight parking within the Rights-of-way for emergency services access.

Centralized cluster mailbox units shall be provided, if required by the United States Postal service, and shall include a minimum of 4 off-street parking spaces. These may be combined with site amenities as provided. A school bus shelter must be constructed at each potential pick up spot in coordination with Cleveland City Schools. 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.

Each lot must provide a minimum of 3 off-street parking spaces, therefore reducing on-street parking and traffic congestion.

The minimum lot width requirements for single-family detached home sites are 55 feet for up to 75% of the overall development. The remaining 25% of single- Family Homes shall have a minimum lot width of 46 feet. Townhome sites shall comply with existing city townhome regulations for lot width. The front setback requirements are 25 feet, side setback requirements are 3' on one side and 10' on the remaining side. Each 3' side setback must be joined by a 10' setback on the adjoining lot., and rear setbacks shall be no less than 15' from the property line. Site specific 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. Townhomes must follow the City's established process requiring a site plan for construction and a final plat after 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. Retaining walls as needed for the grading of building pads are required to maintain a 5' setback on property lines. Walls greater than four feet in height must be reviewed and approved by the City of Cleveland Director of Development and Engineering Services prior to the issuance of a building permit. 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 PUD 40 Hardwick Farms Westside 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 the requirements of this ordinance is unlawful and shall be deemed a violation of the City's zoning ordinance and a nuisance subject to the penalties described in the zoning ordinance and any increased fine as may be allowed by state law.

#### **Section 9. ERRORS, OMISSIONS, AND POSSIBLE FUTURE REVISIONS TO THE PUD.**

This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Where this ordinance contemplates the future approval of a site plan or the future approval of a plat by the Cleveland Municipal Planning Commission, and where this ordinance contemplates the future refinement of plans to conform with permitting requirements or conditions of approval necessitated by staff review, and where the Developer and the City of Cleveland may enter into future agreements regarding possible public facilities, infrastructure, and/or services within PUD 40, 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 PUD 40 zoning district and is binding upon City's regulation of these activities in this location.

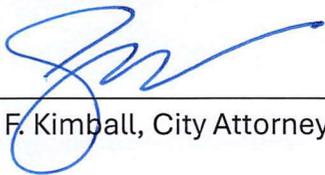
Moreover, it shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance. Wherever this ordinance establishes a duty, responsibility, or right for the Developer, the term "Developer" is intended to encompass Maverick Development or

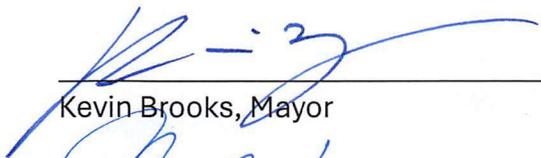
any heirs, assigns, or successors in title, or any owners of record of the subject property as of the effective date of this ordinance and their heirs, assigns, or successors in title. The term "Developer" is also intended to include any holding company or other entity established for the ongoing operation 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.

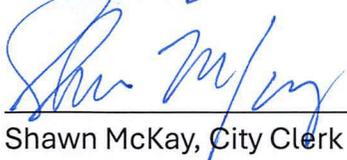
**Section 11. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.**

Where this ordinance conflicts 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, public convenience and necessity requiring it.

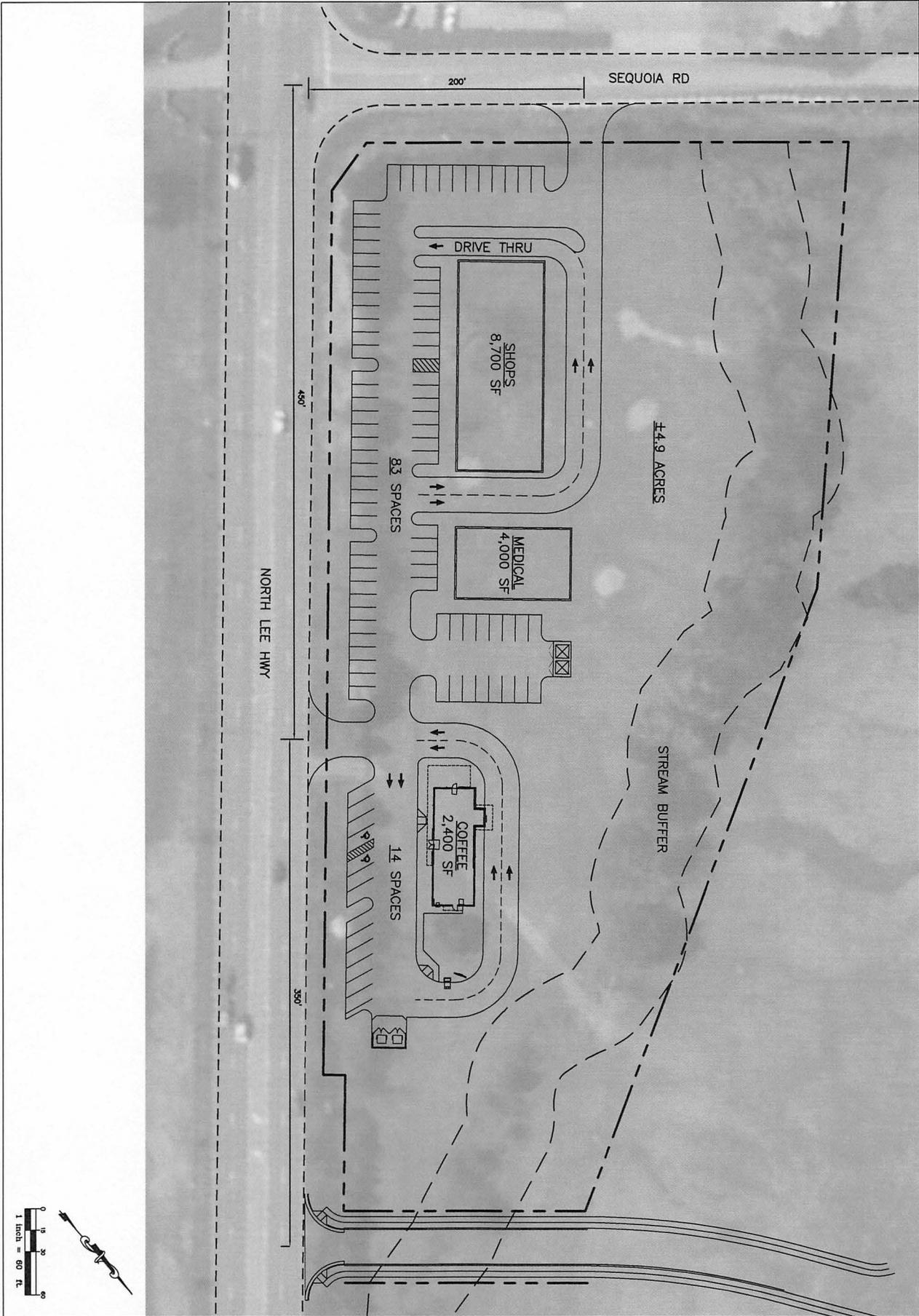
APPROVED AS TO FORM:

  
\_\_\_\_\_  
John F. Kimball, City Attorney

  
\_\_\_\_\_  
Kevin Brooks, Mayor

  
\_\_\_\_\_  
Shawn McKay, City Clerk





SHEET NAME:  
 SP-1  
 CONCEPTUAL SITE PLAN

DATE: 10/14/2024

PROJECT:  
**COMMERCIAL DEVELOPMENT**  
 N LEE HWY & SEQUOIA RD  
 CLEVELAND, TN

44.9 ACRES

**BERRY**  
 ENGINEERS LLC

63 BROAD ST NW  
 CLEVELAND, TN 37311  
 423-790-5880

**ZONING ORDINANCE 2022-40**

**AN ORDINANCE OF THE OF THE CITY OF CLEVELAND, TENNESSEE AMENDING THE CLEVELAND MUNICIPAL CODE TITLE 14 CHAPTER 2 SO AS TO ESTABLISHA PLANNED UNIT DEVELOPMENT (PUD) TO BE KNOWN AS HARDWICK FARMS WESTSIDE "PUD 40" ON PROPERTY DESCRIBED AS TAX MAP 034 PARCEL 055.00 AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT; AMENDING THE ZONING PLAN AND ZONING MAP FOR PUD 40; 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 40" subject to the provisions described in each section of this ordinance. The permitted uses in the PUD 40 zoning district are those uses outlined in Section 5 of this ordinance. The development standards for the PUD 40 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 40, Hardwick Farms Westside Development (name may be revised during the platting process with approval of the Cleveland Municipal Planning), includes property generally identified as follows:

Tax Map 034 Parcel 055.00

Exhibit C illustrates the overall Hardwick Farms Westside Conceptual Plan for the subject property.

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This section is intended to provide a general description of the Hardwick Farms Westside PUD. The project will provide up to 180 units of new housing in a mix of sizes and unit types including detached single-family homes and attached single-family townhomes. The attached townhome units will constitute no more than 20% percent of the allowable 190 allowable units or no more than 36 townhome units. Exhibit C depicts a likely distribution of unit types, location of proposed infrastructure and common areas. In terms of total allowable density across the site, the project shall not exceed 3.0 units per acre. The developer shall include common open space which may include uses such as a neighborhood parks, playgrounds, pools, tennis courts, and walking trails. Developers shall also include permanent retention or detention pond areas, and landscaped entrance and common areas. The typical street section will include sidewalks and landscaped area with street trees.

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Nothing herein should be construed as prohibiting the Developer from making further refinements to the development plan of PUD 40 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 Hardwick Farms Westside PUD 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 Developer covenants and restrictions. The developer reserves the right to propose commercial uses on the portion of the property currently zoned Commercial Highway (CH) within the City of Cleveland as depicted

on Exhibit B with the exception of the following uses: Gasoline sales and service, vehicle sales, rental, service, and repair of new or used automobiles, boats, buses, farm equipment, motorcycles, trucks, recreational vehicles, and mobile homes, flea markets, mini-warehouse facilities or any conditional uses listed. Uses other than those described as permitted or allowed herein are prohibited. Billboards are prohibited.

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

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

One or more plats will be prepared for the PUD40 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 40 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 40 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 40 shall be those established in this ordinance. Where development standards are not otherwise included in this ordinance, the standards shall be those in the R1 zone, from the City of Cleveland's zoning regulations.

For Single Family Detached residential areas units of identical elevation types must be separated by at least two different front 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 style (reverse elevations do not count as different building elevations), facade, materials, or colors. All 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 average of at least 50% of either brick or stone materials as calculated throughout the development. Vinyl Siding, other than accents such as soffits and fascia, are prohibited. All foundations must be made of brick or stone. No blank walls along street elevations are allowed. Repair to the roof of any townhome with a common roofline of any adjoining unit must be addressed within the private covenant restrictions.

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. For Townhomes the tree shall be placed in between each structure. The driveways and parking areas for each Townhome shall be separated by a minimum of 2.5-foot planted landscape strip, therefore allowing for placement of trees or other landscaping. Green infrastructure techniques, such as rain gardens and permeable soils or pavements should be introduced throughout the development in effort to minimize stormwater runoff and improve water quality.

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. Sidewalks shall also be constructed along the Sequoia Drive and North Lee Highway at the developer's expense. A walking trail shall connect throughout the subdivision to each potential phase as it develops and can be included and connected to the Mouse Creek Greenway System as further improvements have been made outside the scope of this development. The proposed Greenway along the northern property line/flood zone areas are to be deeded to the City for eventual connection to the overall Greenway System. Other site amenities such as a pool, tennis court, playground, pocket parks, as well as open spaces can be added for the benefit of the development. These uses will be finalized as the neighborhood develops depending on current conditions.

A monument style ground sign shall be installed at all of the primary entrance(s) to the site. A landscaped berm no smaller than 2.5' in height shall be installed along the Sequoia Drive to provide privacy and maintain a quality appearance. The berm shall be landscaped with a mix of Trees and shrubs. The existing Tree's planted within the State ROW may remain in place. Open space shall be maintained at proportion no less than 20% of the total buildable area. Site amenities, to be determined as the neighborhood develops, shall be provided by the developer once 50% 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 homeowner's association. Once established, the Homeowners Association shall enforce a no overnight parking within the Rights-of-way for emergency services access.

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Each lot must provide a minimum of 3 off-street parking spaces, therefore reducing on-street parking and traffic congestion.

The minimum lot width requirements for single-family detached home sites are 55 feet for up to 75% of the overall development. The remaining 25% of single-Family Homes shall have a minimum lot width of 46 feet. Townhome sites shall comply with existing city townhome regulations for lot width. The front setback requirements are 25 feet, side setback requirements are 3' on one side and 10' on the remaining side. Each 3' side setback must be joined by a 10' setback on the adjoining lot., and rear setbacks shall be no less than 15' from the property line. Site specific 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. Townhomes must follow the City's established process requiring a site plan for construction and a final plat after 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.

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### **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 40 Hardwick Farms Westside 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

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 THEPUD.**

This ordinance may be amended from time to time as necessary after review by the Planning Commission and approval by the City Council subsequent to a public hearing. Where this ordinance contemplates the future approval of a site plan or the future approval of a plat by the Cleveland Municipal Planning Commission, and where this ordinance contemplates the future refinement of plans to conform with permitting requirements or conditions of approval necessitated by staff review, and where the Developer and the City of Cleveland may enter into future agreements regarding possible public facilities, infrastructure, and/or services within PUD 40, 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 PUD 40 zoning district and is binding upon City's regulation of these activities in this location.

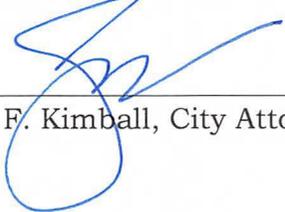
Moreover, it shall be the duty of the Developer to ensure compliance with all terms of this ordinance affecting construction or maintenance. Wherever this ordinance establishes a duty, responsibility, or right for the Developer, the term "Developer" is intended to encompass Maverick Development or any 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.

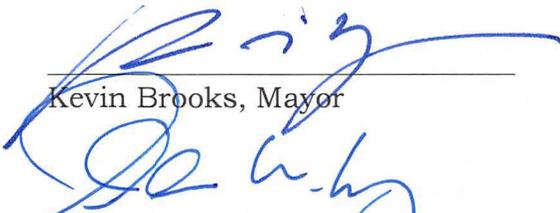
**Section 11. CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.**

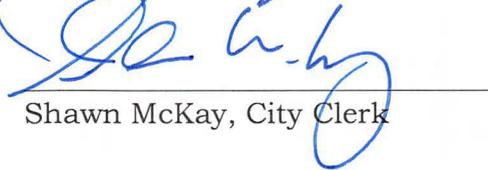
Where this ordinance conflicts with existing ordinances with respect to the development of this property the terms of this ordinance shall prevail unless stated otherwise herein. In the event that any portion of this ordinance is determined to be invalid by any court of competent jurisdiction, the remaining 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 this 14<sup>th</sup> day of Nov., 2022.

APPROVED AS TO FORM:

  
\_\_\_\_\_  
John F. Kimball, City Attorney

  
\_\_\_\_\_  
Kevin Brooks, Mayor

  
\_\_\_\_\_  
Shawn McKay, City Clerk

**Exhibit "B" Site Location**



