

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF THE CITY OF FORT WORTH (1986), AS AMENDED, BY THE AMENDMENT OF CHAPTER 12.5, “ENVIRONMENTAL PROTECTION AND COMPLIANCE,” ARTICLE IV “GROUNDWATER AND SURFACE WATER QUALITY,” BY AMENDING APPENDIX “A” “MUNICIPAL SETTING DESIGNATION SITES IN FORT WORTH,” BY THE ADDITION OF SECTION 24 DESIGNATING CFW-MSD-0031, PROVIDING FOR THE PROHIBITION OF THE USE OF GROUNDWATER FOR POTABLE AND IRRIGATION PURPOSES IN CFW-MSD-0031; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A FINE OF UP TO \$2,000.00 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Cambria Hotels Fort Worth Rosedale, LLC (CH FW Rosedale, LLC) (Applicant) has filed an application for support of a resolution seeking a Municipal Setting Designation (MSD) for the site known as an undeveloped property 925 Jerome Street, Fort Worth, Texas, the metes and bounds description being attached hereto as Exhibit “A” (Site); and

WHEREAS, notice to all interested parties has been provided in accordance with all applicable law and a public hearing has been held on the matter on June 13, 2023; and

WHEREAS, upon passage of a supporting resolution by the City Council, Applicant intends to file a separate application with the Executive Director of the Texas Commission on Environmental Quality (TCEQ) for certification of an MSD for the Site pursuant to Texas Health and Safety Code, Chapter 361, Subchapter W; and

WHEREAS, Applicant has continuing obligations to satisfy applicable statutory and regulatory provisions concerning groundwater contamination investigation and response actions at the Site; and

WHEREAS, the City Council of the City of Fort Worth is of the opinion that it is in the best interest of the public to support Applicant’s application to the Texas Commission on Environmental Quality for a Municipal Setting Designation for the Site; and

WHEREAS, in order for the TCEQ to certify the Site the city must prohibit the potable use of groundwater from beneath the Site; and

WHEREAS, a public drinking water supply system exists that supplies or is capable of supplying drinking water to the Site, and property within one-half mile of the Site; and

WHEREAS, where public drinking water is available, the potable use of groundwater in designated areas should be prohibited to protect public health and welfare when the quality of the groundwater presents an actual or potential threat to human health;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, AS FOLLOWS:

SECTION 1.

Chapter 12.5 “Environmental Protection and Compliance,” Article IV, “Groundwater and Surface Water Quality,” Appendix A, “Municipal Setting Designation Sites in Fort Worth,” of the Code of the City of Fort Worth (1986) as amended, is hereby amended by the addition of Section 24 to read as follows:

APPENDIX A – MUNICIPAL SETTING DESIGNATION SITES IN FORT WORTH

24. CFW-MSD-0031

- (a) CFW-MSD-0031 is defined and designated as follows:
Being a tract of land situated in the City of Fort Worth, Tarrant County, Texas and being more particularly described by metes and bounds description (Exhibit A) and map of CFW-MSD-00031 (Exhibit B).
- (b) The designated groundwater beneath CFW-MSD-0031 is a shallow, perched aquifer from depths of approximately fifteen (15) feet to fifty (50) feet below the ground surface. The affected shallow groundwater is underlain by a confining layer of approximately 200 to 450 feet in thickness and is underlain by confining limestone formations that serve as a regional aquitard that prevents the vertical migrations of the chemical of concern to underlying potable aquifers. The chemical of concern identified in groundwater beneath the site exceeding applicable Tier 1 Texas Risk Reduction Program (TRRP) Residential Protection Concentration Levels (PCLs) is arsenic.
- (c) The use of the designated groundwater in CFW-MSD-0031 for potable and irrigation purposes is hereby prohibited. This prohibition is necessary because the contaminant concentrations exceed potable water standards.

- (d) The City will provide advance written notice to the Texas Commission on Environmental Quality, as much as is practicable, prior to enacting an ordinance repealing or amending this section.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 4.

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than two thousand dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 5.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of the ordinances amended in Section 1, which have accrued at the time of the effective date of this ordinance and, as to such accrued violations and all pending litigation, both civil and criminal, whether

pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

The City Secretary of the City of Fort Worth, Texas is hereby directed to publish the caption summarizing the purpose of this ordinance and the penalty for violating this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by V.T.C.A. Local Government Code Subsection 52.013

SECTION 7.

This ordinance shall be in full force and effect after its passage and publication as required by law, and it is so ordained.

APPROVED AS TO FORM AND LEGALITY:
LEEANN GUZMAN, CITY ATTORNEY

By MATT MURRAY
ASSISTANT CITY ATTORNEY

ADOPTED: _____

EFFECTIVE: _____

EXHIBIT A

CAMBRIA HOTELS FORT WORTH, 925 JEROME STREET, FORT WORTH, TEXAS

Legal Description of Site

BEING a 2.458 acre parcel of land situated in the E. Harris Survey, Abstract Number 688, City of Fort Worth, Tarrant County, Texas, being all of Lot A, Block 5 and a portion of Lot B, Block 5, Mistletoe heights, an addition to the City of Fort Worth, Tarrant County, Texas, according to the plat recorded in Volume 388-59, Page 25 Plat Records of Tarrant County, Texas, also being all of a tract of land described in deed to MTV, LLC, recorded in County Clerk Document Number D216283471, Official Public Records of Tarrant County, Texas (O.P.R.T.C.T.), said 2.458 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a found 5/8-inch iron rod with cap stamped "DUNAWAY ASSOC. LP" at the intersection of the north right-of-way line of West Rosedale Street (variable width) and the west right-of-way line of the Fort Worth & Western Railroad;

THENCE North 77 degrees 40 minutes 59 seconds West, along said north right-of-way line, a distance of 183.57 feet to a found 5/8-inch iron rod with cap stamped "DUNAWAY ASSOC. LP" for beginning of a tangent circular curve to the left, having the radius of 711.94 feet and whose chord bears North 79 degrees 35 minutes 00 seconds West, a distance of 47.24 feet;

THENCE Northwesterly, continuing along said north right-of-way line, and along said circular curve to the left, through a central angle of 03 degrees 48 minutes 10 seconds and an arc length of 47.25 feet to a point for corner at the intersection of the north right-of-way line of said West Rosedale Street with the east right-of-way line of Jerome Street (variable width);

THENCE North 00 degrees 04 minutes 28 seconds East, departing said north right-of-way line with the east right-of-way line of said Jerome Street, at a distance of 0.35 feet passing a found 5/8-inch iron rod with cap stamped "BURY + PARTNERS", and continuing for a total distance of 37.29 feet to an angle point;

THENCE North 18 degrees 54 minutes 34 seconds West, continuing along said east right-of-way line, at a distance of 0.38 feet passing a found 5/8-inch iron rod with cap stamped "BURY + PARTNERS" bears South 68 degrees 34 minutes 28 seconds West, a distance of 0.39 feet, and a found "X" cut bears South 68 degrees 34 minutes 28 seconds West, a distance of 35.37 feet;

THENCE North 18 degrees 55 minutes 34 seconds West, departing said east right-of-way line and along the common line of said MTV tract and Block 6R1, Mistletoe Heights Addition, an addition to the City of Fort Worth according to the plat recorded in County Clerk Document Number D212137514, Official Public records, Tarrant County, Texas, at a distance of 100.47 feet passing a found 1/2-inch iron rod, and continuing for a total distance of 100.83 feet;

THENCE North 00 degrees 04 minutes 28 seconds East, continuing along said common line, a distance of 490.78 feet to a found 5/8-inch iron rod with cap stamped "DUNAWAY ASSOC. LP" for the common north corner of said MTV tract and said Block 6R1 on the west right-of-way line of said Fort Worth & Western Railroad;

THENCE South 23 degrees 50 minutes 32 seconds East, along the west right-of-way line of said Fort Worth & Western Railroad, a distance of 457.25 feet to a found 5/8-inch iron rod with cap stamped "DUNAWAY ASSOC. LP";

THENCE South 21 degrees 11 minutes 32 seconds East, continuing along said west right-of-way line, a

distance of 95.02 feet to a found 5/8-inch iron rod with cap stamped "DUNAWAY ASSOC. LP", being the beginning of a tangent circular curve to the right, having the radius of 1,491.32 feet and whose chord bears South 15 degrees 22 minutes 21 seconds East, a distance of 270.48 feet;

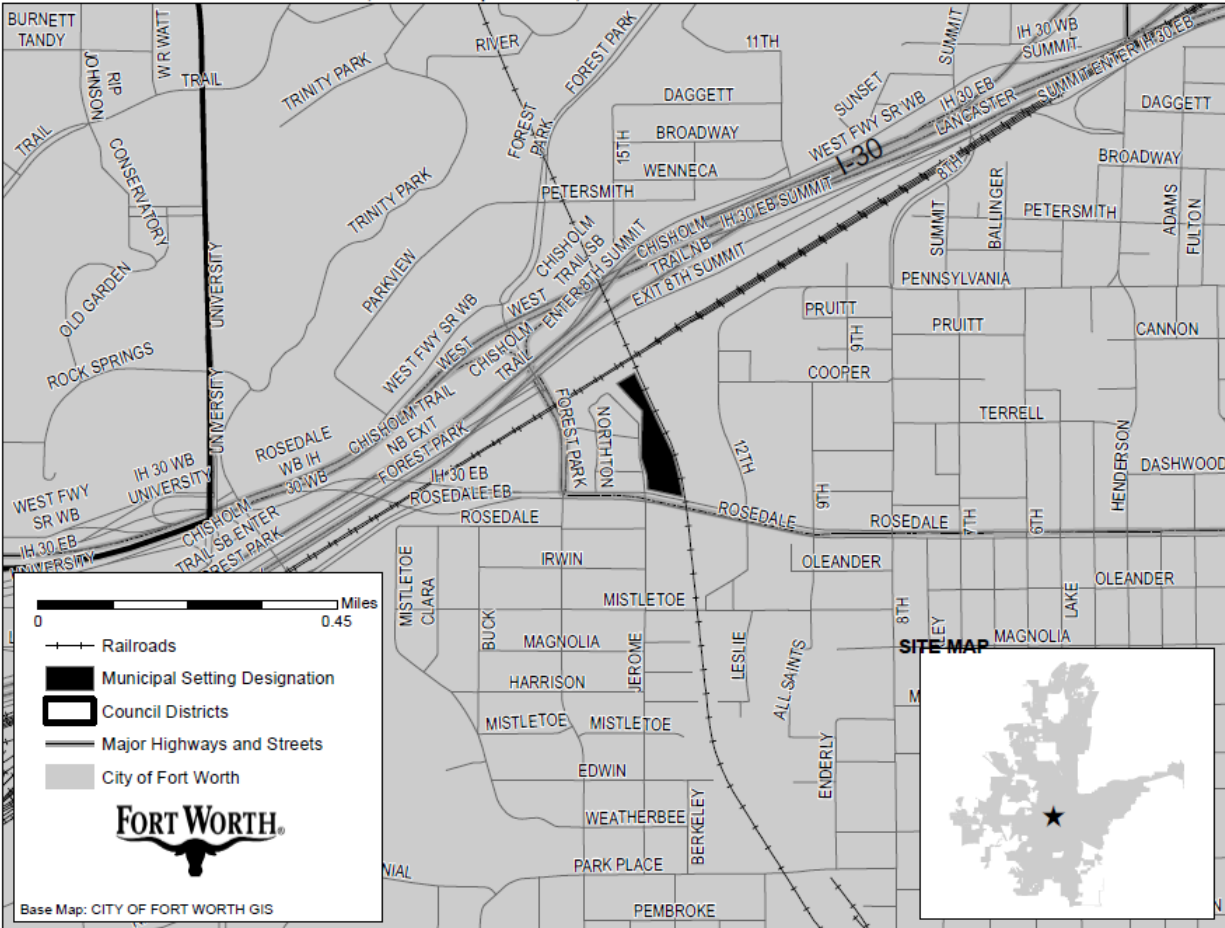
THENCE Southeasterly, continuing along said west right-of-way line, and along said circular curve to the right, through a central angle of 10 degrees 24 minutes 21 seconds, an arc distance of 270.85 feet to the **POINT OF BEGINNING** and containing 2.458 acres, or 107,062 square feet of land, more or less.

Exhibit B

UNDEVELOPED LAND LOCATED AT 925 JEROME STREET, FORT WORTH, TEXAS

2.458 ACRE TRACT

925 Jerome Street, Undeveloped Land, MUNICIPAL SETTING DESIGNATION MSD-031



Betsy Y | February 2023 | Map Source: X:\07 ENVIRONMENTAL\Administration\GIS\LandQuality\MunicipalSettingDesignation\MSD 925 Jerome