

# **USE ON REVIEW REPORT**

► FILE #: 12-B-20-UR														AG	<b>BEN</b>	IDA	IT	ΈN	/ #:			19
POSTPONEMENT(S):	12/10/2	12/10/2020 AGENDA DATE: 2/11/2						/202 <sup>·</sup>														
APPLICANT:	HUBER PROPERTIES, LLC - CLEAR WATER PARTNERS, LLC																					
OWNER(S):	John H	uber																				
TAX ID NUMBER:	144 02	2016 & 02	200	09	)9													Vie	w m	nap	on	KGI
JURISDICTION:	County	Commiss	sio	n	n [	Dis	tric	t 5														
STREET ADDRESS:	0 Emor	y Church	R	d.	1.																	
► LOCATION:	Southy Dr.	est of E	Emo	01	ory	/ C	hur	ch	Ro	d.,	Ea	sts	sid	e of	i I-1	40,	N	ort	h of	We	stla	nd
APPX. SIZE OF TRACT:	24.29 a	cres																				
SECTOR PLAN:	Southw	est Count	nty																			
GROWTH POLICY PLAN:	Planne	d Growth	Ar	re	ea																	
ACCESSIBILITY:	Access is via Emory Church Rd., a minor collector street with a 21' pavement width within a 50' right-of-way.																					
UTILITIES:	Water	Source:	F	Fi	ir	st k	(no	хL	Jtilit	ty [	Dis	trict	t									
	Sewer	Source:	F	Fi	ir	st k	(no	хL	Jtilit	ty [	Dis	tric	t									
WATERSHED:	Tennes	see River	er																			
► ZONING:	PR (Pla	inned Re	esi	id	de	nti	al)	(k)	/ F	- (F	lo	odv	vay	')								
EXISTING LAND USE:	Vacant																					
PROPOSED USE:	Multi-d	welling d	dev	ve	/el	ор	me	nt														
	4.68 du	/ac																				
HISTORY OF ZONING:	The pro	perty was	is r	e	ЭΖ(	one	ed f	ron	n A	to	) Pl	R <	5 c	lu/a	IC W	/ith	3 с	on	ditio	ns.		
SURROUNDING LAND	North:	Fort Lou	udo	οι	่งม	n L	ake	e, re	esio	der	nce	es /	F (	Floo	odw	/ay)	&	A (	Agri	cult	ural	)
USE AND ZONING:	South:	Assisted Neighbo					aci	lity	/ R	N-	6 (	Mu	lti-F	am	ily l	Res	side	enti	al			
	East:	Apartme (Agricult					al r	esi	ideı	ntia	al /	PR	(P	lan	ned	Re	sic	len	tial)	& A		
	West:	Pellissip Residen											ide	nce	es /	PR	(P	lan	ned			
NEIGHBORHOOD CONTEXT:	under t	ea has de ne PR & A N-1 zone	A z	zo																		

#### STAFF RECOMMENDATION:

- APPROVE the development plan for a multi-dwelling development with up to 96 apartment units and a reduction of the peripheral setback from 35 feet to 20 feet along the southwestern boundary and 30 feet along the southern boundary, as shown, subject to 11 conditions.
  - 1. Connection to sanitary sewer and meeting any other relevant requirements of the utility provider.

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2. Provision of street names which are consistent with the Uniform Street Naming and Addressing System within Knox County (County Ord. 91-1-102).

3. Meeting all applicable requirements of the Scenic Highway System Act under Tennessee Code Annotated (TCA), Section 54-17-115(a). See Exhibit A.

 Certifying that the required sight distance is available at the access to Emory Church Road and providing the documentation to Knox County Engineering and Public Works for review and approval during permitting.
 Installation of the landscaping shown on the development plan within 6 months of the issuance of an occupancy permit for this project, or posting a bond with the Knox County Dept. of Engineering and Public Works to guarantee its installation.

6. The sign for the development at the entrance shall meet the standards of the zoning ordinance.

7. Meeting all applicable requirements of the Knox County Fire Marshal's Office.

8. No other residential units are to be located on the subject site, including parcel 144-02016, until a Use on Review development plan is approved for such use. The referenced parcel is part of a plat recorded in 2016 (Lot 6 on the Final Plat for Melgaard Property) and is referenced as a buildable lot. This lot is zoned PR and has not been approved for a residential structure.

9. Providing a sidewalk on the eastern side of Emory Church Road from the entrance of the existing Westland Cove apartment complex to the southern property line of the subject lot, which aligns approximately with the southern lot line of parcel 144-02111.

10. Meeting all applicable requirements of Knox County Engineering and Public Works.

11. Meeting all applicable requirements of the Knox County Zoning Ordinance.

With the conditions noted, this plan meets the requirements for approval in the PR District and the other criteria for approval of a use on review.

#### COMMENTS:

This proposal is for a 96-unit apartment complex on the west side of Emory Church Road on a site with 18.455 acres above the 820 contour, which is the elevation of the TVA flowage easement for the Fort Loudoun Lake reservoir. The subject site has a total of 22.941 acres, including the area below the 820 contour, most of which is below the summer pool level for the lake. There are four 3-story buildings proposed in the southwest corner of this property, on top of the hillside that is adjacent to Pellissippi Parkway. The parkway is designated a scenic highway by the State Scenic Highway System Act of 1971, which limits the heights of buildings to 35 feet within 1000 feet of the scenic highway. The proposed buildings have a low profile shed roof and are less than 35 feet tall. The access to the site is from Emory Church Road and the required sight distance will need to be certified during permitting.

#### Background

The subject site is part of a larger 101+ acre area that was zoned PR < 5 du/ac in 2013 (9-A-13-RZ). A Use on Review (UOR) development plan for the PR zoned property was approved in 2013 for 312 apartment units and 3 detached residential lots (9-B-13-UR). There was also a marina proposed that was ultimately denied during the appeal process. The 3 residential lots have been platted and 240 apartment units have been constructed on the east side of Emory Church Road. The 2013 UOR approval had 72 apartment units in four 2-story buildings on the subject lot in the same general location as the current proposal. The main differences between the 2013 development plan for this site and the current proposal are each of the four buildings will be 3-stories tall instead of 2-stories, and the current plan has two buildings near the western (Pellissippi Pkwy) boundary line and the previous plan had the buildings further to the east on the site and parking lot near the western boundary.

#### Density

The PR (Planned Residential) zoning for this site allows up to 5 dwelling units per acre (du/ac). The proposed apartment complex will have a density of 5.2 du/ac on the subject site that has 18.455 buildable acres above the 820 contour, which is greater than the maximum of 5 du/ac permitted by the sector plan and the PR zoning. However, the density for the entire area zoned PR is 4.68 du/ac so the proposed development is still in compliance with the zoning and sector plan.

At the time of the rezoning and UOR approvals in 2013, the exact acreage of the properties was unknown, including the acreage above the TVA flowage easement at the 820 contour. Acreage below the 820 contour is considered unbuildable and is not used when calculating the maximum number of dwelling units. The 2013 UOR approval had a condition that stated, "Prior to the issuance of any building permit, providing a survey for the entire property that identifies the land area (with an acreage calculation) that is above the 820 contour. This

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survey will verify the land area that is available for density calculation." This survey was recorded at the Register of Deeds office in September 2016.

The development that has occurred on these properties to-date, including the apartment complex on the east side of Emory Church Road and the three house lots, are in compliance with the 2013 UOR approval.

#### Traffic Impact Study

The Westland Cove Traffic Impact Study (Ajax Engineering, September 2013) was prepared to address the impact of the proposed development on Emory Church Road. This study assumed the site would be developed with 356 apartment units and a 75 berth marina. The TIS specifically states that "it should be noted that the results ... for the apartments are shown with additional units as currently planned. This would allow for an additional apartment 28-unit building being planned and developed without having to update this report." The total number of dwelling units existing (243) and proposed (96) is 339 units, which is less than the 356 units in the TIS, excluding the assumed traffic for the marina that was not developed. Since the total number of requested units (339) will remain less than the total in the 2013 study (356), a new TIS was not required. The road improvements that were required as part of the 2013 UOR approval have already been completed, including improvements to the Emory Church Road and Westland Drive intersection which involved the acquisition of right-of-way and the installation of turn lanes and a traffic signal.

#### **Open Space**

The proposed apartment complex will have an amenity area that includes a clubhouse and outdoor space. The existing apartment complex on the east side of Emory Church Road has its own amenity area. There are 5.403 acres of platted conservation area on the subject site and 14.846 acres of platted conservation area on the east side of Emory Church Road. These conservation areas were part of the consideration to allow up to 5 dwelling units per acre since it is within the Hillside Protection area on the sector plan. These conservation areas were platted in 2016.

#### Peripheral Setback

The applicant is requesting a peripheral setback reduction from 35' to 20' along the southwestern boundary, which is along the Pellissippi Parkway frontage of the lot. This reduction is to allow the small structure for the dumpster to be located as proposed. The peripheral setback adjacent to the apartment buildings will remain 35' setback along this frontage. The request for a 30' peripheral setback is along a lot line that is shared with an assisted living facility. The proposed grading on the subject site will not extend to the edge of the property line, which is the highest point on the property, and will allow for some mature vegetation to remain between the two properties.

#### DEVELOPMENT STANDARDS FOR USES PERMITTED ON REVIEW (ARTICLE 4.10 - SECTION 2)

The planning commission, in the exercise of its administrative judgment, shall be guided by adopted plans and policies, including the general plan and the following general standards:

# 1) THE PROPOSED USE IS CONSISTENT WITH THE ADOPTED PLANS AND POLICIES, INCLUDING THE GENERAL PLAN AND SECTOR PLAN.

A. The Southwest County Sector Plan designates this property for low density residential uses with a maximum density of 5 du/ac. At a density of 4.68 du/ac for the overall development, the proposal is consistent with the sector plan.

B. The property is located in the Hillside Protection area on the sector plan. With the proposed conservation areas and other undisturbed areas, the development in conformance with the general recommendations of the Hillside and Ridgetop Protection Plan.

C. The site is located within the Planned Growth Area on the Knoxville-Knox County-Farragut Growth Policy Plan map.

# 2) THE USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ZONING ORDINANCE.

A. The PR (Planned Residential) zone is intended to provide optional methods of land development which encourage more imaginative solutions to environmental design problems. Residential areas thus established would be characterized by a unified building and site development program, open space for recreation and provision for commercial, religious, educational, and cultural facilities which are integrated with the total project by unified architectural and open space treatment. Each planned unit development shall be compatible with the

surrounding or adjacent zones. Such compatibility shall be determined by the planning commission by review of the development plans.

B. The proposed multi-family structures within this phase (phase 2) of the Westland Cove development do not have the same design characteristics as those that are constructed on the east side of Emory Church Road (phase 1). For instance, the proposed structures have a low slope, shed style roof and the existing structures in phase 1 have roofs with higher slopes and gables of varying size. A consistent architectural design is less important in this case though because the buildings in the two phases are not adjacent and not easily viewed together because of the change in topography and mature trees that are within conservation easements.
C. The PR (Planned Residential) zoning for this site allows up to 5 dwelling units per acre (du/ac). The proposed development will have a density of 5.2 du/ac on the 18.455 buildable acres on this site, however, the density for the entire area zoned PR is 4.68 du/ac so the overall development is still in compliance with the zoning.

3) THE USE IS COMPATIBLE WITH THE CHARACTER OF THE NEIGHBORHOOD WHERE IT IS PROPOSED, AND WITH THE SIZE AND LOCATION OF BUILDINGS IN THE VICINITY.

A. The multi-family development is compatible with the surrounding uses, which include an assisted living facility and church to the south, and phase 1 of this development and large lot single family houses to the east.
B. The parkway is designated a scenic highway by the State Scenic Highway System Act of 1971, which limits the heights of buildings to 35 feet within 1000 feet of the scenic highway. The proposed buildings have a low profile shed roof and are less than 35 feet tall.

4) THE USE WILL NOT SIGNIFICANTLY INJURE THE VALUE OF ADJACENT PROPERTY.

A. The adjacent property to the south contains an assisted living facility and is at the base of a hillside which they graded to construct their facility.

B. The two uses will be separated by the top of the ridgeline between them.

5) THE USE WILL NOT DRAW ADDITIONAL TRAFFIC THROUGH RESIDENTIAL AREAS.

A. This development has access to Emory Church Road which is a minor collector street.

6) THE NATURE OF DEVELOPMENT IN THE SURROUNDING AREA IS NOT SUCH AS TO POSE A POTENTIAL HAZARD TO THE PROPOSED USE OR TO CREATE AN UNDESIRABLE ENVIRONMENT FOR THE PROPOSED USE.

A. There are no known uses in the area that could be a potential hazard or create an undesirable environment for to the proposed residential uses.

ESTIMATED TRAFFIC IMPACT: A traffic impact study was prepared by the applicant. The findings of that study were used in formulating the recommendations of this staff report.

ESTIMATED STUDENT YIELD: 9 (public school children, grades K-12)

Schools affected by this proposal: A. L. Lotts Elementary, West Valley Middle, and Bearden High.

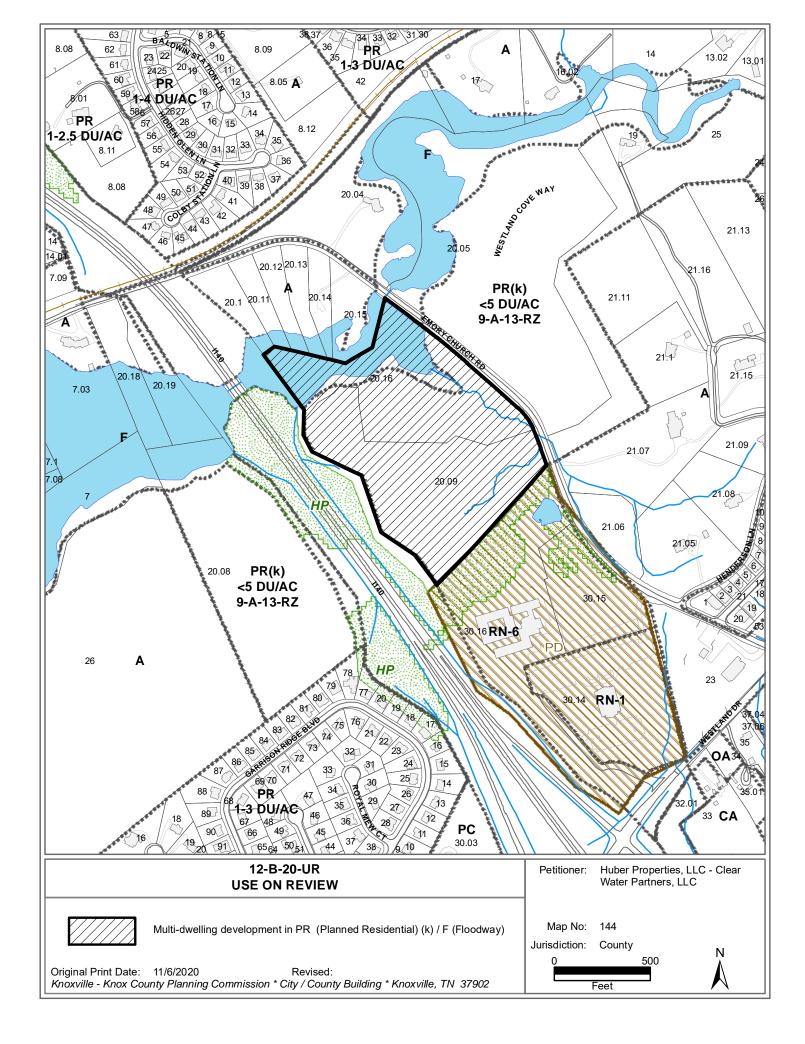
• Potential new school population is estimated using locally-derived data on public school student yield generated by new housing.

• Students are assigned to schools based on current attendance zones as determined by Knox County Schools. Students may request transfers to different zones, and zone boundaries are subject to change.

• Estimates presume full build-out of the proposed development. Build-out is subject to market forces, and timing varies widely from proposal to proposal.

• Student yields from new development do not reflect a net addition of children in schools. Additions occur incrementally over the build-out period. New students may replace current population that ages through the system or moves from the attendance zone.

The Planning Commission's approval or denial of this request is final, unless the action is appealed to the Knox County Board of Zoning Appeals. The date of the Knox County Board of Zoning Appeals hearing will depend on when the appeal application is filed. Appellants have 30 days to appeal a Planning Commission decision in the County.



12-B-20-UR 2/8/2021



2-8-21

Mr. Reynolds,

Please accept this letter as a request to postpone file number 12-B-20-UR until the Metropolitan Planning Commission meeting scheduled for March 11<sup>th</sup>, 2021.

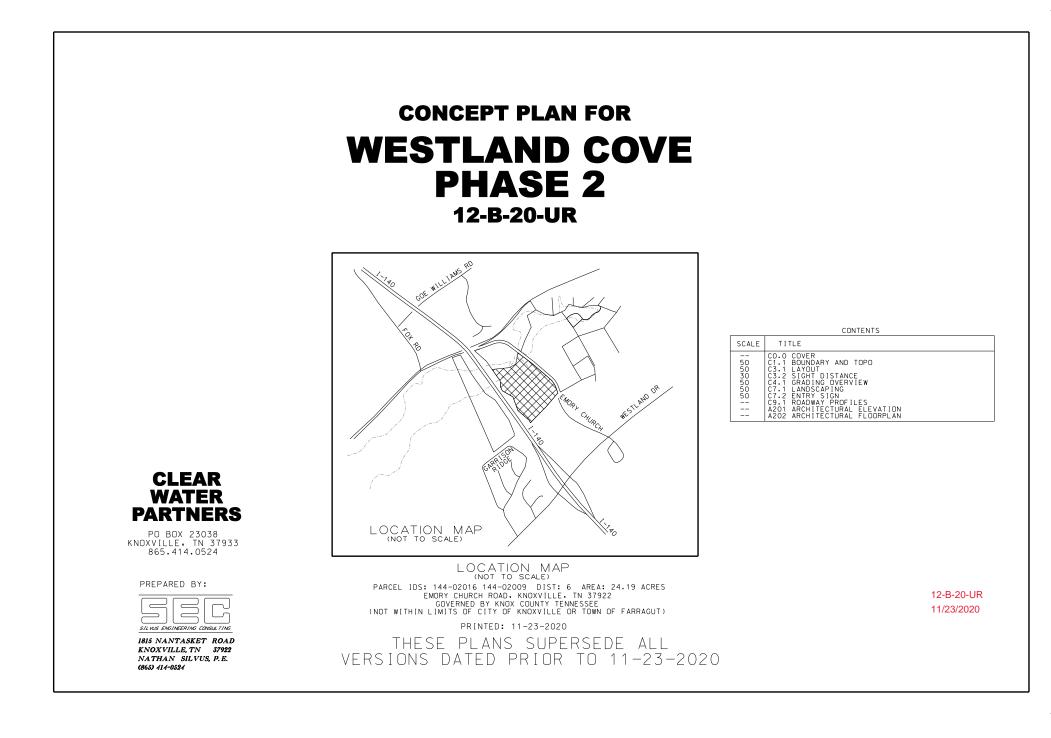
Please let me know if I can be of any assistance.

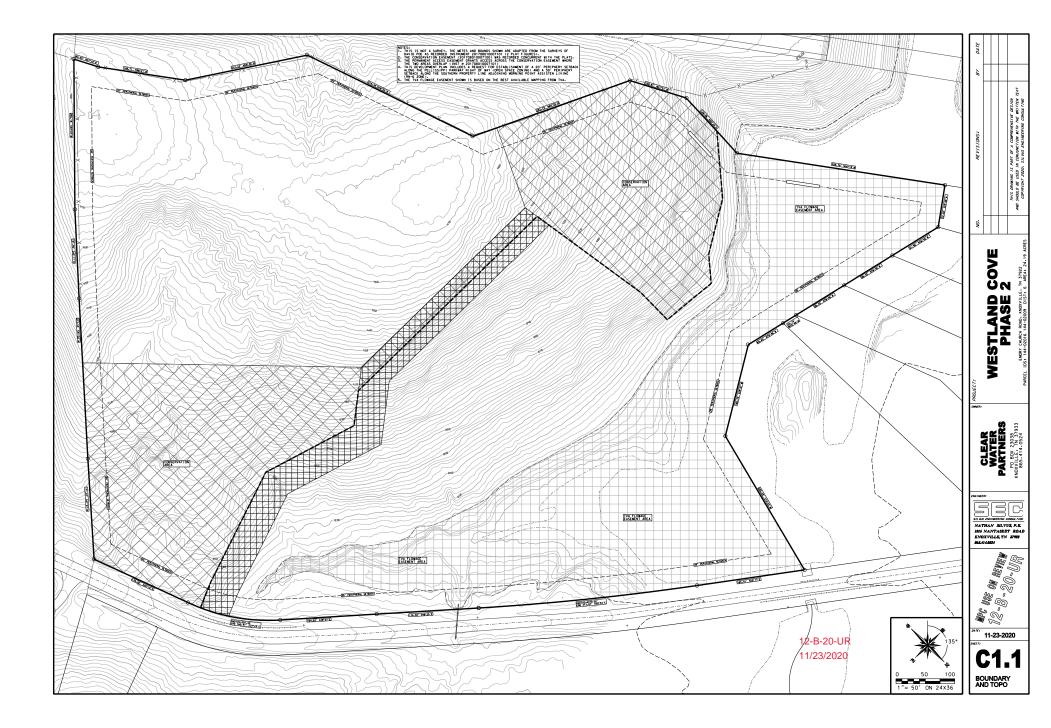
Regards,

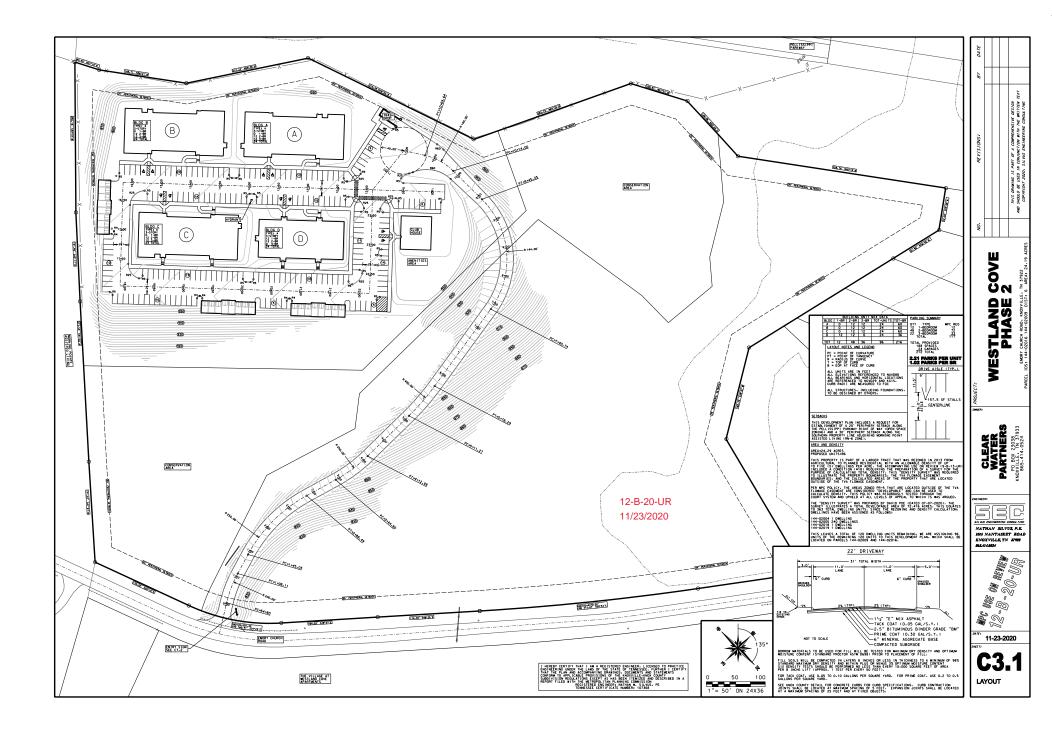
John Show

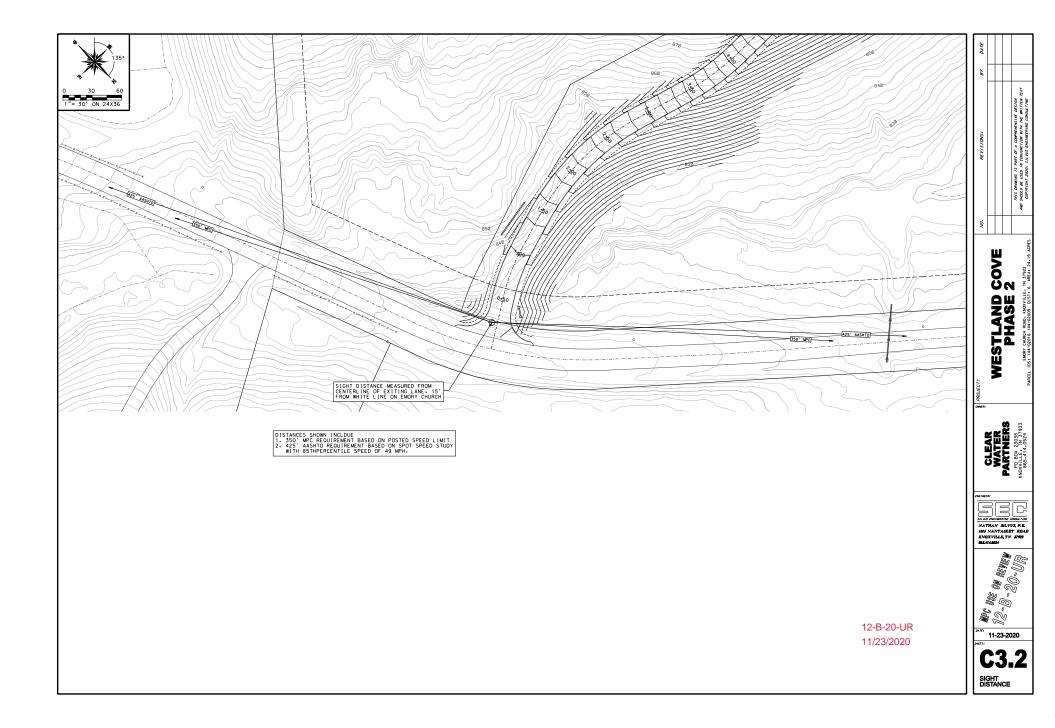
John Huber

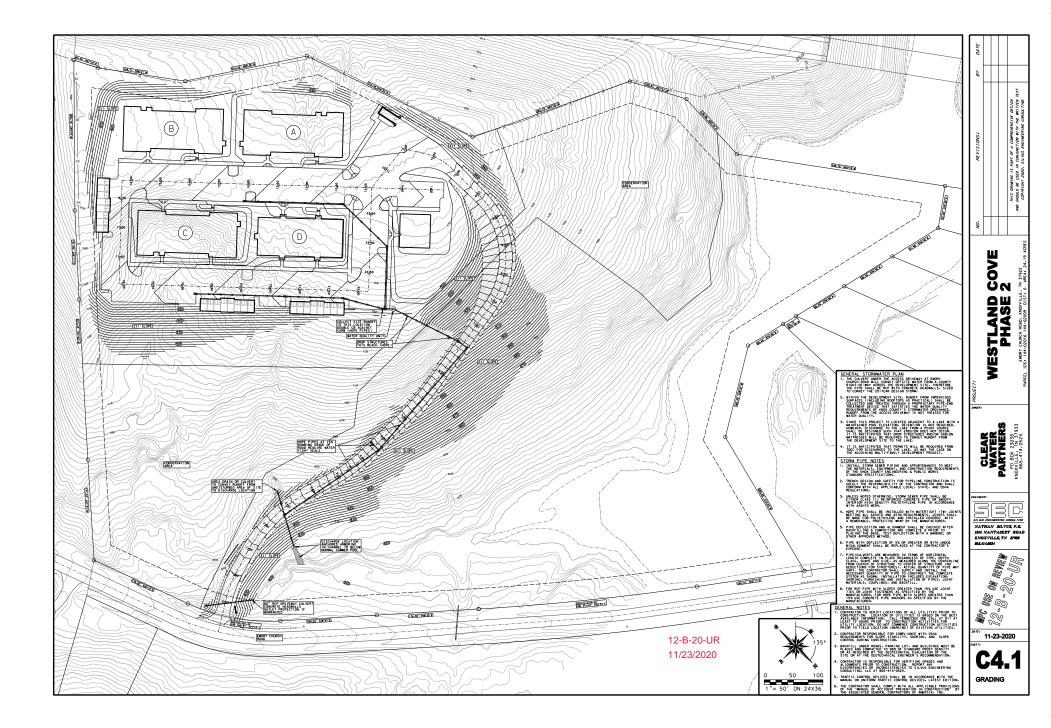
P.O. Box 23038, Knoxville, TN 37933 Office 865-966-1600 Fax 865-978-6600

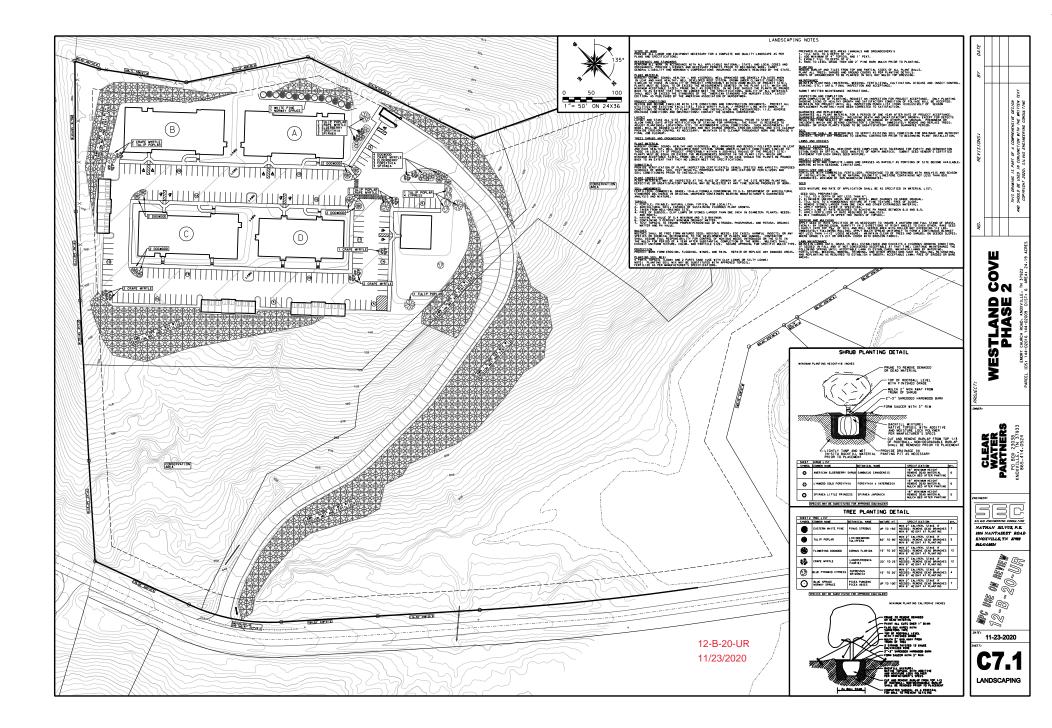


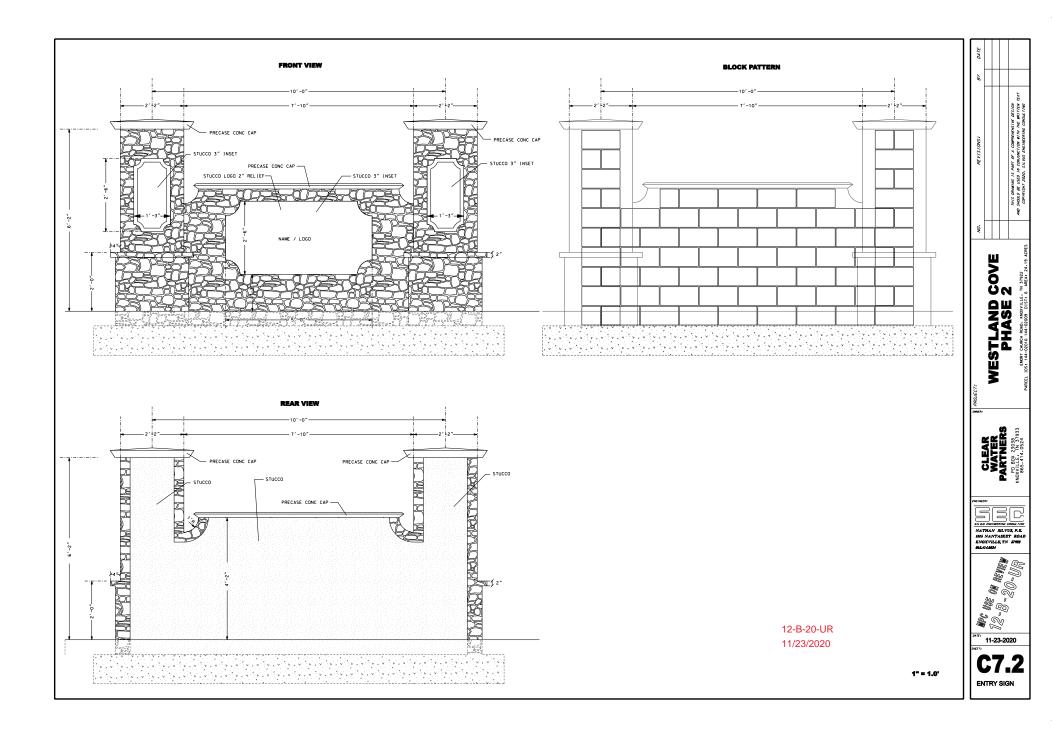


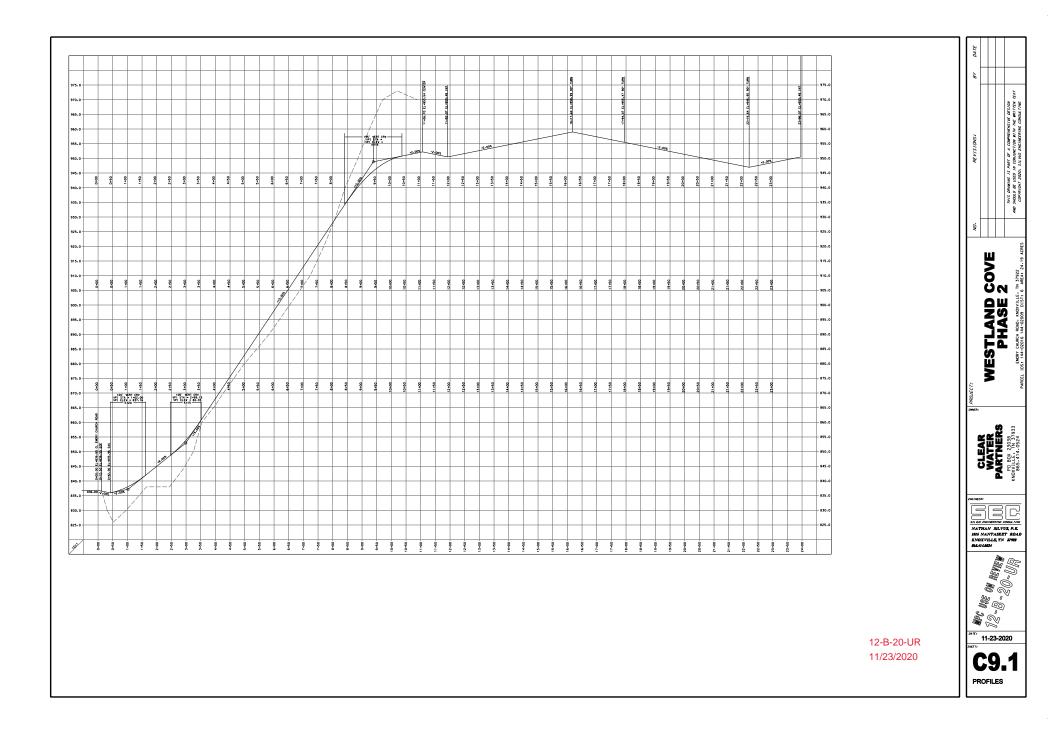




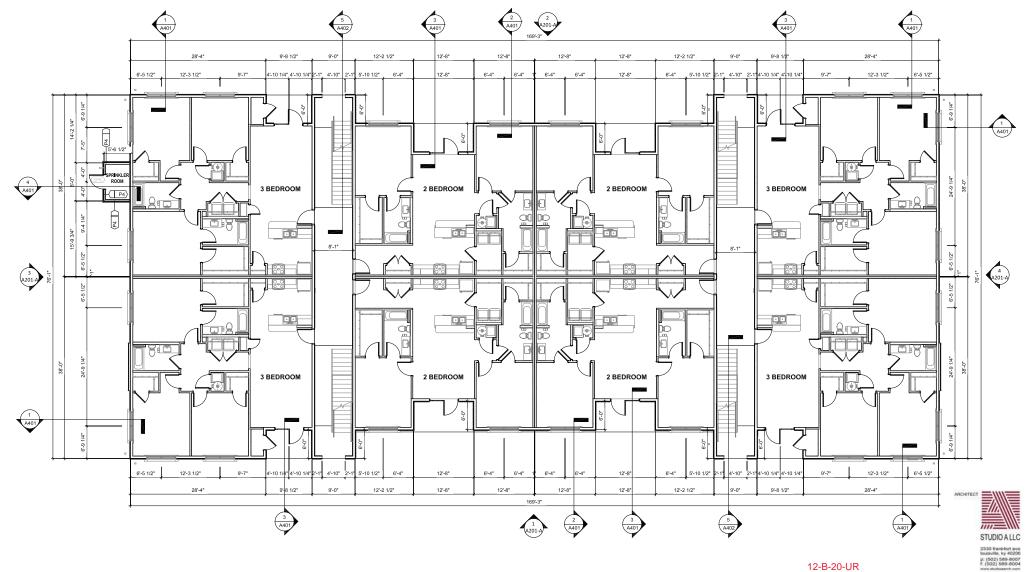












11/23/2020

#### A202 FLOORPLAN

### Tennessee Code Annotated

## EXHIBIT A

### Title 54: Highways, Bridges and Ferries

Chapter 17: Scenic Roadways

Part 1: Scenic Highway System Act of 1971

### TCA 54-17-115: Building restrictions near scenic highways.

(a) (1) The exposed portion of buildings constructed or erected on property located within one thousand feet  $(1,000\emptyset)$  of a scenic highway shall not exceed a height of thirty-five feet  $(35\emptyset)$  above the level of the highway on property located below the level of the highway, or a height of thirty-five feet  $(35\emptyset)$  above the ground line on property located above the level of the highway.

(2) The restriction on buildings shall apply to the scenic highway, notwithstanding the route being located inside or outside a municipality and notwithstanding any law or ordinance to the contrary.

(b) It is the legislative intent of this section, in part, that possession of a building permit at the time a road or highway is designated a scenic highway shall not allow any future construction based on that permit.

(c) (1) This section shall not apply to any building in existence at the time a road or highway is designated a part of the system.

(2) Silos and buildings designed for agricultural use are exempted from the application of this section.

(3) Any geographic area designated by state law and managed by a development authority authorized to promote and regulate technology-based economic development is exempt from the application of this section.

(4) Section 54-17-113 shall not apply to this section.

History: [Acts 1972, ch. 685, § 1; 1973, ch. 9, § 4; 1976, ch. 819, § 10; modified; T.C.A., § 54-2515; Acts 1987, ch. 30, § 1; 1990, ch. 660, § 1.]

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Planning KNOXVILLE I KNOX COUNTY	

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Huber Properties, LLC -	Clear Water Partners, LLC		Owne	r
Applicant Name			Affiliatio	on
10-26-20	12-10-20		ĺ	File Number(s)
Date Filed	Meeting Date (if applicable	e)	12-B-	20-UR
CORRESPONDENCE	All correspondence related to this appl	ication should be di	rected to the app	proved contact listed below.
📕 Applicant 🛛 📕 Owner	Option Holder Droject Surveyor	🗌 Engineer 🔲	Architect/Lands	cape Architect
John Huber		Huber Properti	es, LLC - Clea	r Water Partners, LLC
Name		Company	en e	
P.O. Box 23038		Knoxville	TN	37933
Address		City	State	ZIP
865-966-1600	john@southernsignal	ture.net		
Phone	Email		Contraction of the Contraction of the	na ann an an an Sanna ann an Arlanna. Ann an an Arlanna an Arlanna
CURRENT PROPERTY I	NFO			
John Huber	P.O. Box 2303	8, Knoxville, TN	37933	865-966-1600
Owner Name (if different)	Owner Address			Owner Phone
0 Emory Church Road		144 020	16 and 144 0	2009
Property Address		Parcel ID		en en en la fille anna anna an anna an anna anna anna
STAFF USE ONLY		5 1010 - 102 - 102 - 102 - 102 - 102 - 102 - 102 - 102 - 102 - 102 - 102 - 102 - 102 - 102 - 102 - 102 - 102 - 102		
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5HB		PR(K)	< 5 dul	lac, F
Jurisdiction (specify district a	bove) 🔲 City 🔲 County	Zoning Dis	trict	
Southwest Cou Planning Sector	Mty Sector Plan Land Use Classi	3/HP	Growth	Policy Plan Designation
Vacant			Growin	

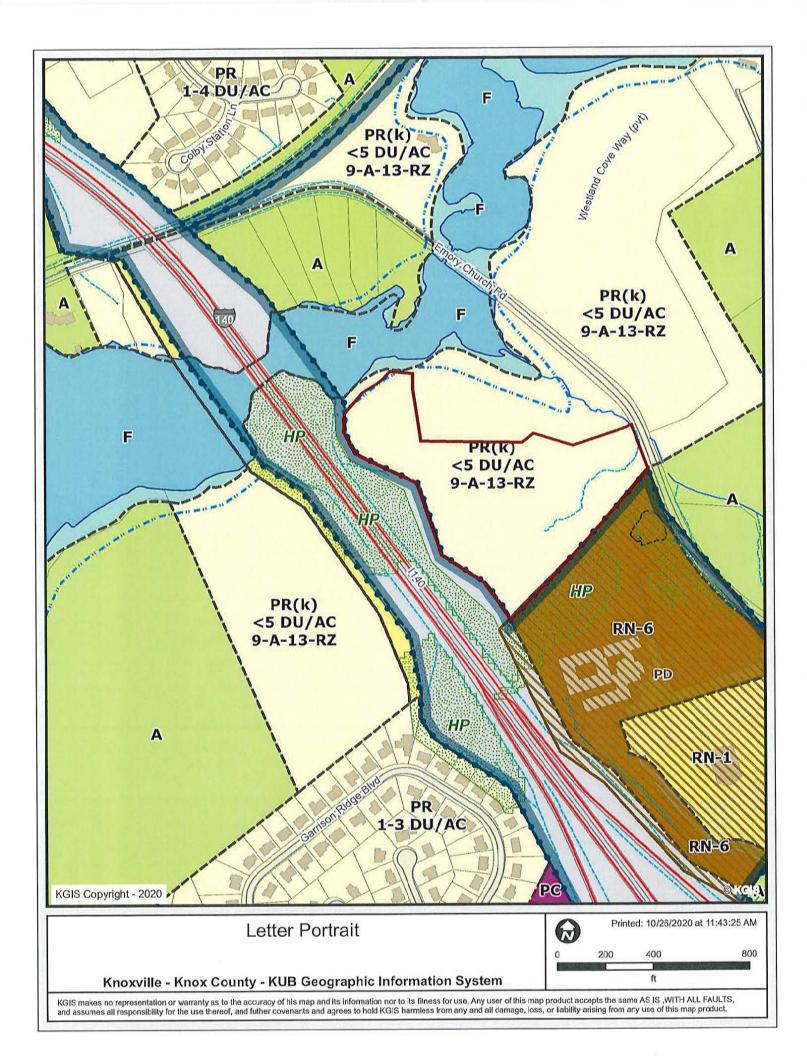
Existing Land Use

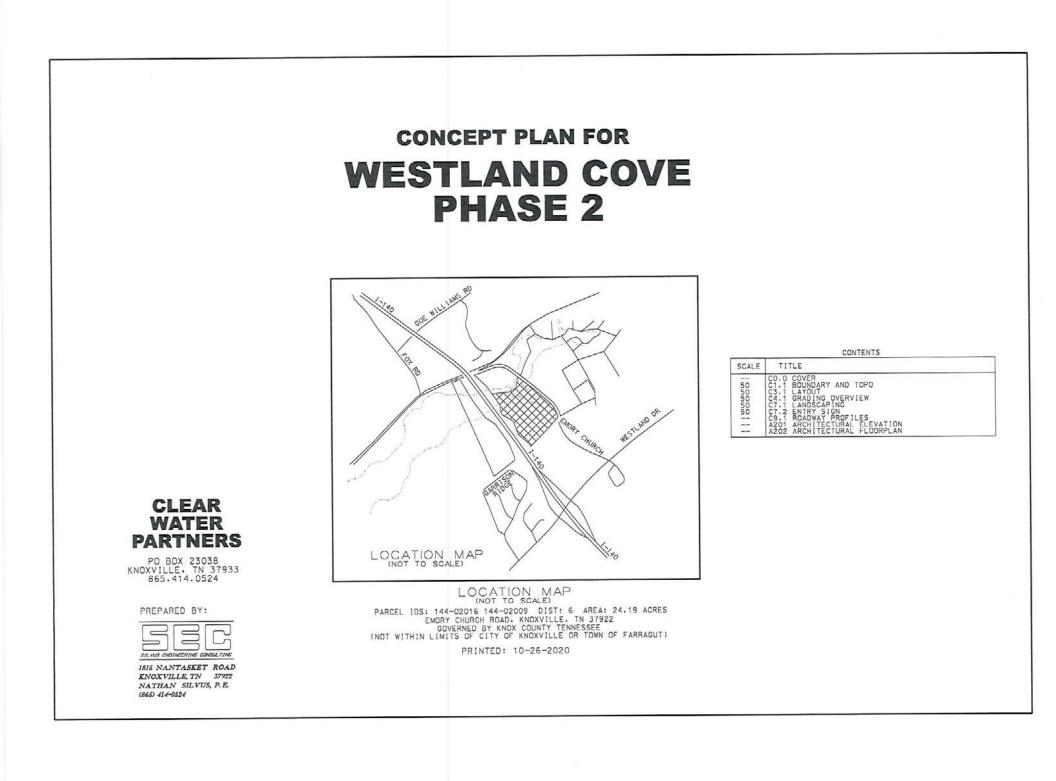
Septic (Y/N)

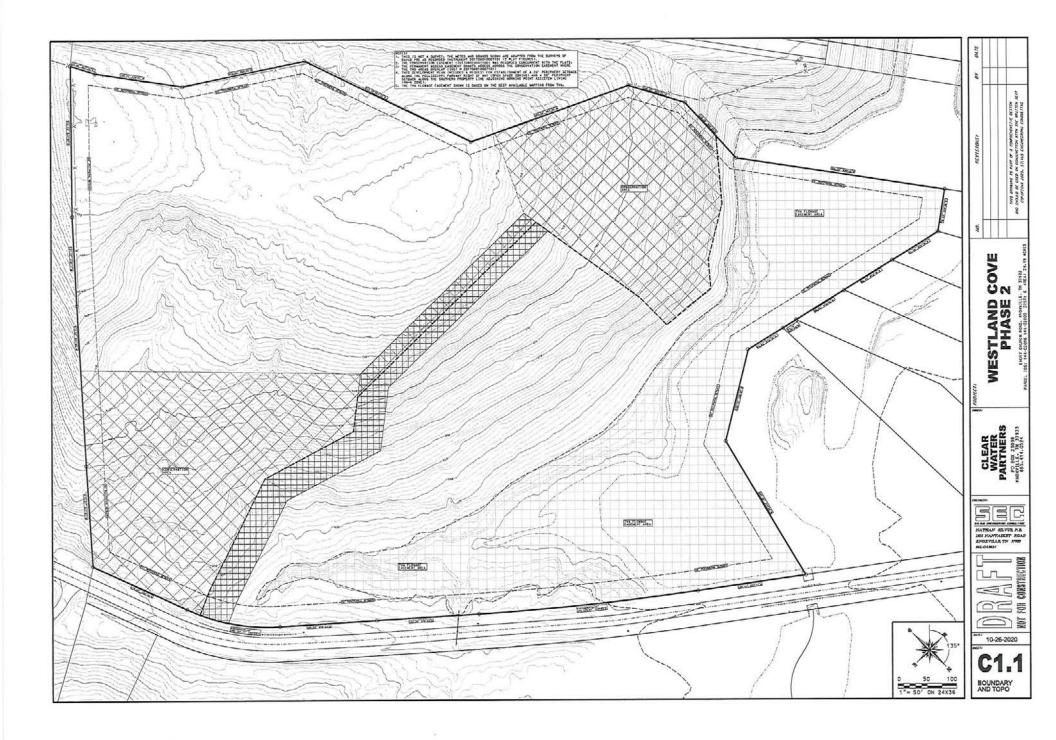
Sewer Provider

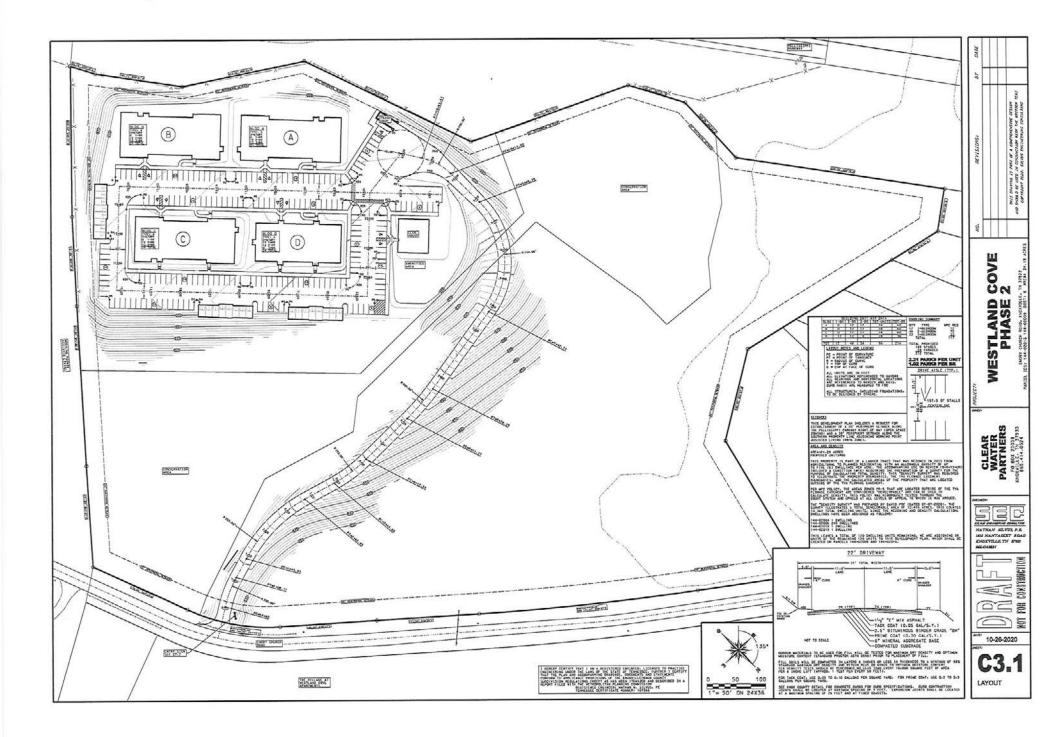
Water Provider

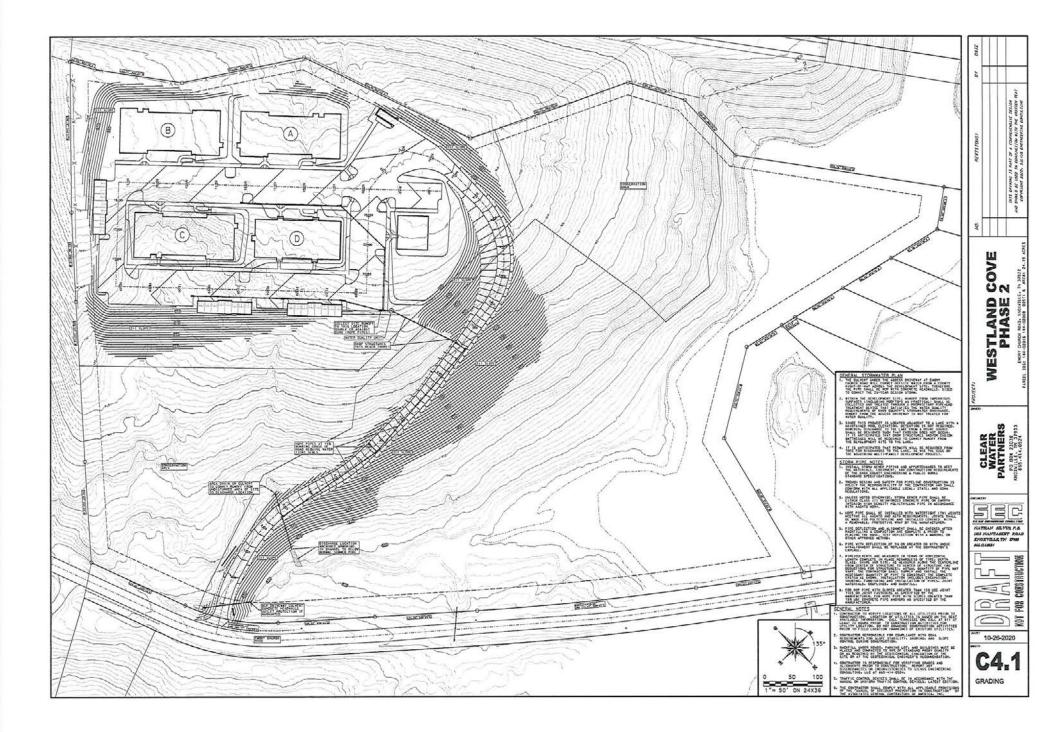
	Related City Permit Number(
Development Plan Use on Review / Special Use 🗍 Hillside Protection COA Residential Non-Residential	
Home Occupation (specify)	
Other (specify)	
SUBDIVISION REQUEST	
	Related Rezoning File Numbe
Proposed Subdivision Name	
Unit / Phase Number Combine Parcels Divide Parcel Total Number of Lots Creat	ed
Other (specify)	
Attachments / Additional Requirements	
ZONING REQUEST	Pending Plat File Number
Zoning Change Proposed Zoning	
Proposed Plan Designation(s)	
Proposed Density (units/acre) Previous Rezoning Requests	
Other (specify)	
STAFF USE ONLY	
PLAT TYPE Fee 1	Total
Staff Review Planning Commission	3729.00
ATTACHMENTS	121.00
ADDITIONAL REQUIREMENTS	
ADDITIONAL REQUIREMENTS	
Design Plan Certification (Final Plat)     Fee 3     Fee 3	
Design Plan Certification (Final Plat)     Secial Use (Concept Plan)     Traffic Impact Study	\$2719 A
Design Plan Certification (Final Plat)     Fee 3     Fee 3	\$3729.0
Design Plan Certification (Final Plat)     Secial Use (Concept Plan)     Traffic Impact Study	
Design Plan Certification (Final Plat) Use on Review / Special Use (Concept Plan) Traffic Impact Study COA Checklist (Hillside Protection) AUTHORIZATION By signing below, I certify I am the property owner, applicant or the	owners authorized representative.
Design Plan Certification (Final Plat) Use on Review / Special Use (Concept Plan) Traffic Impact Study COA Checklist (Hillside Protection)	* 3729.0 • owners authorized representative. 10-26-20 Date
□ Design Plan Certification (Final Plat) ↓ Use on Review / Special Use (Concept Plan) □ Traffic Impact Study □ COA Checklist (Hillside Protection) AUTHORIZATION By signing below, I certify I am the property owner, applicant or the John Nuber Please Print B65-946-1600 JOhn@ Southernsignature	owners authorized representative.
Design Plan Certification (Final Plat) Use on Review / Special Use (Concept Plan) Traffic Impact Study COA Checklist (Hillside Protection) AUTHORIZATION By signing below, I certify I am the property owner, applicant or the Applicant Signature Applicant Signature	owners authorized representative. 10-26-20 Date

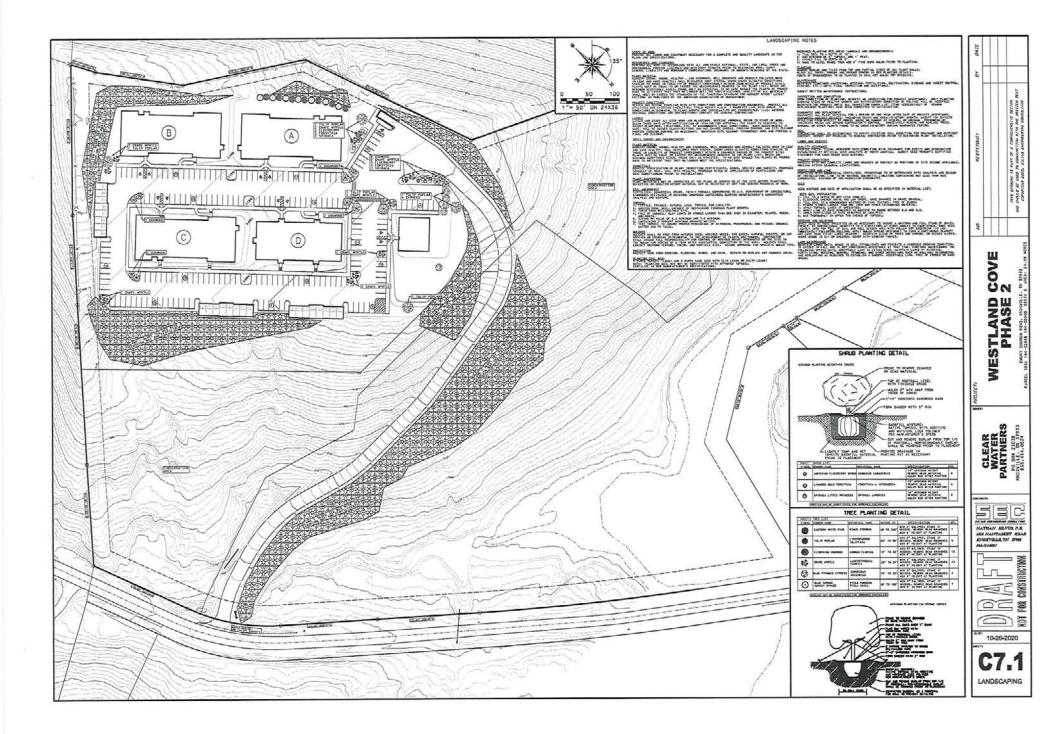


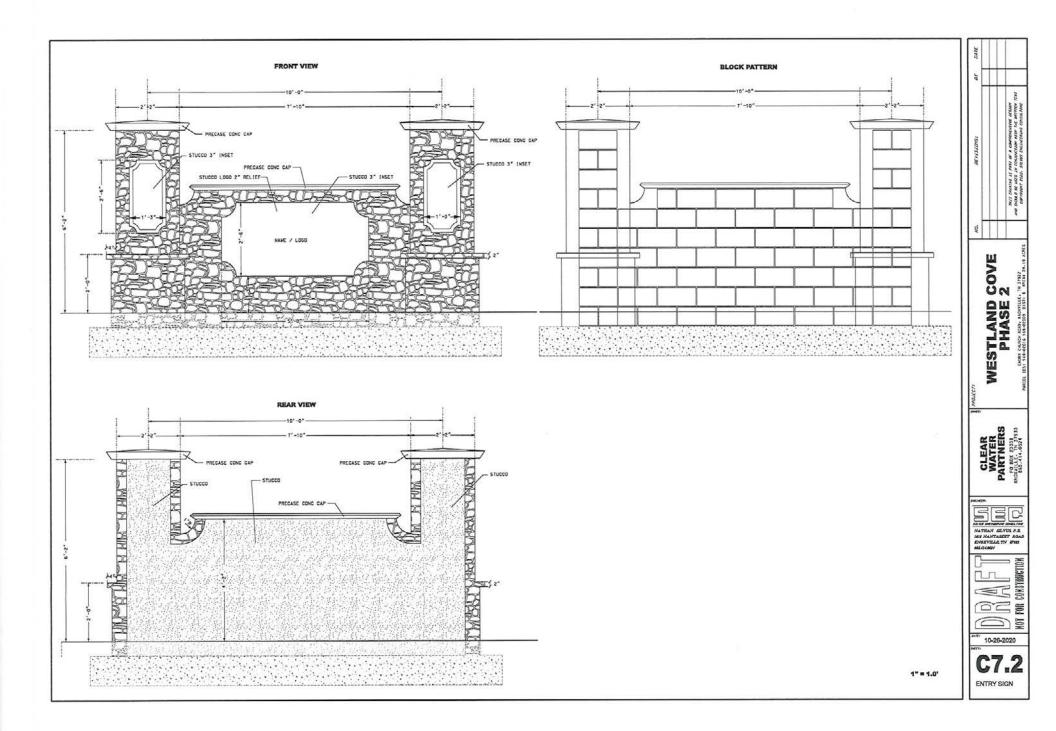


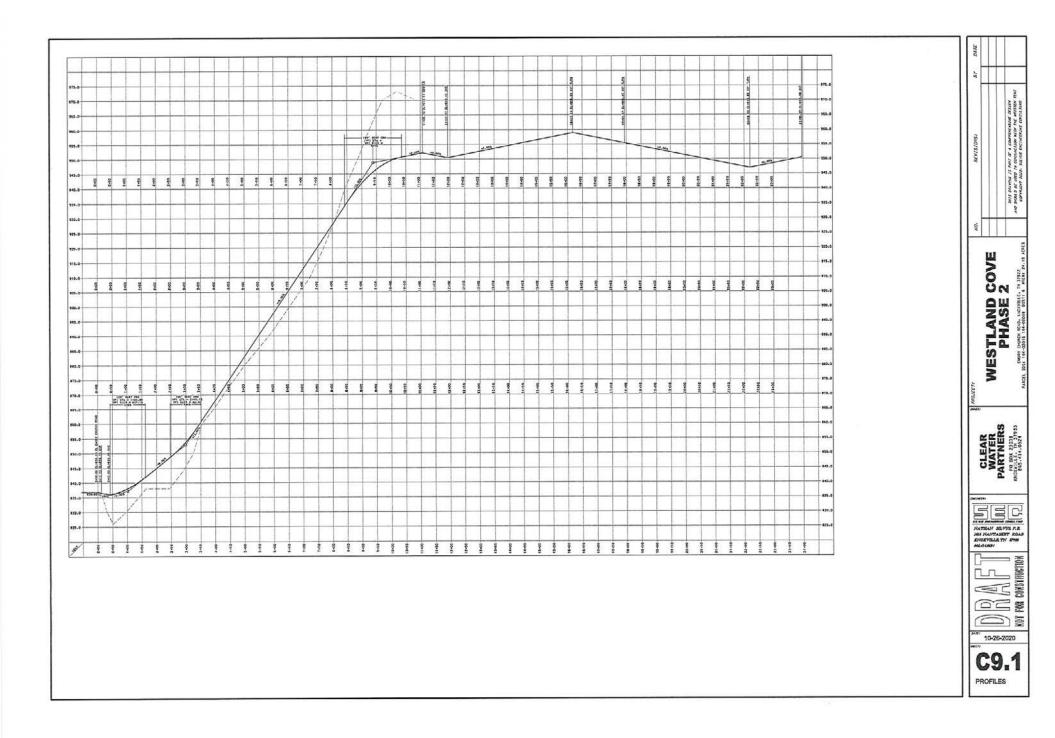




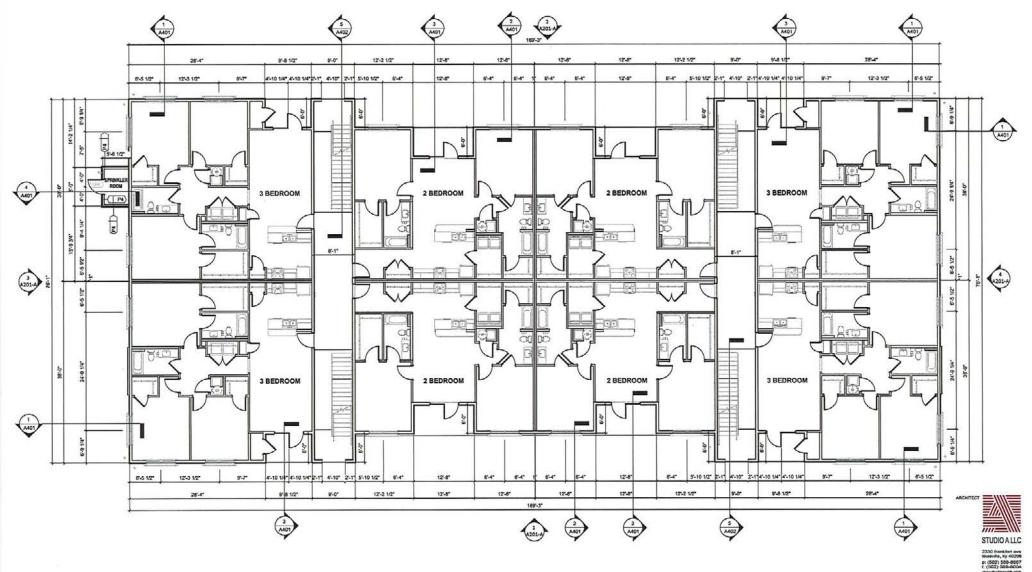












e: (502) 509-800 F. (502) 589-800 Free Statements of

A202 FLOORPLAN